

American Government

American Government

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PART I
INSTRUCTOR RESOURCES
(AVAILABLE WITH LOGIN)

I. Quiz Downloads

Private: Quizzes

Use the link below to access a set of quizzes associated with this course. The link is **not active in this screen**, please follow the instructions included below.

The file can then be uploaded to your LMS (e.g., Canvas, Blackboard) in order to obtain all assessments for course.

The **quizzes are organized in two ways**. You can download the one you prefer.

- **Consolidated:** consists of eleven quizzes, with a total of 150 questions.
- **Granular:** consists of forty-six quizzes, with the same 150 questions.

Consolidated: [https://s3-us-west-2.amazonaws.com/qtiquiz/American+Government/Consolidated_american_government_quizzes\(3\).imsc](https://s3-us-west-2.amazonaws.com/qtiquiz/American+Government/Consolidated_american_government_quizzes(3).imsc)

There are eleven multiple choice quizzes with a total of 150 questions. Quizzes cover the following eleven topics:

- Civil Rights and Liberties – 15 questions
- Constitutional Framework – 15 questions
- Elections – 12 questions
- Federalism – 9 questions
- Media and Politics – 9 questions
- Political Culture and Public Opinion – 17 questions
- Political Parties and Interest Groups – 27 questions
- Public Policy – 13 questions
- The Executive Branch – 10 questions
- The Judicial Branch – 9 questions
- The Legislative Branch – 16 questions

Granular: [https://s3-us-west-2.amazonaws.com/qtiquiz/American+Government/jonis-quizzes-export+\(2\).imsc](https://s3-us-west-2.amazonaws.com/qtiquiz/American+Government/jonis-quizzes-export+(2).imsc)

There are forty-six multiple choice quizzes with a total of 150 questions. Quizzes cover the following forty-six topics:

- Achieving Equality – 3 questions
- Agenda Setting – 3 questions
- Bicameralism – 3 questions
- Building Blocks of American Political Culture – 4 questions
- Congressional Elections – 3 questions
- Constitutional Convention – 3 questions
- Constitutional Principles – 3 questions
- Creating A Government – 3 questions
- Defining Federalism – 3 questions
- Environmental Challenges – 3 questions
- Evolving Federalism – 3 questions
- Evolving Protections – 3 questions
- Executive Power – 4 questions
- Foreign Policy Goals – 3 questions
- Fundamental Freedoms – 3 questions
- Influencing Policy – 4 questions
- Lobbying – 3 questions
- Media Coverage – 3 questions
- Media Influence – 3 questions
- News Media – 3 questions
- Organizing and Funding Elections – 3 questions
- Organizing Congress – 3 questions
- Party Identification – 6 questions
- Political Parties Today – 4 questions
- Political Socialization – 3 questions
- Polling – 3 questions
- Popular Sovereignty – 3 questions
- Presidential Elections – 3 questions
- Presidential Leadership – 3 questions
- Presidents in the Information Age – 3 questions
- Profiling Congress – 4 questions
- Pros and Cons of Federalism – 3 questions
- Public Opinion – 3 questions
- Public Opinion & Democracy – 4 questions
- Public Policy's Goals, Tools and Trends – 3 questions

- Selecting Federal Judges – 3 questions
- Social Welfare – 4 questions
- The First Amendment – 3 questions
- The First American Political System – 3 questions
- The History of Parties – 4 questions
- The Legislative Process – 3 questions
- The Powers of Congress – 3 questions
- The Supreme Court – 3 questions
- The US Legal System – 3 questions
- Third Parties – 3 questions
- Types of Interest Groups 3 questions

This link is not active in edit mode. Please click on the “Preview” button to the right, in order to access the link, or you can copy and paste the link into your browser.

The screenshot shows the Canvas LMS interface for editing a quiz. The main content area displays a message: "This link is not active in edit mode. Please click on the 'Preview' button to the right, to access the working link, or copy and paste it in your browser." Below this message is a URL: <https://cs-us-west-2.amazonaws.com/qquiz/USHistory2/us-history-ii-using-3i-quiz-export.zip>. The right-hand sidebar contains a "Publish" section with a "Preview" button. A red arrow points from this "Preview" button to the text in the main content area.

2. Quiz Survey

The **quizzes are organized in two ways**. You can download the one you prefer.

- **Consolidated:** consists of eleven quizzes, with a total of 150 questions.
- **Granular:** consists of forty-six quizzes, with the same 150 questions.

Consolidated:

There are eleven multiple choice quizzes with a total of 150 questions. Quizzes cover the following eleven topics:

- Civil Rights and Liberties
- Constitutional Framework
- Elections
- Federalism
- Media and Politics
- Political Culture and Public Opinion
- Political Parties and Interest Groups
- Public Policy
- The Executive Branch
- The Judicial Branch
- The Legislative Branch

Granular: <https://s3-us-west-2.amazonaws.com/qtiquiz/american-government-cbe-quiz-export.zip>

There are forty-six multiple choice quizzes with a total of 150 questions. Quizzes cover the following forty-six topics:

- Achieving Equality – 3 questions
- Agenda Setting – 3 questions
- Bicameralism – 3 questions

- Building Blocks of American Political Culture – 4 questions
- Congressional Elections – 3 questions
- Constitutional Convention – 3 questions
- Constitutional Principles – 3 questions
- Creating A Government – 3 questions
- Defining Federalism – 3 questions
- Environmental Challenges – 3 questions
- Evolving Federalism – 3 questions
- Evolving Protections – 3 questions
- Executive Power – 4 questions
- Foreign Policy Goals – 3 questions
- Fundamental Freedoms – 3 questions
- Influencing Policy – 4 questions
- Lobbying – 3 questions
- Media Coverage – 3 questions
- Media Influence – 3 questions
- News Media – 3 questions
- Organizing and Funding Elections – 3 questions
- Organizing Congress – 3 questions
- Party Identification – 6 questions
- Political Parties Today – 4 questions
- Political Socialization – 3 questions
- Polling – 3 questions
- Popular Sovereignty – 3 questions
- Presidential Elections – 3 questions
- Presidential Leadership – 3 questions
- Presidents in the Information Age – 3 questions
- Profiling Congress – 4 questions
- Pros and Cons of Federalism – 3 questions
- Public Opinion – 3 questions
- Public Opinion & Democracy – 4 questions
- Public Policy's Goals, Tools and Trends – 3 questions
- Selecting Federal Judges – 3 questions
- Social Welfare – 4 questions
- The First Amendment – 3 questions

- The First American Political System – 3 questions
- The History of Parties – 4 questions
- The Legislative Process – 3 questions
- The Powers of Congress – 3 questions
- The Supreme Court – 3 questions
- The US Legal System – 3 questions
- Third Parties – 3 questions
- Types of Interest Groups 3 questions

PART II

INTRODUCTION

3. Introduction

Welcome

This course is taught using a mastery approach. It was designed to give you the best opportunity for success. Your instructor will guide you through the process, but below are some important things to keep in mind as you begin.

Course Structure

- Each course is built around **Competencies**, which are important skills or knowledge that can be used in the real world
- Each Competency has enabling **Learning Outcomes** that teach you what you need to know to master the Competency
- Each Learning Outcome is supported by **Open Educational Resources**, which are a range of materials that will help you build your skills and knowledge of the learning outcomes.

Demonstrating Mastery

- There is a graded **Quiz** for each Competency
 - You must attain 80 percent on the quiz to demonstrate mastery
 - You can retake the quiz as many times as you need to get to 80 percent
 - If you are struggling to pass a quiz after three attempts,

- your instructor will provide you with support and guidance to help you be successful on your next attempt
- There are also graded **Performance Assessments** for groups of Competencies
 - You must attain 80 percent on the Performance Assessment to demonstrate mastery
 - You can resubmit the Performance Assessment as many times as you need to get to 80 percent
 - If you do not achieve 80 percent on a Performance Assessment, your instructor will provide you with support and guidance to help you be successful on your next attempt

How to Approach this Content

Start by reflecting on the learning outcomes for each section. Do the concepts seem familiar? Plan to spend most of your time on concepts that are new or complicated. Always review page headings, and pay special attention to introductory and concluding sections. When you have finished a section, review what you have learned. The more you stop and ask yourself whether you understand, the better prepared you will be to demonstrate mastery in an assessment. Take notes on your reflections and reach out to your instructor if you need help with difficult or confusing concepts.

PART III

CHAPTER I:

CONSTITUTIONAL
FRAMEWORK

4. Why It Matters

Analyze the founding principles that shape the U.S. Government and Constitution



Introduction

If you were going to start a government, what powers would you grant it? How would you justify the scope of that authority? What rights and liberties would it respect? Who would make decisions and when? How would you allow for changes to your basic framework of government when those became necessary?

These are the sorts of questions the framers of the U.S. Constitution considered. How did they think about them, and what were their answers? Did they get them right? How should we think

about the constitutional framework they created, as well as the changes (both formal and informal) that have taken place over time?

There's a lot to say about all this. Let's start by hearing from one of the country's most prominent historians and foremost authorities on the topic, Eric Foner:



One or more interactive elements has been excluded from this version of the text. You can view them online

here: <https://library.achievingthedream.org/herkimeramericangovernment/?p=22#oembed-1>

Learning Outcomes

- Summarize the logic behind creating a government, including influential perspectives on social contract theory
- Distinguish rule by popular sovereignty relative to other options
- Summarize the political commitments important to the American political “system” prior to the establishment of the Constitution
- Identify the challenges and goals of the Constitutional Convention
- Identify and explain the key constitutional principles

5. Creating a Government

Summarize the logic behind creating a government, including influential perspectives on social contract theory

Learning Activities

The learning activities for this section include:

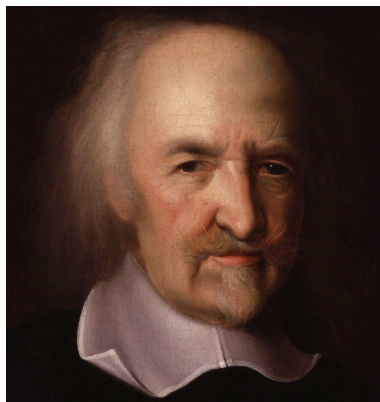
- Reading: The Philosophical Perspective

Take time to review and reflect on this activity in order to improve your performance on the assessment for this section.

6. A. Reading: The Philosophical Perspective

Introduction

Why do we need government? In search of the answer to this question, two English philosophers, both writing in the later half of the seventeenth century, asked another question: What would the world be like if there were no government?



John Michael Wright, Portrait of Thomas Hobbes, National Portrait Gallery, Washington, DC

Thomas Hobbes

In *Leviathan* (1651), Thomas Hobbes (1588–1679), conjured up a time and place before governments existed. Humankind before the invention of government, Hobbes believed, was in a “state of nature” in which the life-sustaining needs and passions of individuals dictated their interactions with each other. With no governmental authority to settle disputes between individuals, each person acted as a sovereign—an authority that answers to no one but itself. Because every individual in the state of nature was autonomous and because food and other items people wanted were scarce, life in the state of nature would be characterized by an incessant war of “every man against every man.” It was an existence that Hobbes characterized as “solitary, poor, nasty, brutish and short.”

Hobbes argued that it was the violence and uncertainty of life in the state of nature that motivated people to form governments. Because life was so bad in the state of nature, Hobbes argued that the desire for peace and stability would become so profound that the people would seek out a “sovereign” or ruler to whom they could transfer or give their own sovereignty. In return, the sovereign would provide the peace and stability the people wanted. So long as they abided by the laws the sovereign established, the people would then be free to pursue happiness without constantly fearing for their lives and property.

At the time when government was formed, Hobbes maintained that the people gave up their sovereignty absolutely and permanently. The sovereign, however, did not participate directly in the agreement made by the people to transfer their sovereignty because that might limit the sovereign’s efforts to ensure the peace and stability. For example, Hobbes argued that a ruthless sovereign might actually promote order because the people would be motivated by fear to obey the laws of the sovereign. Hobbes further argued that because the transfer of sovereignty was permanent, the right to revolt against the sovereign was nonexistent. In fact, any attempt to reform a government through disobedience (revolution) would be an injustice that would produce more harm than good. Better to suffer the excesses of an unjust king than to overthrow him and be left with anarchy.

The arguments Hobbes presented in *Leviathan* were radically original perspectives on the nature of man and the origins of government. Being in the employ of the monarchy, at least one motive behind Hobbes’ writings was a desire to create a plausible defense of the monarchy. In defending the monarchy, however, Hobbes ultimately defended the absolute authority of the sovereign, monarch or not. It was an argument neither the people nor the king was comfortable with.

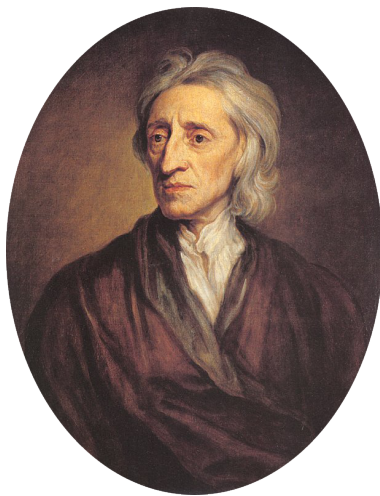
In his defense, Hobbes was fighting against insurmountable forces which would continue to weaken the monarchy until it was finally reduced to the figurehead role it occupies today. Even as he was

writing *Leviathan*, the rising merchant class was growing ever wearier of the monarchy's abuses of power. Indeed, it was precisely because the monarchy was already losing its credibility that Hobbes was commissioned to write *Leviathan*.

By defending the monarchy in the manner he did, Hobbes unwittingly laid the groundwork for just the kind of popular revolts he decried in *Leviathan*. By claiming that individuals in the state of nature were the original source of sovereignty, and not God or kings, Hobbes created a doctrine on which others base compelling arguments for natural rights, popular government and revolution. One such man was John Locke.

John Locke

John Locke (1632–1704), in his [Second Treatise of Civil Government](#), declared that Hobbes's description of life before government was only half right. While the state of nature *might* be a state of war, Locke argued that it could just as easily be characterized by “peace, goodwill, mutual assistance and preservation.” While agreeing with Hobbes' that individuals in the state of nature would naturally and rationally come together to form a government, Locke



Sir Godfrey Kneller, Portrait of John Locke, Britain, 1697

argued that the contract people entered into with each other and the leaders of their new government was not permanent because the people did not unconditionally surrender their sovereignty to

their leaders. Rather, Locke argued, individuals would grant authority to a government so long as it provided for the common good—protection from the dangers of the state of nature. Because life in the state of nature is fraught with peril, Locke wrote, man was:

. . . willing to quit a condition, which, however free, is full of fears and continual dangers: and it is not without reason, that he seeks out, and is willing to join in society with others, who are already united, or have a mind to unite, for the mutual preservation of their lives, liberties and estates, which I call by the general name, property.

In other words, Locke agreed with Hobbes that government was necessary to rescue humankind from the state of nature, but not because the state of nature was a horrible dangerous place to be escaped at all cost. In Locke's view, when the people agreed to become subject to governmental authority, not only did they expect their government to provide stability and order, but they also expected it to protect their rights and liberties. The purpose of government, then, was to provide enough protection of life, liberty and property that individuals could enjoy them.

There are two significant implications of Locke's "essay concerning the true original extent and end of civil government" that are worth noting. First, by turning Hobbes' argument on its head, Locke argued that because the people were the source of government's power in the first instance, the people remained the source of governmental power even after it was established. The notion of popular sovereignty, that power was vested in the people, was lent greater intellectual credibility.

Second, if the people were the source of the government's authority, it followed that the government was accountable to the people. Consequently, political leaders were just as obligated to obey the laws of society as the people were. More important, Locke argued that the government could only legitimately exercise its authority so long as it protected the inalienable individual rights of

the people. If government ever acted “contrary to their trust,” the people were justified in taking action against it.

Today, Locke’s writings are recognized as a source of some of the most important contributions to political philosophy. His emphasis on popular sovereignty and individual rights was groundbreaking. His influence on the Framers of the American Constitution was at least of equal significance. In his writings, Locke spoke of “life, liberty and property,” a phrase which was modified only slightly by Thomas Jefferson when he wrote in the [Declaration of Independence](#) that: “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*” (emphasis added). So profound is Locke’s influence on American political thought that one author has called Locke the “massive national cliché” in America.

Locke’s influence on the Founders is discussed at greater length in “[The Constitutional Convention](#).”

7. Popular Sovereignty

Distinguish rule by popular sovereignty relative to other options

Learning Activities

The learning activities for this section include:

- Reading: The Nature of Government
- Video: Democracy and Majority Rule (I)
- Video: Democracy and Majority Rule (II)
- Reading: We, All of the People

Take time to review and reflect on each of these activities in order to improve your performance on the assessment for this section.

8. B. Reading: The Nature of Government

What Is a Democracy?

Nowhere is the word “democracy” mentioned in the Declaration of Independence or the U.S. Constitution. How could that be? Our government is a democracy!

Well, for one thing, the Founders actually feared democratic rule. James Madison expressed this attitude in Federalist Number 10:



The ancient Romans had a working democracy for the early part of their history. The Forum in Rome is where political meetings and votes were held. The Forum can still be seen today, but most of its buildings are in ruins.

. . . instability, injustice, and confusion . . . have in truth been the mortal disease under which popular governments everywhere perished . . .

In the late eighteenth century, rule by the people was thought to lead to disorder and disruption. Yet a democratically based government was seen as superior to the monarchies of Europe.

Democracies did not originate with the founding of the United States. The term *democracy* comes from two Greek words: *demos* (the people) and *kratia* (power or authority). So a democracy is a form of government that gives power to the people. But how, when, and to which people? The answer to those questions changes through history.

Democracies are based on “rule of law.” The Ancient Greeks (particularly Aristotle) valued natural law, the notion that human societies should be governed by ethical principles found in nature. The Greeks are famous for practicing direct democracy, a system in which citizens meet to discuss all policy and then make decisions by majority rule. However, in Ancient Greece, only free males were considered to be citizens.



In present-day New England, many small towns hold town meetings in which issues important to the citizens are decided by vote. These meetings are one of the few instances of direct democracy that still occur today. These New Englanders check in at a town meeting.

So their democracy was certainly limited. Today direct democracy is practiced in New England town meetings, where all citizens of voting age meet to decide on important political matters.

But how could direct democracy work in a large, diverse population spread over a geographical distance? Generally, the answer has been that it can't. In its place, the American Founders put “indirect” or “representative” democracy. In this system, representatives are chosen by the people to make decisions for them. The representative body, then, becomes a manageable size for doing the business of government. The Founders preferred the term *republic* to *democracy* because it described a system they generally preferred: the interests of the people were represented by more knowledgeable or wealthier citizens who were responsible to those that elected them. Today we tend to use the terms *republic* and *democracy* interchangeably. A widespread criticism of representative democracy is that the representatives become the “elites” who seldom consult ordinary citizens, so even though they are elected, a truly representative government doesn't really exist.

Another modern version of democracy is called *democratic centralism*, a term made famous by Vladimir Ulyinov Lenin. As the leader of the Russian Revolution in 1917, he established a Communist government that allowed no private property to exist. All members of society were theoretically equal. However, Lenin considered a small “vanguard of the revolution” necessary to guide the people and establish order. So, under democratic centralism, a small group of leaders make decisions in the name of the people, based on their perceptions of what the people want and need.



Britain has had a representative democracy since the seventeenth century. Members of the British Parliament are elected from across Britain and represent the interests of their constituents to the government.

Democracies have come in many shapes and sizes, as reflected by the different answers to questions of how, when, and to which people power is given. And although it is not mentioned in the Declaration of Independence or the Constitution, democracy clearly links to “rule of law” to form a basic principle that profoundly shapes American government.

Democratic Values—Liberty, Equality, Justice

Liberty and equality.

These words represent basic values of democratic political

systems, including that of the United States. Rule by absolute monarchs and emperors has often brought peace and order, but at the cost of personal freedoms. Democratic values support the belief that an orderly society can exist in which freedom is preserved. But order and freedom must be balanced.



In the early days of the French revolution, the members of the third estate agreed to stick together in the face of opposition from the king and nobles. The “Tennis Court Oath” became the first step toward representative democracy in France.

The Influence of the Enlightenment

The American government has its roots in the seventeenth- and eighteenth-century Enlightenment in Europe, a movement that questioned the traditional authority of the monarch to rule. What gives one person the right to rule another? Enlightenment philosophers answered the question by acknowledging the importance of establishing order. They were influenced by the chaos of medieval times, when a lack of centralized government brought widespread death and destruction. Havens from invaders

and attackers were necessary for survival, so weaker people allied themselves with stronger ones, and kings came to rule who provided protection in return for work and allegiance from their subjects.

As order was established and new economic patterns emerged, people began to question the king's right to rule. For example, John Locke, an eighteenth-century English philosopher, theorized that the right to rule came from the "consent of the governed." Montesquieu wrote with admiration about three "branches" of government that checked one another's power. Rousseau believed that communities were most justly governed by the "general will" or majority rule of their citizens. Though the philosophers believed that rulers were important for maintaining order, they questioned the sacrifice of individual freedom that they saw under European monarchs.



*John Locke was the English philosopher who theorized that government was the manifestation of a general will of "the governed" that allowed the governed to change their governors at will. His book, *Treatises on Civil Government*, was very influential in the American revolution.*

Two Kinds of Balance

Imagine a society in which everyone was perfectly free to do as he or she pleased. How long would it take for chaos to set in? Order implies a necessary loss of freedom if people are to survive.

However, how far can order go? Democratic countries cherish INDIVIDUAL FREEDOM and generally believe that laws should not be REPRESSIVE; a little order can be sacrificed in the name of LIBERTY. So one kind of balance is between order and liberty.

Democratic societies also expect another kind of balance: a compromise between liberty and equality. Complete liberty logically leads to inequality. A strong or ambitious person might acquire more goods and property than another, and someone is bound to dominate. But the line has to be drawn before an individual seizes power that greatly restricts the liberties of others.



The ideals of the first French revolution also inspired the 1830 revolution in Paris. The ideas of “Liberty, Equality, and Fraternity” were immortalized in the three colors of the French flag. In Delacroix’s painting, Liberty is seen leading the people toward these ideals.

Shouldn’t governments help preserve some degree of equality for their citizens? But if they overemphasize equality, won’t they restrict their citizens’ liberty? For example, governments can bring about more equality by taxing rich citizens more than the poor, but if they carry their policies too far, won’t they restrict the individual’s

freedom to strive for economic success? The balance between liberty and equality is an important cornerstone of democratic government.

In the late eighteenth century the Founders created the blueprints for the United States government in an effort to achieve these delicate balances—between liberty and order, and between liberty and equality. Their success is reflected in the continuing efforts to refine them. The formula has changed with time, but the framework provided by the Constitution and the values expressed by the Declaration of Independence remain the same.

9. Video: Democracy and Majority Rule (I)

In the video below, Professor Ian Shapiro takes an in-depth look at democracy and its institutions. According to him, democracy is the most successful at delivering on the mature Enlightenment's twin promises to recognize individual rights as the ultimate political good and to base politics on some kind of commitment to objective knowledge. And interestingly, democracy as a tradition was not made famous by its champions, but rather by its critics. Today, Professor Shapiro guides the class through the writings of Plato, Tocqueville, Madison, and Dahl. He zeroes in specifically on American democracy and such concepts as tyranny of the majority, factionalism, and checks and balances.



One or more interactive elements has been excluded from this version of the text. You can view them online

here: <https://library.achievingthedream.org/herkimeramericangovernment/?p=27#oembed-1>

Read a transcript of Professor Shapiro's lecture [here](#).

10. Video: Democracy and Majority Rule (II)

In the video below, Professor Ian Shapiro examines the democratic tradition through the lens of majority rule. What is it about majority rule that confers legitimacy on collective decisions? Is there any validity to a utilitarian justification, that catering to the wishes of the majority maximizes the happiness of the greatest number? Does majority rule reflect what Rousseau called the general will? What is the general will? Does Arrow's paradox indicate that the results of voting are arbitrary? Is majority rule just an exercise in realpolitik? Professor Shapiro makes the point that crosscutting cleavages discussed in an earlier lecture are the key to unlocking majority rule and limiting the possibility of domination. Although one may be in the majority today, the possibility of being in the minority tomorrow prevents tyranny. Several models of democracy are discussed: the public choice model of Buchanan and Tullock, Rae and Barry's critique of this model, Schumpeter's marketplace model, the Hotelling-Downs median voter theorem, and Huntington's two turnover test.



One or more interactive elements has been excluded from this version of the text. You can view them online

here: <https://library.achievingthedream.org/herkimeramericangovernment/?p=28#oembed-1>

Read a transcript of Professor Shapiro's lecture [here](#).

II. Reading: We, All of the People

Read “[We, All of the People](#),” by H       Landemore, in which she gives “five lessons from Iceland’s failed experiment in creating a crowdsourced constitution.”

Professor Landemore’s research interests include democratic theory, theories of justice, the philosophy of social sciences, and the history of thought. In the video below, Landemore discusses her current work on democratic innovations in post-representative democracy.



One or more interactive elements has been excluded from this version of the text. You can view them online

here: <https://library.achievingthedream.org/herkimeramericangovernment/?p=29#oembed-1>

12. The First American Political System

Summarize the political commitments important to the American political “system” prior to the establishment of the Constitution

Learning Activities

The learning activities for this section include:

- Reading: The First American Political System

Take time to review and reflect on this activity in order to improve your performance on the assessment for this section.

13. C. Reading: The First American Political System

Learning Objectives

After reading this section, you should be able to answer the following questions:

1. What was the Stamp Act Congress?
2. What was the Continental Congress?
3. What are the principles contained in the Declaration of Independence?
4. What were the Articles of Confederation?

We can understand what the Constitution was designed to accomplish by looking at the political system it replaced: the Articles of Confederation, the United States' first written

constitution, which embodied political ideals expressed by the Declaration of Independence.

From Thirteen Colonies to United States

By the mid-eighteenth century, Britain's thirteen colonies on North America's east coast stretched from Georgia to New Hampshire. Each colony had a governor appointed by the king and a legislature elected by landholding voters. These colonial assemblies, standing for the colonialists' right of self-government, clashed with the royal governors over issues of power and policies. Each colony, and the newspapers published therein, dealt with the colonial power in London and largely ignored other colonies.

The Stamp Act Congress

British policy eventually pushed politics and news across colonial boundaries. In 1763, the British antagonized the colonialists in two

important ways. A royal proclamation closed off the frontier to colonial expansion. Second, the British sought to recoup expenses borne defending the colonies. They instituted the first ever direct internal taxes in North America. The most famous, the Stamp Act, required the use of paper embossed with the royal seal to prove that taxes had been paid.

Such taxes on commerce alienated powerful interests, including well-off traders in the North and prosperous planters in the South, who complained that the tax was enacted in England without the colonists' input. Their slogan, "No taxation without representation," shows a dual concern with political ideals and material self-interest that persisted through the adoption of the Constitution.

Among the opponents of the Stamp Act were printers who produced newspapers and pamphlets.

The arduous technology of typesetting and hand-printing individual pages did not permit sizable



Printing newspapers was a small, labor-intensive business. Printers were often identifiable around town, not only for being ink stained, but also because the physical strain of pulling their presses shut made one shoulder rise considerably higher than the other.

production.¹² Newspapers reached large audiences by being passed around—“circulated”—or by being read aloud at taverns.³ Printers’ precarious financial condition made them dependent on commissions from wealthy people and official subsidies from government, and thus they were eager to please people in power. Crusading journalism against government authorities was rare.⁴ The

1. See Stephen Botein, “‘Meer Mechanics’ and an Open Press: The Business and Political Strategies of Colonial American Printers,” *Perspectives in American History* 9 (1975): 127–225; and “Printers and the American Revolution,” in *The Press and the American Revolution*, ed. Bernard Bailyn and John B. Hench (Worcester, MA: American Antiquarian Society, 1980), 11–57. Also, Charles E. Clark, *The Public Prints: The Newspaper in Anglo-American Culture* (New York: Oxford University Press, 1994), chap. 9; and “The Press the Founders Knew,” in *Freeing the Presses: The First Amendment in Action*, ed. Timothy E. Cook (Baton Rouge: Louisiana State University Press, 2005).
- 2.
3. Thomas C. Leonard, *News for All: America’s Coming-of-Age with the Press* (New York: Oxford University Press, 1995), chap. 1.
- 4.⁵
5. For amplification of this argument, Timothy E. Cook, *Governing with the News: The News Media as a Political*

Stamp Act, however, was opposed by powerful interests and placed financial burdens on printers, so it was easy for newspaper printers to oppose it vigorously with hostile stories.

During the Stamp Act crisis, news began to focus on events throughout the thirteen colonies. Benjamin Franklin, postmaster of the British government for the colonies, developed a system of post roads linking the colonies. Printers now could send newspapers to each other free of charge in the mail, providing content for each other to copy. Colonial legislatures proposed a meeting of delegates from across the colonies to address their grievances. This gathering, the Stamp Act Congress, met for two weeks in 1765. Delegates sent a petition to the king that convinced British authorities to annul the taxes.

Link: Declaration of Rights

See the text of the [Stamp Act Congress's Declaration of Rights](#).

Institution (Chicago: University of Chicago Press, 1998), chap. 2.

The Continental Congress

In 1773, the British government awarded the East India Company a monopoly on importing and selling tea to the American colonies. This policy, too, hurt powerful interests: colonial traders and merchants. Rebellious Bostonians ransacked the East India Company's ships and pushed cartons of tea overboard. The British reacted harshly to this "Boston Tea Party": they closed the port of Boston, deported rebels to England for trial, and restricted settlement in and trade to the west of the country.

Once again, delegates from the various colonies met, this time in a gathering known as the Continental Congress, to address the difficulties with Britain. But this congress's petitions, unlike those of the Stamp Act Congress, were rebuffed. Repressive policies were kept in place. The Continental Congress launched a boycott of British products, initiated the Revolutionary War, and passed the Declaration of Independence.⁶

The Declaration of

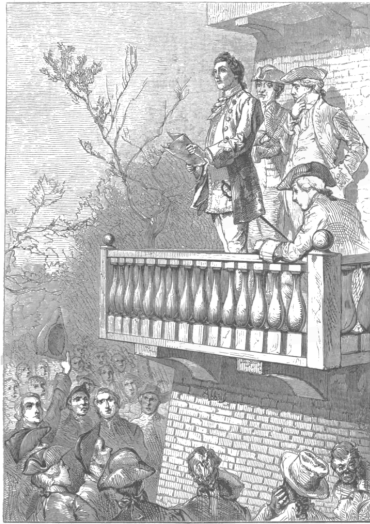
6.⁷

7. See Jack N. Rakove, *The Beginnings of National Politics: An Interpretive History of the Continental Congress* (New York: Knopf, 1979).

Independence

The Declaration of Independence, issued on July 4, 1776, announced that the thirteen colonies were independent of Britain. It was designed to be read aloud in public and to be sent to international audiences. Its point-by-point charges against British rule give equal weight to how the king damaged America's economic interests and how he ignored principles of self-government.

The Declaration is a deeply democratic document.⁸ It is



The soaring phrases of the Declaration were crafted in part to be declaimed in public. Indeed, one of the copies owned by Jefferson himself—not a confident public speaker—shows where he marked the document to pause, perhaps for laudatory huzzahs and applause.

8. Staughton Lynd, *The Intellectual Origins of American*

democratic in what it *did*—asserting the right of the people in American colonies to separate from Britain. And it is democratic in what it *said*: “We hold these truths to be self-evident, that all men are created equal” and have inviolable rights to “life, liberty, and the pursuit of happiness.” The Declaration concludes that the people are free to “alter or abolish” repressive forms of government. Indeed, it assumes that the people are the best judges of the quality of government and can act wisely on their own behalf.

Link: The Declaration of Independence

For more information on the Declaration of Independence, visit the [National Archives online](#).

Radicalism (New York: Vintage, 1969); Garry Wills, *Inventing America: Jefferson's Declaration of Independence* (New York: Vintage, 1979); and Pauline Maier, *American Scripture: Making the Declaration of Independence* (New York: Knopf, 1997).

The Articles of Confederation

Drafted in 1777, the Articles of Confederation were the first political constitution for the government of the United States. They codified the Continental Congress's practices and powers. The United States of America was a confederation of states. Although the confederation was superior to the individual states, it had no powers without their consent.

Link: The Articles of Confederation

Read the text of the [Articles of Confederation](#).

Under the Articles, the Continental Congress took over the king's powers to make war and peace, send and receive ambassadors, enter into treaties and alliances, coin money, regulate Indian affairs, and run a post office. But the confederation could not raise taxes and relied on revenues from each of the states. There was no president to enforce the laws and no judiciary to hear disputes between and among the states.

Each state delegation cast a single vote in the Continental

Congress. Nine states were needed to enact legislation, so few laws were passed. States usually refused to fund policies that hampered their own interests.⁹ Changes in the Articles required an all-but-impossible unanimous vote of all thirteen delegations. The weakness of the Articles was no accident. The fights with Britain created widespread distrust of central authority. By restricting the national government, Americans could rule themselves in towns and states. Like many political thinkers dating back to ancient Greece, they assumed that self-government worked best in small, face-to-face communities.

Key Takeaways

The first American political system, as expressed in the Articles of Confederation, reflected a distrust of a national government. Its powers were deliberately limited in order to allow Americans to govern themselves in their cities and states.

9. Keith L. Dougherty, *Collective Action under the Articles of Confederation* (New York: Cambridge University Press, 2001), chaps. 4–5.

14. Constitutional Convention

Identify the challenges and goals of the Constitutional Convention

Learning Activities

The learning activities for this section include:

- Reading: Creating and Ratifying the Constitution

Take time to review and reflect on this activity in order to improve your performance on the assessment for this section.

15. D. Reading: Creating and Ratifying the Constitution

Learning Objectives

After reading this section, you should be able to answer the following questions:

1. What was Shays's Rebellion?
2. What was the Constitutional Convention?
3. What were the three cross-cutting divides at the Constitutional Convention?
4. What were the main compromises at the Constitutional Convention?
5. Who were the Federalists and the Anti-Federalists?
6. What factors explain ratification of the Constitution?

The Constitution was a reaction against the limitations of the Articles of Confederation and the democratic experiments begun by the Revolution and the Declaration of Independence.

The Case against the Articles of Confederation

The Articles could not address serious foreign threats. In the late 1780s, Britain denied American ships access to British ports in a trade war. Spain threatened to close the Mississippi River to American vessels. Pirates in the Mediterranean captured American ships and sailors and demanded ransom. The national government had few tools to carry out its assigned task of foreign policy.¹

There was domestic ferment as well. Millions of dollars in paper money issued by state governments to fund the Revolutionary War lost their value after the war.² Financial interests were unable to collect on debts they were owed. They appealed to state

1. A synopsis is Jack N. Rakove, *Original Meanings: Politics and Ideas in the Making of the Constitution* (New York: Knopf, 1996), 25–28. More generally, see Max M. Edling, *A Revolution in Favor of Government: Origins of the U.S. Constitution and the Making of the American State* (New York: Oxford University Press, 2004).
2. Gordon S. Wood, “Interests and Disinterestedness in the Making of a Constitution,” in *Beyond Confederation: Origins of the Constitution and American National Identity*, ed. Richard Beeman, Stephen Botein, and Edward C. Carter II (Chapel Hill: University of North Carolina Press, 1987), 69–109.

governments, where they faced resistance and even brief armed rebellions.

Newspapers played up Shays's Rebellion, an armed insurrection by debt-ridden farmers to prevent county courts from foreclosing mortgages on their farms.³ Led by Captain Daniel Shays, it began in 1786, culminated with a march on the federal arsenal in Springfield, Massachusetts, and wound down in 1787.

The Continental Congress voted unanimously to raise an army to put down Shays's Rebellion but could not coax the states to provide the necessary funds. The army was never assembled.⁴

Link: Shay's Rebellion

To learn more about Shays's Rebellion, visit the [National Park Service online](#).

3. See Leonard A. Richards, *Shays's Rebellion: The American Revolution's Final Battle* (Philadelphia: University of Pennsylvania Press, 2002).

4.⁵

5. See Keith L. Dougherty, *Collective Action under the Articles of Confederation* (New York: Cambridge University Press, 2001), chap. 6.

Leaders who supported national government portrayed Shays's Rebellion as a vivid symbol of state governments running wild and proof of the inability of the Articles of Confederation to protect financial interests. Ordinary Americans, who were experiencing a relatively prosperous time, were less concerned and did not see a need to eliminate the Articles.

Calling a Constitutional Convention

The Constitutional Convention was convened in 1787 to propose limited reforms to the Articles of Confederation. Instead, however, the Articles would be replaced by a new, far more powerful national government.

Twelve state legislatures sent delegates to Philadelphia (Rhode Island did not attend). Each delegation would cast a single vote.

Who Were the Delegates?

The delegates were not representative of the American people. They were well-educated property owners, many of them wealthy, who came mainly from prosperous seaboard cities, including Boston and New York. Most had served in the Continental Congress and were sensitive to the problems faced by the United States. Few delegates had political careers in the states, and so they were free to break with existing presumptions about how government should be organized in America.

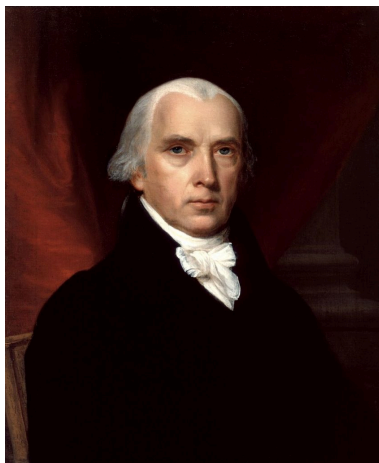
Link: Constitutional Convention

Learn more about the delegates to the Constitutional Convention [here](#).

The Constitutional Convention was a mix of great and minor characters. Exalted figures and brilliant intellects sat among nonentities, drunkards, and nincompoops. The convention's driving force and chief strategist was a young, bookish politician from Virginia named James Madison. He successfully pressured revered figures to attend the convention, such as George Washington, the commanding officer of the victorious American revolutionaries, and

Benjamin Franklin, a man at the twilight of a remarkable career as printer, scientist, inventor, postmaster, philosopher, and diplomat.

Madison drafted the first working proposal for a Constitution and took copious notes at the convention. Published after his death in 1836, they are the best historical source of the debates; they reveal the extraordinary political complexity of the deliberations and provide remarkable insight into what the founders had in mind.⁶



Once the Constitution was drafted, Madison helped write and publish a series of articles in a New York newspaper. These Federalist papers defend the political system the Constitutional Convention had crafted.

The unassuming and slight James Madison made an unusual teammate for the dashing, aristocratic ex-soldier Alexander Hamilton and the august diplomat John Jay. But despite these contrasts and some political divides, they merged their voices in the Federalist papers, published in New York newspapers under the pseudonym “Publius.” Soon after the ratification of the Constitution, The Federalist was widely republished in book format. Scholars now regard it as the fullest explication of the logic underlying the Constitution.

6.⁷

7. The standard edition of Madison’s notes is in *The Records of the Federal Convention of 1787*, ed. Max Farrand, 3 vols. (New Haven, CT: Yale University Press, 1937).

Interests and the Constitution

In the early twentieth century, historian Charles Beard asserted that the Constitution was “an economic document for economic ends,” pushed by investors and industrialists who would profit more from a national economic and political system than from one favoring small-scale agricultural interests.⁸ Research has not upheld Beard’s stark division of reaction to the Constitution into well-off supporters and poor, democratic adversaries. Many local, well-to-do patriarchs opposed the Constitution; many small merchants wanted a national government.

But Beard’s focus on economic and social interests is revealing. Paper money, debt relief, and Shays’s Rebellion concerned those committed to existing economic and social orders. Consider Federalist No. 10, the most famous of Madison’s Federalist papers. In it, he decried the dangers of democracy; he started with “a rage for paper money” and “an abolition of debts,” then the specter of “an equal division of property,” all of which he found an “improper or wicked project.” Madison paid attention to the right to acquire and maintain property, which the Declaration brushed aside. He claimed that political systems were created to maintain liberty—including the liberty to accumulate wealth. Political equality meant only that each person had a right to express himself or herself.

8.⁹

9. Charles A. Beard, *An Economic Interpretation of the Constitution of the United States* (New York: Macmillan, 1913).

Ideas and the Constitution

The Constitutional Convention responded to ideas, not just interests. Delegates doubted that the people could wisely rule. They sought to replace *democracy* with a *republic*, in which officials would be chosen to act on the people's behalf. Federalist No. 10 makes the case.

Madison was concerned with threats to order and stability from what he called factions, groups pursuing their self-interest above the public good. For Madison, factions were inevitable. His worst nightmare was of a faction becoming a political majority, trampling on the rights of its helpless opponents, and quickly enacting its program. He favored a large republic, which, he believed, would discourage a faction's rise to power. Madison expected that in a republic, the number of locally oriented interests would increase and diversify, which would make it harder for any one of them to dominate. Minority factions could pass legislation by forming temporary majorities, Madison reasoned, but these diverse majorities would not be able to agree on a single project long enough to be oppressive.

Drafting the Constitution

Delegates to the Constitutional Convention first gathered on May 25, 1787, in what is now called [Independence Hall in Philadelphia](#).

Their goal was to devise a constitution, a system of fundamental laws and principles outlining the nature and functions of the government. George Washington presided. Delegates worked in an intimate setting without committees. The structure of power created by the Constitution in Philadelphia resulted from a deeply political process.¹⁰

The Secrecy of the

10. Political scientists have revealed the degree to which the Constitutional Convention and the ratification conventions can be understood to be the result of manipulation of parliamentary rules, strategic voting, shifting coalitions, and the “agenda-setting” and “framing” use of mass communication.¹¹
11. Our analysis draws on these authors, especially John P. Roche, “The Founding Fathers: A Reform Caucus in Action,” *American Political Science Review* 55 (December 1961): 799–816; Calvin C. Jillson, *Constitution Making: Conflict and Consensus in the Federal Convention of 1787* (New York: Agathon Press, 1988); and William H. Riker, *The Strategy of Rhetoric: Campaigning for the American Constitution* (New Haven, CT: Yale University Press, 1996).

Constitutional Convention

Deliberations took place in secret, as delegates did not want the press and the public to know the details of what they were considering ([Note “Comparing Content”](#)). Newspapers hardly mentioned the convention at all, and when they did, it was in vague references praising the high caliber of the delegates.¹²

Comparing Content: The Convention’s Gag Rule

Press coverage of the Constitutional Convention cannot be compared because one of the first decisions made in the Constitutional Convention was that “nothing spoken in the House be printed, or otherwise published or communicated.”¹⁴ The

12.¹³

13. See John K. Alexander, *The Selling of the Constitutional Convention: A History of News Coverage* (Madison, WI: Madison House, 1990).

14.¹⁵

delegates feared that exposure through newspapers would complicate their work. The delegate who is today regarded as the great defender of civil liberties, George Mason, wrote to his son approvingly:

This I think myself a proper precaution to prevent mistakes and misrepresentation until the business shall have been completed, when the whole may have a very different complexion from that in the several crude and indigested parts might in their first shape appear if submitted to the public eye.¹⁶

This gag rule was rigorously enforced. One day the presiding officer, George Washington, noticed that an inattentive delegate had dropped his notes on the floor when leaving the hall. Washington broke his usual silence and rebuked the unknown infractor:

I am sorry to find that some one Member of this Body, has been so neglectful of the secrets of the convention as to drop in the State House a copy of their proceedings, which by accident was picked up and delivered to me this morning. I must entreat Gentlemen to be more careful, least [sic] our transactions get into the News Papers, and disturb the public repose by premature speculations.

15. Max Farrand, ed., *The Records of the Federal Convention of 1787* (New Haven, CT: Yale University Press, 1937), vol. 1, 17.

16.¹⁷

17. Max Farrand, ed., *The Records of the Federal Convention of 1787* (New Haven, CT: Yale University Press, 1937), vol. 3, 28.

Throwing the notes on the table, Washington exclaimed, “I know not whose Paper it is, but there it is, let him who owns it take it.” Delegate William Pierce, who recorded this tale, noted that Washington “bowed, picked up his Hat, and quitted the room with a dignity so severe that every Person seemed alarmed.”¹⁸

The founders were not unanimous about the threat posed by the press. Thomas Jefferson was in Paris as an ambassador. In August 1787, he wrote to his counterpart in London, John Adams, that there was no news from the convention:

I am sorry they began their deliberations by so abominable a precedent as that of tying up the tongues of their members. Nothing can justify this example but the innocence of their intentions, & ignorance of the value of public discussions. I have no doubt that all their other measures will be good and wise.²⁰

In 1787, the powers of the press were identified in ways we recognize in the twenty-first century. Washington was concerned that news about the political process might produce rumors, confusion, worry, and public opposition to worthwhile policies. But as Jefferson

18. ¹⁹

19. Max Farrand, ed., *The Records of the Federal Convention of 1787* (New Haven, CT: Yale University Press, 1937), vol. 3, 86–87.

20. ²¹

21. Max Farrand, ed., *The Records of the Federal Convention of 1787* (New Haven, CT: Yale University Press, 1937), vol. 3, 76.

recognized, the news can also lead to productive public debate, dialogue, and deliberation.



The membership of the Constitutional Convention was so small—never more than fifty on a given day—that they could proceed largely in “a committee of the whole.” This size enabled them to continue their discussions in private at their preferred boardinghouses and taverns—and to keep a tight lid on public discussion.

The Cross-Cutting Divides

The delegates immediately discarded the Continental Congress’s mandate that they recommend amendments to the Articles of Confederation. They agreed to draft a new Constitution from scratch in order to create a national government superior to and independent of the states.

This crucial decision was followed by disagreement about exactly how to create a national government. The states varied widely in economic bases, population sizes, and numbers of slaves.

Three cross-cutting divides existed among the states:

1. Large states versus small states²²
2. Cosmopolitan, centrally located states (Connecticut to Virginia) versus parochial states on the northern and southern borders
3. Southern states, reliant on slavery in their economies, versus Northern states, which were not

The powers and structures of the Constitution resulted from a series of compromises designed to bridge these three divides.

22. The terms “large state” and “small state” are misleading. Some small states had larger populations than large states. The small states all shared economic vulnerability and an inability to grow, usually because they were boxed in by other states on their western edge, which made it impossible to hope for westward expansion.

Large and Small States

The most threatening split in the convention emerged initially between large and small states.

Large states fired the first salvo. The Virginia Plan, drafted by Madison, foresaw a strong national government that could veto any state laws it deemed contrary to the national interest. The central institution was a bicameral (two-chamber) legislature. The people would elect the lower house, which would in turn select the members of the upper house; the two chambers together would then elect the executive and judiciary. Breaking with the Articles of Confederation's equal representation of states, the Virginia Plan allotted seats to both chambers of the legislature by population size alone.²³

Cosmopolitan, centrally located states, provided strong initial support for the Virginia Plan against scattered opposition from border states. But Madison could not hold this coalition behind *both* a strong national government *and* a legislature allocated by population. Delegates from the small states of New Jersey, Delaware, and Maryland liked a strong national government, but they feared being overpowered. Delegates from populous Massachusetts and three fast-growing Southern states joined the two largest states, Virginia and Pennsylvania, to support legislative districts based on

23.²⁴

24. The text of the Virginia Plan (and its main rival, the New Jersey Plan) can be found in Clinton Rossiter, *1787: The Grand Convention* (New York: Macmillan, 1966), 361–63 and 369–71.

population, but they disliked the Virginia Plan's sweeping powers for the national government.

On June 15, the small states proposed an alternative. The New Jersey Plan enhanced the national government's powers to levy taxes and regulate commerce but left remaining powers to the states. The plan had a federal executive, elected by the legislature, to enforce states' compliance with national law, and a federal judiciary to settle disputes among the states and between the states and the national government. Any national law would become "the supreme law of the respective States." The New Jersey Plan preserved the core of the Articles of Confederation—equal representation of states in a unicameral (single-chamber) legislature.

Only three states voted for the New Jersey Plan, but the Virginia Plan's vulnerability was exposed. Facing an impasse, delegates from Connecticut suggested a compromise. Borrowing the Virginia Plan's idea of a bicameral legislature, they proposed that one chamber, the House of Representatives, be made up of representatives from districts of equal population, while in the Senate each state would be equally represented with two senators.

This Connecticut Compromise (also known as the Great Compromise) was adopted by the convention with only Virginia and Pennsylvania in opposition. Thus the configuration of today's Congress emerged not so much from principled deliberations between the Constitution's founders as from the necessity for compromise between competing state interests. In essence, the founders decided to split the difference.²⁵

25.²⁶

26. David Brian Robertson, "Madison's Opponents and Constitutional Design," *American Political Science Review* 99 (2005): 225–44.

North and South

After this vote, North versus South displaced the divide between large and small states. The convention became preoccupied by how the new government would be empowered to deal with slavery. Northerners feared the South's growth and room for expansion. Southerners worried that the North would threaten the practice of slavery, which, although legal in all states, was a central part only of Southern economies.

Northern interests in a strong national government acceded to Southern demands on slavery. Southerners argued that slaves should be counted when allocating legislative seats. Eventually, the convention settled on a three-fifths clause: 60 percent of the enslaved population would be counted for purposes of representation. Northern delegates, convinced that the largest slave-holding states would never have a majority in the Senate, gave in.

Link: The Three-Fifths Clause

Aaron Magruder's comic strip *The Boondocks* ran this installment during the 2004 presidential campaign. Showing a depressed black man talking about the three-fifths clause, it powerfully illustrates the Constitution's long-lasting affront to African Americans, almost all of whom were enslaved and, thus, for the purpose of the census

(and of representation in Congress and the Electoral College), would be counted as three-fifths of a person.

Read the comic [here](#).

As the convention considered the national government's powers, an alliance of delegates from New England and the Deep South emerged to defend local control and their states' economic self-interest. Southerners sought to maintain slavery, while New Englanders wanted national tariffs to protect their commerce. They struck a deal that resulted in New England delegates voting to require the return of fugitive slaves and to prevent Congress from regulating the slave trade until 1808.

The delegates did not confront slavery head on (indeed, the word “slavery” is not directly mentioned in the Constitution). As a result, the issue of slavery would overshadow much of federal politics until its bloody resolution in the Civil War of the 1860s.

The Executive

By now, the Constitutional Convention could not break down, because the document had something for everybody. Small states liked the security of a national government and their equal representation in the Senate. The Deep South and New England valued the protection of their economic bases. Pennsylvania and Virginia—the two most populous, centrally located states—foresaw a national government that would extend the reach of their commerce and influence.

The convention's final sticking point was the nature of the

executive. The debate focused on how many people would be president, the power of the office, the term of the office, how presidents would be elected, and whether they could serve multiple terms.

To break the logjam on the presidency, the convention created the Electoral College as the method of electing the president, a political solution that gave something to each of the state-based interests. The president would not be elected directly by the popular vote of citizens. Instead, electors chosen by state legislatures would vote for president. Small states got more electoral votes than warranted by population, as the number of electors is equal to the total of representatives *and* senators. If the Electoral College did not produce a majority result, the president would be chosen by the popularly elected House, but with one vote per state delegation.²⁷ With all sides mollified, the convention agreed that the office of president would be held by one person who could run for multiple terms.

27.²⁸

28. The quoted phrase comes from John P. Roche, "The Founding Fathers: A Reform Caucus in Action," *American Political Science Review* 55 (December 1961): 810.

Bargaining, Compromise, and Deal Making

The Constitutional Convention began with a principled consensus on establishing a stronger national government; it ended with bargaining, compromise, and deal making. State delegations voted for their political and economic self-interests, and often worked out deals enabling everyone to have something to take home to constituents. Some complex matters, such as the structures of the executive and judicial branches, were left up to the new congress. As one scholar writes, the Constitution is “a patch-work sewn together under the pressure of both time and events by a group of extremely talented . . . politicians.”²⁹

29. ³⁰

30. John P. Roche, “The Founding Fathers: A Reform Caucus in Action,” *American Political Science Review* 55 (December 1961): 815; see also David Brian Robertson, “Madison’s Opponents and Constitutional Design,” *American Political Science Review* 99 (2005): 225–44.

Link: The Constitution

To learn more about the Constitution, visit the [National Constitution Center](#).

Ratifying the Constitution

The signing of the Constitution by the delegates on September 17, 1787, was just the beginning. The Constitution would go into effect only after being approved by specially elected ratifying conventions in nine states.

Ratification was not easy to win. In most states, property qualifications for voting had broadened from landholding to taxpaying, thereby including most white men, many of whom benefited from the public policies of the states. Popular opinion for and against ratification was evenly split. In key states like Massachusetts and Virginia, observers thought the opposition was ahead.³¹

31. ³²

32. Jackson Turner Main, *The Antifederalists: Critics of the Constitution, 1781–1788* (Chapel Hill: University of North

The Opposition to Ratification

The elections to the ratifying conventions revealed that opponents of the Constitution tended to come from rural inland areas (not from cities and especially not from ports, where merchants held sway). They held to the ideals of the Declaration of Independence, which favored a deliberately weak national government to enhance local and state self-government.³³ They thought that the national government's powers, the complex system of government, lengthy terms of office, and often indirect elections in the new Constitution distanced government from the people unacceptably.

Opponents also feared that the strength of the proposed national government posed a threat to individual freedoms. They criticized the Constitution's lack of a Bill of Rights—clauses to guarantee specific liberties from infringement by the new government. A few delegates to the Constitutional Convention, notably George Mason

Carolina Press, 1961), 249; Evelyn C. Fink and William H. Riker, “The Strategy of Ratification” in *The Federalist Papers and the New Institutionalism*, ed. Bernard Grofman and Donald Wittman (New York: Agathon Press, 1989), 220–55.

33.³⁴

34. See Herbert Storing, *What the Anti-Federalists Were For* (Chicago: University of Chicago Press, 1988).

of Virginia and Elbridge Gerry of Massachusetts, had refused to sign the document in the absence of a Bill of Rights.

The Campaign for Ratification

Despite such objections and obstacles, the campaign for ratification was successful in all thirteen states.³⁵ The advocates of the national political system, benefiting from the secrecy of the Constitutional Convention, were well prepared to take the initiative. They called themselves not nationalists but Federalists. Opponents to the Constitution were saddled with the name of Anti-Federalists, though they were actually the champions of a federation of independent states.

By asking conventions to ratify the Constitution, the Federalists evaded resistance from state legislatures. Federalists campaigned to elect sympathetic ratifiers and hoped that successive victories, publicized in the press, would build momentum toward winning ratification by all thirteen states.

35.³⁶

36. Pauline Maier, *Ratification: The People Debate the Constitution, 1787–1788* (New York: Simon & Schuster, 2010).



The Federalists' media strategies included images, too. A famous woodcut at the start of the Revolution was of a serpent cut into thirteen sections with the admonition "Join or Die." Federalists provided a new twist on this theme. They kept track of the ratification by an edifice of columns, elevated one by one as each state ratified. The next state convention on the list would be represented by a hand lifting the column, often accompanied by the confident motto "Rise It Will."

Anti-Federalists did not decry the process by which the Constitution was drafted and ratified. Instead, they participated in the ratification process, hoping to organize a new convention to remedy the Constitution's flaws.

Newspapers and Ratification

The US newspaper system boosted the Federalist cause. Of the approximately one hundred newspapers being published during the ratification campaign of 1787–88, “not more than a dozen . . . could be classed as avowedly antifederal.”³⁷ Anti-Federalist arguments were rarely printed and even less often copied by other newspapers.³⁹ Printers followed the money trail to support the Federalists. Most newspapers, especially those whose stories were reprinted by others, were based in port cities, if only because arriving ships provided good sources of news. Such locales were dominated by merchants who favored a national system to facilitate trade and commerce. Newspapers were less common in rural interior locations where Anti-Federalist support was greatest.

Federalists also pressured the few Anti-Federalist newspapers that existed. They wrote subscribers and advertisers and urged them to cancel. Anti-Federalist printers often moved to other cities, went out of business, or began reprinting Federalist articles. Federalists hailed such results as the voice of the people. When an

37. ³⁸

38. Robert Allen Rutland, *The Ordeal of the Constitution: The Antifederalists and the Ratification Struggle of 1787–1788* (Norman: University of Oklahoma Press, 1966), 38.

39. ⁴⁰

40. William H. Riker, *The Strategy of Rhetoric: Campaigning for the American Constitution* (New Haven, CT: Yale University Press, 1996), 26–28.

Anti-Federalist paper in Philadelphia halted publication, Federalists exulted, “There cannot be a greater proof that the body of the people are federal, that the antifederal editors and printers fail of support.”⁴¹

Today the most famous part of this newspaper campaign is the series of essays (referred to earlier) written by Alexander Hamilton, John Jay, and James Madison, and published in New York newspapers under the collective pseudonym “Publius.” The authors used their skills at legal argumentation to make the strongest case they could for the document that emerged from the Constitutional Convention. These Federalist papers, steeped in discussion of political theory and history, offer the fullest logic for the workings of the Constitution. However, they were rarely reprinted outside New York and were a minor part of the ratification campaign.

41. ⁴²

42. More specifically, see Robert A. Rutland, “The First Great Newspaper Debate: The Constitutional Crisis of 1787–88,” *Proceedings of the American Antiquarian Society* (1987): 43–58. These examples come from Robert Allen Rutland, *The Ordeal of the Constitution: The Antifederalists and the Ratification Struggle of 1787–1788* (Norman: University of Oklahoma Press, 1966), 73–74, 135–38, 265–66; and John P. Kaminski and Gaspare J. Saladino, eds., *Commentaries on the Constitution, Public and Private* (Madison, WI: State Historical Society of Wisconsin, 1981), vol. 1, xxxii–xxxix.

Link: *The Federalist*

Read *The Federalist* at the [Library of Congress online](#).

Newspapers instead played on public sentiment, notably the adulation of George Washington, presiding officer of the convention, and his support of the Constitution.⁴³ The most widely disseminated story concerned his return trip from Philadelphia to Virginia. A bridge collapsed but Washington escaped unharmed. The tale implied that divine intervention had ensured Washington's leadership by "the providential preservation of the valuable life of this great and good man, on his way home from the Convention."⁴⁵

Not all states were eager to ratify the Constitution, especially since it did not specify what the federal government could not do and did not include a Bill of Rights. Massachusetts narrowly voted in favor of ratification, with the provision that the first Congress take up recommendations for amending the Constitution. New

43.⁴⁴

44. On the most commonly reprinted articles, see William H. Riker, *The Strategy of Rhetoric: Campaigning for the American Constitution* (New Haven, CT: Yale University Press, 1996), chap. 6, esp. table 6.1.

45.⁴⁶

46. John P. Kaminski and Gaspare J. Saladino, eds., *Commentaries on the Constitution, Public and Private* (Madison, WI: State Historical Society of Wisconsin, 1981), vol. 1, 243.

Hampshire, Virginia, and New York followed this same strategy. Once nine states had ratified it, the Constitution was approved. Madison was elected to the first Congress and proposed a Bill of Rights, the first ten amendments to the Constitution. Only after the Congress had approved the Bill of Rights did North Carolina and Rhode Island ratify the Constitution.

Key Takeaways

We have shown that the Constitution was a political document, drafted for political purposes, by skillful politicians who deployed shrewd media strategies. At the Constitutional Convention, they reconciled different ideas and base self-interests. Through savvy compromises, they resolved cross-cutting divisions and achieved agreement on such difficult issues as slavery and electing the executive. In obtaining ratification of the Constitution, they adroitly outmaneuvered or placated their opponents. The eighteenth-century press was crucial to the Constitution's success by keeping its proceedings secret and supporting ratification.

16. Constitutional Principles

Identify and explain the key constitutional principles

Learning Activities

The learning activities for this section include:

- Reading: Constitutional Principles and Provisions
- Video: Creating a Constitution

- Video: Creating a Nation

Take time to review and reflect on these activities in order to improve your performance on the assessment for this section.

17. E. Reading: Constitutional Principles and Provisions

Learning Objectives

After reading this section, you should be able to answer the following questions:

1. What is the separation of powers?
2. What are checks and balances?
3. What is bicameralism?
4. What are the Articles of the Constitution?
5. What is the Bill of Rights?

The Principles Underlying the Constitution

While the Constitution established a national government that did not rely on the support of the states, it limited the federal government's powers by listing ("enumerating") them. This practice of *federalism* means that some policy areas are exclusive to the federal government, some are exclusive to the states, and others are shared between the two levels.

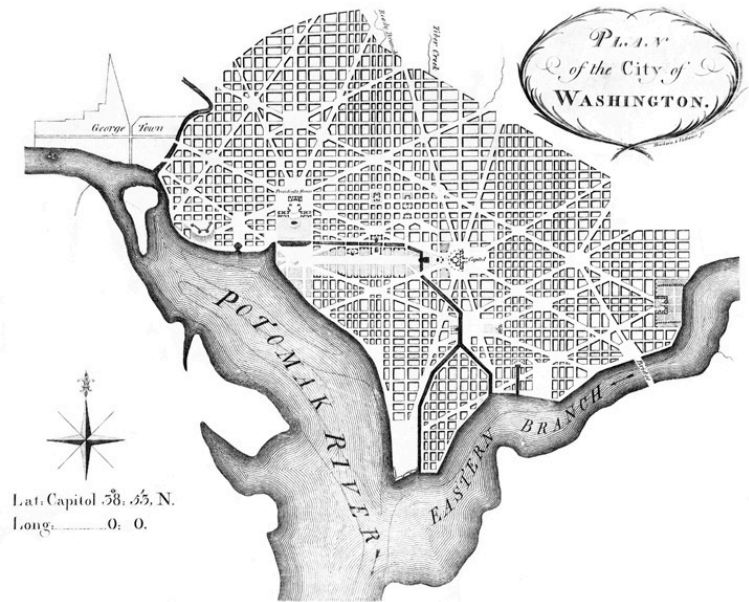
Federalism aside, three key principles are the crux of the Constitution: separation of powers, checks and balances, and bicameralism.

Separation of Powers

Separation of powers is the allocation of three domains of governmental action—law making, law execution, and law adjudication—into three distinct branches of government: the legislature, the executive, and the judiciary. Each branch is assigned specific powers that only it can wield (see Table 1, "The Separation of Powers and Bicameralism as Originally Established in the Constitution," below).

Table 1. The Separation of Powers and Bicameralism as Originally Established in the Constitution

Branch of Government	Term	How Selected	Distinct Powers
Legislative			
House of Representatives	2 years	Popular vote	Initiate revenue legislation; bring articles of impeachment
Senate	6 years; 3 classes staggered	Election by state legislatures	Confirm executive appointments; confirm treaties; try impeachments
Executive			
President	4 years	Electoral College	Commander-in-chief; nominate executive officers and Supreme Court justices; veto; convene both houses of Congress; issue reprieves and pardons
Judicial			
Supreme Court	Life (during good behavior)	Presidential appointment and Senate confirmation (stated more or less directly in Federalist No. 78)	Judicial review (implicitly in Constitution but stated more or less directly in Federalist No. 78)



In perhaps the most abiding indicator of the separation of powers, Pierre L'Enfant's plan of Washington, DC, placed the President's House and the Capitol at opposite ends of Pennsylvania Avenue. The plan notes the importance of the two branches being both geographically and politically distinct.

This separation is in the Constitution itself, which divides powers and responsibilities of each branch in three distinct articles: Article I for the legislature, Article II for the executive, and Article III for the judiciary.

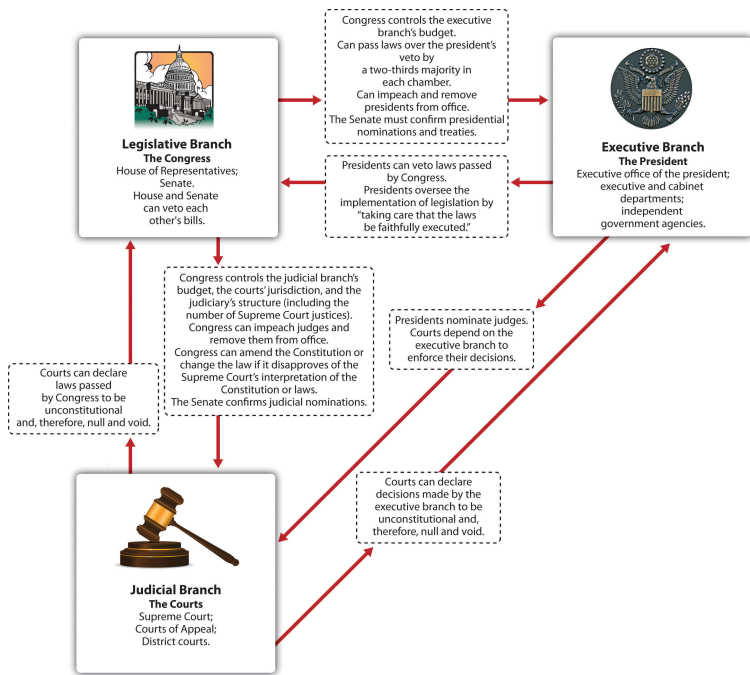
Checks and Balances

At the same time, each branch lacks full control over all the powers allotted to it. Political scientist Richard Neustadt put it memorably: “The Constitutional Convention of 1787 is supposed to have created a government of ‘separated powers.’ It did nothing of the sort. Rather, it created a government of separated institutions *sharing* powers.”¹ No branch can act effectively without the cooperation—or passive consent—of the other two.

Most governmental powers are shared among the various branches in a system of checks and balances, whereby each branch has ways to respond to, and if necessary, block the actions of the others. For example, only Congress can pass a law. But the president can veto it. Supreme Court justices can declare an act of Congress unconstitutional through judicial review. Figure 1, “Checks and Balances,” below, shows the various checks and balances between the three branches.

Figure 1. Checks and Balances

- ² Of course, whether the founders intended this outcome is still open to dispute.
- Richard E. Neustadt, *Presidential Power* (New York: Wiley, 1960), 33.



Source: Adapted from George C. Edwards, Martin P. Wattenberg, and Robert L. Lineberry, *Government in America: People, Politics, and Policy* (White Plains, NY: Pearson Longman, 2011), 46.

The logic of checks and balances echoes Madison's skeptical view of human nature. In Federalist No. 10 he contends that all individuals, even officials, follow their own selfish interests. Expanding on this point in Federalist No. 51, he claimed that officeholders in the three branches would seek influence and defend the powers of their respective branches. Therefore, he wrote, the Constitution provides "to those who administer each department the necessary constitutional means and personal motives to resist encroachments of the others."

Bicameralism

Government is made yet more complex by splitting the legislature into two separate and distinct chambers—the House of Representatives and the Senate. Such bicameralism was common in state legislatures. One chamber was supposed to provide a close link to the people, the other to add wisdom.³ The Constitution makes the two chambers of Congress roughly equal in power, embedding checks and balances inside the legislative branch itself.

Bicameralism recalls the founders' doubts about majority rule. To check the House, directly elected by the people, they created a Senate. Senators, with six-year terms and election by state legislatures, were expected to work slowly with a longer-range understanding of problems and to manage popular passions. A story, possibly fanciful, depicts the logic: Thomas Jefferson, back from France, sits down for coffee with Washington. Jefferson inquires why Congress will have two chambers. Washington asks Jefferson, "Why did you pour that coffee into your saucer?" Jefferson replies, "To cool it," following the custom of the time. Washington concludes, "Even so, we pour legislation into the senatorial saucer to cool it."⁵

3. ⁴

4. Gordon S. Wood, *The Creation of the American Republic* (Chapel Hill: University of North Carolina Press, 1969), chap. 6.

5. ⁶

6. This version comes from Richard F. Fenno Jr., *The United*

The Bias of the System

The US political system is designed to prevent quick agreement within the legislature and between the branches. Senators, representatives, presidents, and Supreme Court justices have varying terms of offices, distinctive means of selection, and different constituencies. Prospects for disagreement and conflict are high. Accomplishing any goal requires navigating a complex obstacle course. At any point in the process, action can be stopped. Maintaining the status quo is more likely than enacting significant changes. Exceptions occur in response to dire situations such as a financial crisis or external attacks.

What the Constitution Says

The text of the Constitution consists of a preamble and seven sections known as “articles.” The preamble is the opening rhetorical flourish. Its first words—“We the People of the United States”—rebuke the “We the States” mentality of the Articles of

States Senate: A Bicameral Perspective (Washington, DC: American Enterprise Institute, 1982), 5.

Confederation. The preamble lists reasons for establishing a national government.

The first three articles set up the branches of government. We briefly summarize them here, leaving the details of the powers and responsibilities given to these branches to specific chapters.

Article I establishes a legislature that the founders believed would make up the heart of the new government. By specifying many domains in which Congress is allowed to act, Article I also lays out the powers of the national government.

Article II takes up the cumbersome process of assembling an Electoral College and electing a president and a vice president—a process that was later modified by the Twelfth Amendment. The presidential duties listed here focus on war and management of the executive branch. The president's powers are far fewer than those enumerated for Congress.

The Constitutional Convention punted decisions on the structure of the judiciary below the Supreme Court to the first Congress to decide. Article III states that judges of all federal courts hold office for life “during good Behaviour.” It authorizes the Supreme Court to decide all cases arising under federal law and in disputes involving states. Judicial review, the central power of the Supreme Court, is not mentioned. Asserted in the 1804 case of *Marbury v. Madison*, it is the ability of the Court to invalidate a law passed by Congress or a decision made by the executive on the basis that it violates the Constitution.

Article IV lists rights and obligations among the states and between the states and the national government.

Article V specifies how to amend the Constitution. This shows that the framers intended to have a Constitution that could be adapted to changing conditions. There are two ways to propose amendments. States may call for a convention. (This has never been used due to fears it would reopen the entire Constitution for revision.) The other way to propose amendments is for Congress to pass them by a two-thirds majority in both the House and Senate.

Then there are two ways to approve an amendment. One is

through ratification by three-fourths of state legislatures. Alternatively, an amendment can be ratified by three-fourths of specially convoked state conventions. This process has been used once. “Wets,” favoring the end of Prohibition, feared that the Twenty-First Amendment—which would have repealed the Eighteenth Amendment prohibiting the sale and consumption of alcohol—would be blocked by conservative (“dry”) state legislatures. The wets asked for specially called state conventions and rapidly ratified repeal—on December 5, 1933.

Thus a constitutional amendment can be stopped by one-third of either chamber of Congress or one-fourth of state legislatures—which explains why there have been only twenty-seven amendments in over two centuries.

Article VI includes a crucial provision that endorses the move away from a loose confederation to a national government superior to the states. Lifted from the New Jersey Plan, the supremacy clause states that the Constitution and all federal laws are “the supreme Law of the Land.”

Article VII outlines how to ratify the new Constitution.

Constitutional Evolution

The Constitution has remained essentially intact over time. The basic structure of governmental power is much the same in the twenty-first century as in the late eighteenth century. At the same time, the Constitution has been transformed in the centuries since 1787. Amendments have greatly expanded civil liberties and rights. Interpretations of its language by all three branches of government

have taken the Constitution into realms not imagined by the founders. New practices have been grafted onto the Constitution's ancient procedures. Intermediary institutions not mentioned in the Constitution have developed important governmental roles.⁷

Amendments

Many crucial clauses of the Constitution today are in the amendments. The Bill of Rights, the first ten amendments ratified by the states in 1791, defines civil liberties to which individuals are entitled. After the slavery issue was resolved by a devastating civil war, equality entered the Constitution with the Fourteenth Amendment, which specified that “No State shall . . . deny to any person within its jurisdiction the equal protection of the laws.” This amendment provides the basis for civil rights, and further democratization of the electorate was guaranteed in subsequent ones. The right to vote became anchored in the Constitution with the addition of the Fifteenth, Nineteenth, Twenty-Fourth, and Twenty-Sixth Amendments, which stated that such a right, granted to all citizens aged eighteen years or more, could not be denied on

7.⁸

8. Bruce Ackerman, *The Failure of the Founding Fathers: Jefferson, Marshall and the Rise of Presidential Democracy* (Cambridge, MA.: Belknap Press of Harvard, 2005).

the basis of race or sex, nor could it be dependent on the payment of a poll tax.⁹

Link: The Full Text of the Constitution

Find the full text of the Constitution at the [National Archives online](#).

Constitutional Interpretation

The Constitution is sometimes silent or vague, making it flexible and

9.¹⁰

10. See Alexander Keyssar, *The Right to Vote: The Contested History of Democracy in the United States* (New York: Basic Books, 2000).

adaptable to new circumstances. Interpretations of constitutional provisions by the three branches of government have resulted in changes in political organization and practice.¹¹

For example, the Constitution is silent about the role, number, and jurisdictions of executive officers, such as cabinet secretaries; the judicial system below the Supreme Court; and the number of House members or Supreme Court justices. The first Congress had to fill in the blanks, often by altering the law.¹³

The Supreme Court is today at center stage in interpreting the Constitution. Before becoming chief justice in 1910, Charles Evans Hughes proclaimed, “We are under a Constitution, but the Constitution is what the Court says it is.”¹⁴ By examining the Constitution’s clauses and applying them to specific cases, the justices expand or limit the reach of constitutional rights and requirements. However, the Supreme Court does not always have the last word, since state officials and members of the national government’s legislative and executive branches have their own

11.¹²

12. The power of all three branches to develop the vague language of the Constitution is well documented in Neal Devins and Louis Fisher, *The Democratic Constitution* (New York: Oxford University Press, 2004).

13. David P. Currie, *The Constitution in Congress: The Federalist Period, 1789–1801* (Chicago: University of Chicago Press, 1997).

14. Hughes was then Governor of New York.¹⁵

15. Quoted in Edward S. Corwin, *The Constitution and What It Means Today* (Princeton, NJ: Princeton University Press, 1954), xiii.

understanding of the Constitution that they apply on a daily basis, responding to, challenging, and sometimes modifying what the Court has held.¹⁶

New Practices

Specific sections of the Constitution have evolved greatly through new practices. Article II gives the presidency few formal powers and responsibilities. During the first hundred years of the republic, presidents acted in limited ways, except during war or massive social change, and they rarely campaigned for a legislative agenda.¹⁸ Article II's brevity would be turned to the office's advantage by President Theodore Roosevelt at the dawn of the twentieth century. He argued that the president is "a steward of the people . . . bound actively and affirmatively to do all he could for the people." So the

16.¹⁷

17. See Neal Devins and Louis Fisher, *The Democratic Constitution* (New York: Oxford University Press, 2004).

18.¹⁹

19. See Jeffrey Tulis, *The Rhetorical Presidency* (Princeton, NJ: Princeton University Press, 1987).

president is obliged to do whatever is best for the nation as long as it is not specifically forbidden by the Constitution.²⁰

Intermediary Institutions

The Constitution is silent about various intermediary institutions—political parties, interest groups, and the media—that link government with the people and bridge gaps caused by a separation-of-powers system. The political process might stall in their absence. For example, presidential elections and the internal organization of Congress rely on the party system. Interest groups represent different people and are actively involved in the policy process. The media are fundamental for conveying information to the public about government policies as well as for letting government officials know what the public is thinking, a process that is essential in a democratic system.

20.²¹

21. Jeffrey K. Tulis, “The Two Constitutional Presidencies,” in *The Presidency and the Political System*, 6th ed., ed. Michael Nelson (Washington, DC: CQ Press, 2000), 93–124.

Key Takeaways

The Constitution established a national government distinguished by federalism, separation of powers, checks and balances, and bicameralism. It divided power and created conflicting institutions—between three branches of government, across two chambers of the legislature, and between national and state levels. While the structure it created remains the same, the Constitution has been changed by amendments, interpretation, new practices, and intermediary institutions. Thus the Constitution operates in a system that is democratic far beyond the founders' expectations.

18. Video: Creating a Constitution

In the video below, Professor Joanne Freeman discusses the debate over the Constitution at the Federal Convention of 1787—a convention that by no means had an inevitable outcome. Indeed, even attending the Convention at all was a subject of debate in the individual states; many people feared that the Convention would produce a pseudo-monarchical form of government that would abandon the true significance of the Revolution. Ostensibly called to revise the Articles of Confederation, the meeting ultimately produced an entirely new form of government, in part, thanks to the influence of James Madison’s “Virginia Plan” of government. Professor Freeman focuses on three subjects of debate among the many that occupied the Convention: the debates over representation, slavery, and the nature of the executive branch.



One or more interactive elements has been excluded from this version of the text. You can view them online

here: <https://library.achievingthedream.org/herkimeraamericangovernment/?p=36#oembed-1>

Read a transcript of Professor Freeman’s lecture [here](#).

19. Video: Creating a Nation

In the video below, Professor Joanne Freeman discusses the national debate over the proposed Constitution, arguing that, in many ways, when Americans debated its ratification, they were debating the consequences and meaning of the Revolution. Some feared that a stronger, more centralized government would trample on the rights and liberties that had been won through warfare, pushing the new nation back into tyranny, monarchy, or aristocracy. The Federalist essays represented one particularly ambitious attempt to quash Anti-Federalist criticism of the Constitution. In the end, the Anti-Federalists did have one significant victory, securing a Bill of Rights to be added after the new Constitution had been ratified by the states.



One or more interactive elements has been excluded from this version of the text. You can view them online

here: <https://library.achievingthedream.org/herkimeramericangovernment/?p=37#oembed-1>

Read a transcript of Professor's Freeman's lecture [here](#).

20. Putting It Together

Summary

We have shown that the Constitution was a political document, drafted for political purposes by its framers, who worked to replace the “first political system” of the post-revolutionary nation with one characterized by more national power than had existed under the Articles of Confederation. At the Constitutional Convention, the framers reconciled lofty ideals and base self-interests. Through savvy compromises, they resolved cross-cutting divisions and achieved agreement on such difficult issues as slavery and electing the president, though their solution to the former proved to be a temporary one. By getting the Constitution ratified, the framers adroitly outmaneuvered or placated their opponents, in part by promising to pass a Bill of Rights during the first session of the newly created Congress.

The Constitution established a national government distinguished by federalism, separation of powers, checks and balances, bicameralism, and a commitment to government by, for, and of The People. It divided power and created conflicting institutions—between three branches of government, across two chambers of the legislature, and between national and state levels. While the structure it created remains the same, the Constitution has been changed by amendments, interpretation, new practices, and intermediary institutions. Thus the Constitution operates in a system that is democratic far beyond the founders’ expectations. Though it is far from perfect, it is the oldest existing written constitution on the planet, and has provided the basis through which the American people have negotiated both emergent and perennial challenges, from the rise of industrial capitalism, to the practice of democracy itself.

The Constitution always was—and remains—a political document created and developed in political ways for political purposes, and it continues to be the object of political engagement in the twenty-first century.

Additional Resources

PART IV
FEDERALISM

2I. Why It Matters

Analyze the principle division of power between national and state governments in the American political system



Introduction

Why does it matter where decisions are made? Would it be more efficient or wise to allow the national government to make most of the important calls about public policy? Or, on the flip side, should each state drive policy, with the feds taking a less prominent role?

What are the implications for democratic self-rule concerning our choices about where decisions are made? Is government “closest to the people” more democratic by definition, or is the relationship more complex than that?

You might be surprised to learn that these sorts of questions—tied to the issue of federalism—drive numerous political debates. For example, recently some states and localities changed their laws to accommodate both medical and recreational marijuana use. One big problem: it’s still illegal under federal law. It’s an important public policy question, so who should decide what the law is? How would you justify your answer?

Consider the following case:

A few years back the Supreme Court held that the Patient Protection and Affordable Care Act—also known as “Obamacare”—couldn’t legally force states to expand their Medicaid coverage, thereby making that portion of the law “optional” for each state. In that case, the Court complained that even though the federal government offered the “carrot” of funding states 100 percent for the expanded coverage during the first three years (not less than 90 percent after that), the accompanying “stick”—stripping uncooperative states of all their federal Medicaid funding—was unduly coercive.

Some joked that this sort of coercion amounted to “take this money or I’ll shoot,” but it did demonstrate that the Court takes the principle of state sovereignty pretty seriously (at least some of the time). Of course, defending the states also meant that millions of poor Americans wouldn’t gain access to health insurance because their states “opted out” of Obamacare’s Medicaid expansion provision.

Do you think the Supreme Court got this one right? Do you think the states that opted out made the right decision? How should we think about these questions?

Consider these issues as you watch the video, below, which provides an excellent introduction to the topic of federalism:



One or more interactive elements has been excluded from this version of the text. You can view them online here: <https://library.achievingthedream.org/herkimeramericangovernment/?p=40#oembed-1>

Learning Outcomes

- Summarize the division of power between federal and state governments
- Explain how and why federalism has changed over time
- Identify the major benefits and drawbacks of federalism

22. Defining Federalism

Summarize the division of power between federal and state governments

Learning Activities

The learning activities for this section include:

- Reading: Federalism As a Structure for Power
- Video: Las Vegas Isn't Las Vegas
- Reading: Federalism
- Reading: The Powers of National Government
- Reading: Police Power

Take time to review and reflect on each of these activities in order to improve your performance on the assessment for this section.

23. Reading: Federalism As a Structure for Power

Learning Objectives

After reading this section, you should be able to answer the following questions:

1. What is federalism?
2. What powers does the Constitution grant to the national government?
3. What powers does the Constitution grant to state governments?

State vs. National Powers

The Constitution and its amendments outline distinct powers and tasks for national and state governments. Some of these constitutional provisions enhance the power of the national government; others boost the power of the states. Checks and balances protect each level of government against encroachment by the others.

National Powers

The Constitution gives the national government three types of power. In particular, Article I authorizes Congress to act in certain enumerated domains.

Exclusive Powers

The Constitution gives exclusive powers to the national government that states may not exercise. These are foreign relations, the military, war and peace, trade across national and state borders, and the monetary system. States may not make treaties with other countries or with other states, issue money, levy duties on imports or exports, maintain a standing army or navy, or make war.

Concurrent Powers

The Constitution accords some powers to the national government without barring them from the states. These concurrent powers include regulating elections, taxing and borrowing money, and establishing courts.

National and state governments both regulate commercial activity. In its commerce clause, the Constitution gives the national government broad power to “regulate Commerce with foreign Nations, and among the several States and with the Indian tribes.” This clause allowed the federal government to establish a national highway system that traverses the states. A state may regulate any and all commerce that is entirely within its borders.

National and state governments alike make and enforce laws and choose their own leaders. They have their own constitutions and court systems. A state’s Supreme Court decision may be appealed to

the US Supreme Court provided that it raises a “federal question,” such as an interpretation of the US Constitution or of national law.

Implied Powers

The Constitution authorizes Congress to enact all laws “necessary and proper” to execute its enumerated powers. This necessary and proper clause allows the national government to claim implied powers, logical extensions of the powers explicitly granted to it. For example, national laws can and do outlaw discrimination in employment under Congress’s power to regulate interstate commerce.

States’ Powers

The states existed before the Constitution, so the founders said little about their powers until the Tenth Amendment was added in 1791. It holds that “powers not delegated to the United States...nor prohibited by it [the Constitution] to the States, are reserved to the States...or to the people.” States maintain inherent powers that do not conflict with the Constitution. Notably, in the mid-nineteenth century, the Supreme Court recognized that states could exercise police powers to protect the public’s health, safety, order, and morals.

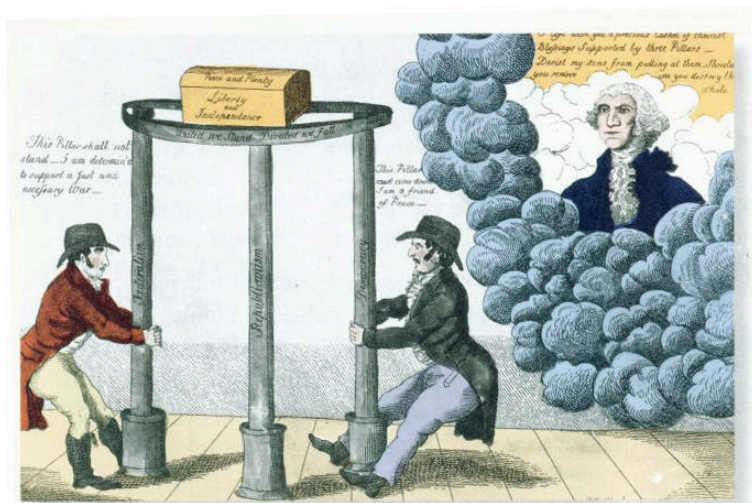
Reserved Powers

Some powers are reserved to the states, such as ratifying proposed amendments to the Constitution and deciding how to elect

Congress and the president. National officials are chosen by state elections.

Congressional districts are drawn within states. Their boundaries are reset by state officials after the decennial census. So the party that controls a state's legislature and governorship is able to manipulate districts in its favor. Republicans, having taken over many state governments in the 2010 elections, benefited from this opportunity.

National Government's Responsibilities to the States



The pillars of Federalism, Republicanism, and Democracy made up the foundation of the Federalist party in early American government.

The Constitution lists responsibilities the national government has to the states. The Constitution cannot be amended to deny the equal representation of each state in the Senate. A state's borders

cannot be altered without its consent. The national government must guarantee each state “a republican form of government” and defend any state, upon its request, from invasion or domestic upheaval.

States’ Responsibilities to Each Other

Article IV lists responsibilities states have to each other: each state must give “full faith and credit” to acts of other states. For instance, a driver’s license issued by one state must be recognized as legal and binding by another.

No state may deny “privileges and immunities” to citizens of other states by refusing their fundamental rights. States can, however, deny benefits to out-of-staters if they do not involve fundamental rights. Courts have held that a state may require newly arrived residents to live in the state for a year before being eligible for in-state (thus lower) tuition for public universities, but may not force them to wait as long before being able to vote or receive medical care.

Officials of one state must extradite persons upon request to another state where they are suspected of a crime.

States dispute whether and how to meet these responsibilities. Conflicts sometimes are resolved by national authority. In 2003, several states wanted to try John Muhammad, accused of being the sniper who killed people in and around Washington, DC. The US attorney general, John Ashcroft, had to decide which jurisdiction would be first to put him on trial. Ashcroft, a proponent of capital punishment, chose the state with the toughest death-penalty law, Virginia.

“The Supreme Law of the Land” and Its Limits

Article VI’s supremacy clause holds that the Constitution and all national laws are “the supreme law of the land.” State judges and officials pledge to abide by the US Constitution. In any clash between national laws and state laws, the latter must give way. However, as we shall see, boundaries are fuzzy between the powers national and state governments may and may not wield. Implied powers of the national government, and those reserved to the states by the Tenth Amendment, are unclear and contested. The Constitution leaves much about the relative powers of national and state governments to be shaped by day-to-day politics in which both levels have a strong voice.

A Land of Many Governments

“Disliking government, Americans nonetheless seem to like governments, for they have so many of them.”¹ Table 3.1 “Governments in the United States” catalogs the 87,576 distinct governments in the fifty states. They employ over eighteen million full-time workers. These numbers would be higher if we included territories, Native American reservations, and private substitutes for local governments such as gated developments’ community associations.

Governments in the United States

1. Martha Derthick, *Keeping the Compound Republic: Essays on American Federalism* (Washington, DC: Brookings, 2001), 83.

National government	1
States	50
Counties	3,034
Townships	16,504
Municipalities	19,429
Special districts	35,052
Independent school districts	13,506
Total governmental units in the United States	87,576

The US Bureau of the Census compiles this data, categorizing those entities that are organized, usually chosen by election, with a governmental character and substantial autonomy.

States

In one sense, all fifty states are equal: each has two votes in the US Senate. The states also have similar governmental structures to the national government: three branches—executive, legislative, and judicial (only Nebraska has a one chamber—unicameral—legislature). Otherwise, the states differ from each other in numerous ways. These include size, diversity of inhabitants, economic development, and levels of education. Differences in population are politically important as they are the basis of each state's number of seats in the House of Representatives, over and above the minimum of one seat per state.

States get less attention in the news than national and local governments. Many state events interest national news

organizations only if they reflect national trends, such as a story about states passing laws regulating or restricting abortions.²

A study of Philadelphia local television news in the early 1990s found that only 10 percent of the news time concerned state occurrences, well behind the 18 percent accorded to suburbs, 21 percent to the region, and 37 percent to the central city.³ Since then, the commitment of local news outlets to state news has waned further.⁴⁵

Native American Reservations

In principle, Native American tribes enjoy more independence than states but less than foreign countries. Yet the Supreme Court, in 1831, rejected the Cherokee tribe's claim that it had the right as a foreign country to sue the state of Georgia. The justices said that the

2. John Leland, "Abortion Foes Advance Cause at State Level," *New York Times*, June 3, 2010, A1, 16.
3. Phyllis Kaniss, *Making Local News* (Chicago: University of Chicago Press, 1991), table 4.4.
4. A survey of state capitol news coverage in 2002 revealed that thirty-one state capitols had fewer newspaper reporters than in 2000.⁶
- 5.
6. Charles Layton and Jennifer Dorroh, "[Sad State](#)," *American Journalism Review*, June 2002.

tribe was a “domestic dependent nation.”⁷ As wards of the national government, the Cherokee were forcibly removed from land east of the Mississippi in ensuing years.

Native Americans have slowly gained self-government. Starting in the 1850s, presidents’ executive orders set aside public lands for reservations directly administered by the national [Bureau of Indian Affairs](#) (BIA). During World War II, Native Americans working for the BIA organized to gain legal autonomy for tribes. Buttressed by Supreme Court decisions recognizing tribal rights, national policy now encourages Native American nations on reservations to draft constitutions and elect governments.⁹

Since the Constitution gives Congress and the national government exclusive “power to regulate commerce...with the Indian tribes,” states have no automatic authority over tribe members on reservations within state borders.¹¹ As a result, many Native American tribes have built profitable casinos on reservations

7.⁸

8. *Cherokee Nation v. Georgia*, 30 US 1 (1831).

9.¹⁰

10. See Charles F. Wilkinson, *American Indians, Time, and the Law: Native Societies in a Modern Constitutional Democracy* (New Haven, CT: Yale University Press, 1987); George Pierre Castile, *To Show Heart: Native American Self-Determination and Federal Indian Policy, 1960–1975* (Tucson: University of Arizona Press, 1998); and Kenneth R. Philp, *Termination Revisited: American Indians on the Trail to Self-Determination, 1933–1953* (Lincoln: University of Nebraska Press, 1999).

11.¹²

within states that otherwise restrict most gambling.¹³

Local Governments

All but two states are divided into administrative units known as counties.¹⁵ States also contain municipalities, whether huge cities or tiny hamlets. They differ from counties by being established by local residents, but their powers are determined by the state. Cutting across these borders are thousands of school districts as well as special districts for drainage and flood control, soil and water conservation, libraries, parks and recreation, housing and community development, sewerage, water supply, cemeteries, and fire protection.¹⁶

12. *Worcester v. Georgia*, 31 US 515 (1832).

13.¹⁴

14. *Montana v. Blackfeet Tribe of Indians*, 471 US 759 (1985);
California v. Cabazon Band of Indians, 480 US 202 (1987);
Seminole Tribe of Florida v. Florida, 517 US 44 (1996).

15. The two exceptions are Alaska, which has boroughs that do not cover the entire area of the state, and Louisiana, where the equivalents of counties are parishes.

16. The US Bureau of the Census categorizes those entities that are organized (usually chosen by election) with a governmental character and substantial autonomy. US

Key Takeaways

Federalism is the American political system's arrangement of powers and responsibilities among—and ensuing relations between—national, state, and local governments. The US Constitution specifies exclusive and concurrent powers for the national and state governments. Other powers are implied and determined by day-to-day politics.

Census Bureau, [Government Organization: 2002 Census of Governments 1](#), no. 1: 6.

24. Video: Las Vegas Isn't Las Vegas



One or more interactive elements has been excluded from this version of the text. You can view them online

here: <https://library.achievingthedream.org/herkimeramericangovernment/?p=43#oembed-1>

Note: You may stop watching the video at 3:17.

25. Reading: Federalism

Federalism is one of the most important and innovative concepts in the U.S. Constitution, although the word never appears there. Federalism is the sharing of power between national and state governments. In America, the states existed first, and they struggled to create a national government. The U.S. Constitution is hardwired with the tensions of that struggle, and Americans still debate the proper role of the national government versus the states. Chief Justice John Marshall, the longest-serving leader of the Supreme Court, noted that this question ‘is perpetually arising, and will probably continue to arise, as long as our system shall exist.’ —[Peter Sagal](#)

Explore the readings and videos at [Constitution USA with Peter Sagal](#) for contending expert analysis on modern federalism.

26. Reading: The Powers of National Government

Learning Objective

- Describe the power-sharing arrangements enshrined in the Constitution

The Powers of National Government

The federal government is composed of three branches: legislative, executive, and judicial. Powers are vested in Congress, in the President, and the federal courts by the United States Constitution. The powers and duties of these branches are further defined by acts of Congress, including the creation of executive departments and courts inferior to the Supreme Court.

The government was formed in 1789, making the United States one of the world's first, if not the first, modern national constitutional republic. It is based on the principle of federalism, where power is shared between the federal government and state governments. The powers of the federal government have generally expanded greatly since the Civil War. However, there have been periods of legislative branch dominance since then. Also, states' rights proponents have succeeded in limiting federal power through legislative action, executive prerogative, or constitutional interpretation by the courts. A theoretical pillar of the United States Constitution is the idea of checks and balances between the powers and responsibilities of the three branches of American government.



Congress

The U.S. Congress holds legislative power.

Congress is the legislative branch of the federal government. It is bicameral, comprised of the Senate and the House of Representatives. The Constitution grants numerous powers to Congress, including the power to:

- levy and collect taxes,
- coin money and regulate its value,
- provide punishment for counterfeiting,

- establish post offices and roads,
- promote progress of science by issuing patents,
- create federal courts inferior to the Supreme Court,
- combat piracies and felonies,
- declare war,
- raise and support armies,
- provide and maintain a navy,
- make rules for the regulation of land and naval forces,
- exercise exclusive legislation in the District of Columbia,
- make laws necessary to properly execute powers.

Since the United States was formed, many disputes have arisen over the limits on the powers of the federal government in the form of lawsuits ultimately decided by the Supreme Court.

The executive power in the federal government is vested in the President, although power is often delegated to the Cabinet members and other officials. The President and Vice President are elected as running mates by the Electoral College for which each state, as well as the District of Columbia, is allocated a number of seats based on its representation in both houses of Congress. The President is limited to a maximum of two four-year terms. If the President has already served two years or more of a term to which some other person was elected, he may only serve one more additional four-year term.

The Judiciary explains and applies the laws. This branch hears and eventually makes decisions on various legal cases. Article III, section I of the Constitution establishes the Supreme Court of the United States and authorizes the United States Congress to establish inferior courts as their need shall arise. Section I also establishes a lifetime tenure for all federal judges and states that their compensation may not be diminished during their time in office. Article II, section II establishes that all federal judges are to be appointed by the president and confirmed by the Senate.

Color photo of Barack Obama

2008 Democratic Party Presidential Candidate Barack Obama

Key Takeaways

- Congress is the legislative branch and is comprised of the Senate and the House of Representatives. The Constitution grants powers to Congress and any disputes are decided by the Supreme Court.
- The executive power is vested in the President, although power is often delegated to the Cabinet members and other officials.
- The judiciary explains and applies the laws. This branch makes decisions on various legal cases.

Terms

- Bicameral: having, or pertaining to, two separate legislative chambers or houses.
- Tenure: a status of possessing a thing or an office; an incumbency.

27. Reading: Police Power

Learn what “police power” is [here](#) within the context of U.S. Constitutional law.

28. Evolving Federalism

Explain how and why federalism has changed over time

Learning Activities

The learning activities for this section include:

- Reading: The Meanings of Federalism

Take time to review and reflect on this activity in order to improve your performance on the assessment for this section.

29. Reading: The Meanings of Federalism

Learning Objectives

After reading this section, you should be able to answer the following questions:

1. How has the meaning of federalism changed over time?
2. Why has the meaning of federalism changed over time?
3. What are states' rights and dual, cooperative, and competitive federalism?

The meaning of federalism has changed over time. During the first decades of the republic, many politicians held that states' rights allowed states to disobey any national government that in their view exceeded its powers. Such a doctrine was largely discredited after the Civil War. Then dual federalism, a clear division of labor between national and state government, became the dominant doctrine. During the New Deal of the 1930s, cooperative federalism, whereby federal and state governments work together to solve problems, emerged and held sway until the 1960s. Since then, the situation is summarized by the term competitive federalism, whereby responsibilities are assigned based on whether the national government or the state is thought to be best able to handle the task.

States' Rights

The ink had barely dried on the Constitution when disputes arose over federalism. Treasury Secretary Alexander Hamilton hoped to build a strong national economic system; Secretary of State Thomas Jefferson favored a limited national government. Hamiltonian and Jeffersonian factions in President George Washington's cabinet led to the first political parties: respectively, the Federalists, who favored national supremacy, and the Republicans, who supported states' rights.

Compact Theory

In 1798, Federalists passed the Alien and Sedition Acts, outlawing malicious criticism of the government and authorizing the president to deport enemy aliens. In response, the Republican Jefferson drafted a resolution passed by Kentucky's legislature, the first states' rights manifesto. It set forth a compact theory, claiming that states had voluntarily entered into a "compact" to ratify the Constitution. Consequently, each state could engage in "nullification" and "judge for itself" if an act was constitutional and refuse to enforce it.¹ However, Jefferson shelved states' rights when,

1. ²

as president, he directed the national government to purchase the enormous Louisiana Territory from France in 1803.

Links: Alien and Sedition Acts; Jefferson's Role

Read more about the [Alien and Sedition Acts online](#).

Read more about [Jefferson's role online](#).

2. Forrest McDonald, *States' Rights and the Union: Imperium in Imperio, 1776–1876* (Lawrence: University Press of Kansas, 2000), 38–43.

Slavery and the Crisis of Federalism

After the Revolutionary War, slavery waned in the North, where slaves were domestic servants or lone farmhands. In the South, labor-intensive crops on plantations were the basis of Southern prosperity, which relied heavily on slaves.³

In 1850, Congress faced the prospect of new states carved from land captured in the Mexican War and debated whether they would be slave or free states. In a compromise, Congress admitted California as a free state but directed the national government to capture and return escaped slaves, even in free states. Officials in Northern states decried such an exertion of national power favoring the South. They passed state laws outlining rights for accused fugitive slaves and forbidding state officials from capturing fugitives.⁵ The Underground Railroad transporting escaped slaves northward grew. The saga of hunted fugitives was at the heart of Harriet Beecher Stowe's 1852 novel *Uncle Tom's Cabin*, which sold

3.⁴

4. This section draws on James M. McPherson, *Battle Cry of Freedom: The Civil War Era* (New York: Oxford University Press, 1988).

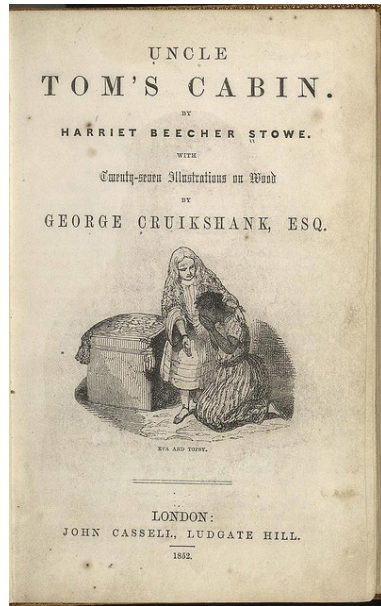
5.⁶

6. Thomas D. Morris, *Free Men All: The Personal Liberty Laws of the North, 1780–1861* (Baltimore, MD: Johns Hopkins University Press, 1974).

more copies proportional to the American population than any book before or since.

In 1857, the Supreme Court stepped into the fray. Dred Scott, the slave of a deceased Missouri army surgeon, sued for freedom, noting he had accompanied his master for extended stays in a free state and a free territory.⁷ The justices dismissed Scott's claim. They stated that blacks, excluded from the Constitution, could never be U.S. citizens and could not sue in federal court. They added that any national restriction on slavery in territories violated the Fifth Amendment, which bars the government from taking property without due process of law. To many Northerners, the Dred Scott decision raised doubts about

whether any state could effectively ban slavery. In December 1860, a convention in South Carolina repealed the state's ratification of



Lithograph from Uncle Tom's Cabin. The plight of fugitive slaves, vividly portrayed in the mega best seller of the 1850s, Uncle Tom's Cabin, created a crisis in federalism that led directly to the Civil War.

7.⁸

8. An encyclopedic account of this case is Don E. Fehrenbacher, *The Dred Scott Case: Its Significance in American Law and Politics* (New York: Oxford University Press, 1978).

the Constitution and dissolved its union with the other states. Ten other states followed suit. The eleven formed the Confederate States of America.

Links: The Underground Railroad and the Dred Scott Case

Learn more about the [Underground Railroad online](#).

Learn more about the Dred Scott case from the [Library of Congress](#).

Enduring Image: The Confederate Battle Flag

The American flag is an enduring image of the United States' national unity. The Civil War battle flag of the Confederate States

of America is also an enduring image, but of states' rights, of opposition to a national government, and of support for slavery. The blue cross studded with eleven stars for the states of the Confederacy was not its official flag. Soldiers hastily pressed it into battle to avoid confusion between the Union's Stars and Stripes and the Confederacy's Stars and Bars. After the South's defeat, the battle flag, often lowered for mourning, was mainly a memento of gallant human loss.⁹

The flag's meaning was transformed in the 1940s as the civil rights movement made gains against segregation in the South. One after another Southern state flew the flag above its capitol or defiantly redesigned the state flag to incorporate it. Over the last sixty years, a myriad of meanings arousing deep emotions have become attached to the flag: states' rights; Southern regional pride; a general defiance of big government; nostalgia for a bygone era; racist support of segregation; or "equal rights for whites."¹¹

9.¹⁰

10. See especially Robert E. Bonner, *Colors and Blood: Flag Passions of the Confederate South* (Princeton, NJ: Princeton University Press, 2002).

11.¹²

12. For overviews of these meanings see Tony Horwitz, *Confederates in the Attic: Dispatches from the Unfinished Civil War* (New York: Random House, 1998) and J. Michael Martinez, William D. Richardson, and Ron McNinch-Su, eds., *Confederate Symbols in the Contemporary South* (Gainesville: University of Florida Press, 2000).

The battle flag appeals to politicians seeking resonant images. But its multiple meanings can backfire. In 2003, former Vermont governor Howard Dean, a candidate for the Democratic presidential nomination, addressed the Democratic National



The Confederate flag

Committee and said, “White folks in the South who drive pickup trucks with Confederate flag decals on the back ought to be voting with us, and not them [Republicans], because their kids don’t have health insurance either, and their kids need better schools too.” Dean received a rousing ovation, so he probably thought little of it when he told the *Des Moines Register*, “I still want to be the candidate for guys with Confederate flags in their pickup trucks.”¹³ Dean, the Democratic front runner, was condemned by his rivals who questioned his patriotism, judgment, and racial sensitivity. Dean apologized for his remark.¹⁵

The South’s defeat in the Civil War discredited compact theory and nullification. Since then, state officials’ efforts to defy national orders have been futile. In 1963, Governor George Wallace stood in the doorway of the University of Alabama to resist a court order

13.¹⁴

14. All quotes come from “[Dems Battle over Confederate Flag](#),” CNN, November 2, 2003.

15.¹⁶

16. “[Dean: ‘I Apologize’ for Flag Remark](#),” CNN, November 7, 2003.

to desegregate the all-white school. Eventually, he had no choice but to accede to federal marshals. In 1994, Pennsylvania governor Robert Casey, a pro-life Democrat, decreed he would not allow state officials to enforce a national order that state-run Medicaid programs pay for abortions in cases of rape and incest. He lost in court.¹⁷

Dual Federalism

After the Civil War, the justices of the Supreme Court wrote, “The Constitution, in all its provisions, looks to an indestructible Union, composed of indestructible States.”¹⁹ They endorsed dual federalism, a doctrine whereby national and state governments have clearly demarcated domains of power. The national government is supreme, but only in the areas where the Constitution authorizes it to act.

The basis for dual federalism was a series of Supreme Court decisions early in the nineteenth century. The key decision was

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18. David L. Shapiro, *Federalism: A Dialogue* (Evanston, IL: Northwestern University Press, 1995), 98 n. 139.

19. ²⁰

20. *Texas v. White*, 7 Wall. 700 (1869).

McCulloch v. Maryland (1819). The Court struck down a Maryland state tax on the Bank of the United States chartered by Congress. Chief Justice Marshall conceded that the Constitution gave Congress no explicit power to charter a national bank,²¹ but concluded that the Constitution's necessary-and-proper clause enabled Congress and the national government to do whatever it deemed "convenient or useful" to exercise its powers. As for Maryland's tax, he wrote, "the power to tax involves the power to destroy." Therefore, when a state's laws interfere with the national government's operation, the latter takes precedence. From the 1780s to the Great Depression of the 1930s, the size and reach of the national government were relatively limited. As late as 1932, local government raised and spent more than the national government or the states.

On two subjects, however, the national government increased its power in relationship to the states and local governments: sin and economic regulation.

Link: *McCulloch v. Maryland*

Read more about [McCulloch v. Maryland \(1819\) online](#).

21.²²

22. *McCulloch v. Maryland*, 4 Wheat. 316 (1819).

The Politics of Sin

National powers were expanded when Congress targeted obscenity, prostitution, and alcohol.²³ In 1872, reformers led by Anthony Comstock persuaded Congress to pass laws blocking obscene material from being carried in the U.S. mail. Comstock had a broad notion of sinful media: all writings about sex, birth control, abortion, and childbearing, plus tabloid newspapers that allegedly corrupted innocent youth.

As a result of these laws, the national government gained the power to exclude material from the mail even if it was legal in individual states.

The power of the national government also increased when prostitution became a focus of national policy. A 1910 exposé in *McClure's* magazine roused President William Howard Taft to warn Congress about prostitution rings operating across state lines. The ensuing media frenzy depicted young white girls torn from rural homes and degraded by an urban “white slave trade.” Using the commerce clause, Congress passed the Mann Act to prohibit the transportation “in interstate commerce...of any woman or girl for the purpose of prostitution or debauchery, or for any other immoral purpose.”²⁵ The bill turned enforcement over to a tiny agency

23.²⁴

24. This section draws on James A. Morone, *Hellfire Nation: The Politics of Sin in American History* (New Haven, CT: Yale University Press, 2003), chaps. 8–11.

25.²⁶

concerned with antitrust and postal violations, the Bureau of Investigations. The Bureau aggressively investigated thousands of allegations of “immoral purpose,” including unmarried couples crossing state lines to wed and interracial married couples.

The crusade to outlaw alcohol provided the most lasting expansion of national power. Reformers persuaded Congress in 1917 to bar importation of alcohol into dry states, and, in 1919, to amend the Constitution to allow for the nationwide prohibition of alcohol. Pervasive attempts to evade the law boosted organized crime, a rationale for the Bureau of Investigations to bloom into the [Federal Bureau of Investigation](#) (FBI), the equivalent of a national police force, in the 1920s.

Prohibition was repealed in 1933. But the FBI under J. Edgar Hoover, its director from the 1920s to the 1970s, continued to call attention through news and entertainment media to the scourge of organized crime that justified its growth, political independence, and Hoover's power. The FBI supervised film depictions of the lives of criminals like John Dillinger and long-running radio and television shows like *The FBI*. The heroic image of federal law enforcement would not be challenged until the 1960s when the classic film *Bonnie and Clyde* romanticized the tale of two small-time criminals into a saga of rebellious outsiders crushed by the ominous rise of authority across state lines.

26. Quoted in James A. Morone, *Hellfire Nation: The Politics of Sin in American History* (New Haven, CT: Yale University Press, 2003), 266.

Economic Regulation

Other national reforms in the late nineteenth century that increased the power of the national government were generated by reactions to industrialization, immigration, and urban growth. Crusading journalists decried the power of big business. Upton Sinclair's 1906 novel *The Jungle* exposed miserable, unsafe working conditions in America's factories. These reformers feared that states lacked the power or were reluctant to regulate railroads, inspect meat, or guarantee food and drug safety. They prompted Congress to use its powers under the commerce clause for economic regulation, starting with the Interstate Commerce Act in 1887 to regulate railroads and the Sherman Antitrust Act in 1890 to outlaw monopolies.

The Supreme Court, defending dual federalism, limited such regulation. It held in 1895 that the national government could only regulate matters *directly* affecting interstate commerce.²⁷ In 1918, it ruled that Congress could not use the commerce clause to deal with local matters like conditions of work. The national government could regulate interstate commerce of harmful products such as lottery tickets or impure food.^{29 30}

27.²⁸

28. *United States v. E. C. Knight*, 156 US 1 (1895).

29.³¹ A similar logic prevented the U.S.

30. government from using taxation powers to the same end.³²

31. *Hammer v. Dagenhart*, 247 US 251 (1918).

Cooperative Federalism

The massive economic crises of the Great Depression tolled the death knell for dual federalism. In its place, cooperative federalism emerged. Instead of a relatively clear separation of policy domains, national, state, and local governments would work together to try to respond to a wide range of problems.

The New Deal and the End of Dual Federalism

Elected in 1932, Democratic president Franklin Delano Roosevelt (FDR) sought to implement a “New Deal” for Americans amid staggering unemployment. He argued that the national government could restore the economy more effectively than states or localities. He persuaded Congress to enact sweeping legislation. New Deal programs included boards enforcing wage and price guarantees; programs to construct buildings and bridges, develop national parks, and create artworks; and payments to farmers to reduce acreage of crops and stabilize prices.

32. *Bailey v. Drexel Furniture Company*, 259 US 20 (1922).



Dorothea Lange photograph, Gordonton, North Carolina, 1939. The 1930s New Deal programs included commissioning photographers to document social conditions during the Great Depression. The resultant photographs are both invaluable historical documents and lasting works of art.

By 1939, national government expenditures equaled state and local expenditures combined.³³ FDR explained his programs to nationwide audiences in “fireside chats” on the relatively young medium of radio. His policies were highly popular, and he was reelected by a landslide in 1936. The Supreme Court, after rejecting several New Deal measures, eventually upheld national authority over such once-forbidden terrain as labor-management relations,

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34. Thomas Anton, *American Federalism & Public Policy: How the System Works* (Philadelphia, PA: Temple University Press, 1988), 41.

minimum wages, and subsidies to farmers.³⁵ The Court thereby sealed the fate of dual federalism.

Links: The New Deal and Fireside Chats

Learn more about the [New Deal online](#).

Read the [Fireside Chats online](#).

35. ³⁶

36. Respectively, *National Labor Relations Board v. Jones & Laughlin Steel*, 301 US 1 (1937); *United States v. Darby*, 312 US 100 (1941); *Wickard v. Filburn*, 317 US 111 (1942).

Grants-in-Aid

Cooperative federalism's central mechanisms were grants-in-aid: the national government passes funds to the states to administer programs. Starting in the 1940s and 1950s, national grants were awarded for infrastructure (airport construction, interstate highways), health (mental health, cancer control, hospital construction), and economic enhancement (agricultural marketing services, fish restoration).³⁷

Grants-in-aid were cooperative in three ways. First, they funded policies that states already oversaw. Second, categorical grants required states to spend the funds for purposes specified by Congress but gave them leeway on how to do so. Third, states' and localities' core functions of education and law enforcement had little national government supervision.³⁹

37.³⁸

38. David B. Walker, *The Rebirth of Federalism: Slouching toward Washington* (Washington, DC: CQ Press, 1999), 99.

39.⁴⁰

40. Martha Derthick, *Keeping the Compound Republic: Essays on American Federalism* (Washington, DC: Brookings, 2001), 17.

Competitive Federalism

During the 1960s, the national government moved increasingly into areas once reserved to the states. As a result, the essence of federalism today is competition rather than cooperation.⁴¹

Judicial Nationalizing

Cooperative federalism was weakened when a series of Supreme Court decisions, starting in the 1950s, caused states to face much closer supervision by national authorities. As you'll see, the Court extended requirements of the Bill of Rights and of "equal protection of the law" to the states.

41. ⁴²

42. Paul E. Peterson, Barry George Rabe, and Kenneth K. Wong, *When Federalism Works* (Washington, DC: Brookings, 1986), especially chap. 5; Martha Derthick, *Keeping the Compound Republic: Essays on American Federalism* (Washington, DC: Brookings, 2001), chap. 10.

The Great Society

In 1963, President Lyndon Johnson proposed extending the New Deal policies of his hero, FDR. Seeking a “Great Society” and declaring a “War on Poverty,” Johnson inspired Congress to enact massive new programs funded by the national government. Over two hundred new grants programs were enacted during Johnson’s five years in office. They included a Jobs Corps and Head Start, which provided preschool education for poor children.

The Great Society undermined cooperative federalism. The new national policies to help the needy dealt with problems that states and localities had been unable or reluctant to address. Many of them bypassed states to go straight to local governments and nonprofit organizations.⁴³

43.⁴⁴

44. David B. Walker, *The Rebirth of Federalism: Slouching toward Washington* (Washington, DC: CQ Press, 1999), 123–25.

Link: The Great Society

Read more about [The Great Society](#).

Obstacles and Opportunities

In competitive federalism, national, state, and local levels clash, even battle with each other.⁴⁵ Overlapping powers and responsibilities create friction, which is compounded by politicians' desires to get in the news and claim credit for programs responding to public problems.

Competition between levels of federalism is a recurring feature of films and television programs. For instance, in the eternal television drama *Law and Order* and its offshoots, conflicts between local, state, and national law enforcement generate narrative tension and drama. This media frame does not consistently favor one side or the other. Sometimes, as in the film *The Fugitive* or stories about civil

45.⁴⁶

46. The term “competitive federalism” is developed in Thomas R. Dye, *American Federalism: Competition among Governments* (Lexington, MA: Lexington Books, 1990).

rights like *Mississippi Burning*, national law enforcement agencies take over from corrupt local authorities. Elsewhere, as in the action film *Die Hard*, national law enforcement is less competent than local or state police.

Mandates

Under competitive federalism, funds go from national to state and local governments with many conditions—most notably, directives known as mandates.⁴⁷ State and local governments want national funds but resent conditions. They especially dislike “unfunded mandates,” according to which the national government directs them what to do but gives them no funds to do it.

After the Republicans gained control of Congress in the 1994 elections, they passed a rule to bar unfunded mandates. If a member objects to an unfunded mandate, a majority must vote to waive the rule in order to pass it. This reform has had little impact: negative news attention to unfunded mandates is easily displaced by dramatic, personalized issues that cry out for action. For example, in

47.⁴⁸

48. This definition is drawn from Michael Fix and Daphne Kenyon, eds., *Coping with Mandates: What Are the Alternatives?* (Washington, DC: Urban Institute Press, 1988), 3–4.

1996, the story of Megan Kanka, a young New Jersey girl killed by a released sex offender living in her neighborhood, gained huge news attention. The same Congress that outlawed unfunded mandates passed “Megan’s Law”—including an unfunded mandate ordering state and local law enforcement officers to compile lists of sex offenders and send them to a registry run by the national government.

Key Takeaways

Federalism in the United States has changed over time from clear divisions of powers between national, state, and local governments in the early years of the republic to greater intermingling and cooperation as well as conflict and competition today. Causes of these changes include political actions, court decisions, responses to economic problems (e.g., depression), and social concerns (e.g., sin).

30. Pros and Cons of Federalism

Identify the major benefits and drawbacks of federalism

Learning Activities

The learning activities for this section include:

- Reading: Why Federalism Works (More or Less)
- Reading: State Legislatures As ‘Laboratories of Democracy’
- Video: United States of ALEC—A Follow-up

Take time to review and reflect on this activity in order to improve your performance on the assessment for this section.

31. Reading: Why Federalism Works (More or Less)

Learning Objectives

After reading this section, you should be able to answer the following questions:

1. How do national, state, and local governments interact to make federalism work more or less?
2. How are interest groups involved in federalism?
3. What are the ideological and political attitudes toward federalism of the Democratic and Republican parties?

When Hurricane Katrina hit New Orleans and the surrounding areas on August 29, 2005, it exposed federalism's frailties. The state and local government were overwhelmed, yet there was uncertainty over which level of government should be in charge of rescue attempts. Louisiana governor Kathleen Blanco refused to sign an order turning over the disaster response to federal authorities. She did not want to cede control of the National Guard and did not believe signing the order would hasten the arrival of the troops she had requested. President Bush failed to realize the magnitude of the disaster, then believed that the federal response was effective. In fact, as was obvious to anyone watching television, it was slow and ineffective. New Orleans mayor C. Ray Nagin and state officials

accused the Federal Emergency Management Agency (FEMA) of failing to deliver urgently needed help and of thwarting other efforts through red tape.

Hurricane Katrina was an exceptional challenge to federalism. Normally, competition between levels of government does not careen out of control, and federalism works, more or less. We have already discussed one reason: a legal hierarchy—in which national law is superior to state law, which in turn dominates local law—dictates who wins in clashes in domains where each may constitutionally act.

There are three other reasons.¹First, state and local governments provide crucial assistance to the national government. Second, national, state, and local levels have complementary capacities, providing distinct services and resources. Third, the fragmentation of the system is bridged by interest groups, notably the intergovernmental lobby that provides voices for state and local governments. We discuss each reason.

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2. See also John D. Nugent, *Safeguarding Federalism: How States Protect Their Interests in National Policymaking* (Norman: University of Oklahoma Press, 2009).

Applying Policies Close to Home

State and local governments are essential parts of federalism because the federal government routinely needs them to execute national policy. State and local governments adjust the policies as best they can to meet their political preferences and their residents' needs. Policies and the funds expended on them thus vary dramatically from one state to the next, even in national programs such as unemployment benefits.³

This division of labor, through which the national government sets goals and states and localities administer policies, makes for incomplete coverage in the news. National news watches the national government, covering more the political games and high-minded intentions of policies than the nitty-gritty of implementation. Local news, stressing the local angle on national news, focuses on the local impact of decisions in distant Washington.

3.⁴

4. Thomas R. Dye, *American Federalism: Competition among Governments*(Lexington, MA: Lexington Books, 1990), chap. 2; Paul E. Peterson, *The Price of Federalism*(Washington, DC: Brookings, 1995), chap. 4.

Comparing Content: Passage of No Child Left Behind Act

The No Child Left Behind (NCLB) Act vastly expanded the national government's supervision of public education with requirements for testing and accountability. Amid the final push toward enacting the law, Washington reporters for national newspapers were caught up in a remarkable story: the bipartisan coalition uniting staunch opponents President George W. Bush and liberal senator Edward Kennedy (D-MA) civilly working together on a bold, historic piece of legislation. Dana Milbank's *Washington Post* story was typical. Milbank termed the bill "the broadest rewriting of federal education policy in decades," and he admired "Washington's top bipartisan achievement of 2001."⁵ The looming problems of funding and implementing the act were obscured in the national media's celebration of the love fest.

By contrast, local newspapers across the country calculated the benefits and costs of the new legislation on education in their states and localities—in particular, how much money the state would receive under NCLB and whether or not the law's requirements and deadlines were reasonable. On January 9, 2002, the *Boston Globe's* headline was "Mass. Welcomes Fed \$\$; Will Reap \$117M for Schools, Testing," and the *Denver Post* noted, "Colorado to Get \$500 million for Schools."⁷

5. ⁶

6. Dana Milbank, "With Fanfare, Bush Signs Education Bill," *Washington Post*, January 9, 2002, A3.

7. ⁸

Local newspapers sought out comments of state and local education officials and leaders of local teachers' unions, who were less smitten by the new law. The *Sacramento Bee* published a lengthy front-page story by reporter Erika Chavez on January 3, shortly before Bush signed the law. Chavez contrasted the bill's supporters who saw it as "the most meaningful education reform in decades" with opponents who found that "one crucial aspect of the legislation is nothing more than a pipe dream." Discussing the bill's provision that all teachers must be fully credentialed in four years, a staffer at the State Department of Education was quoted as saying "The numbers don't add up, no matter how you look at them." The California Teachers' Association's president called it "fantasy legislation," adding, "It's irresponsible to pass this kind of law and not provide the assistance needed to make the goals attainable. I can't understand the reason or logic that went into this legislation. It's almost a joke."⁹

8. Ed Hayward, "Mass. Welcomes Fed Dollars; Will Reap \$117M for Schools, Testing," *Boston Globe*, January 9, 2002, 7; Monte Whaley, "Colorado to Get \$500 Million for Schools," *Denver Post*, January 9, 2002, A6.

9.¹⁰

10. Erika Chavez, "Federal Teacher Goal is Blasted; Congress' Mandate that Instructors Get Credentials in 4 Years is Called Unrealistic," *Sacramento Bee*, January 3, 2002, A1.

Complementary Capacities

The second reason federalism often works is because national, state, and local governments specialize in different policy domains.¹¹ The main focus of local and state government policy is economic development, broadly defined to include all policies that attract or keep businesses and enhance property values. States have traditionally taken the lead in highways, welfare, health, natural resources, and prisons.¹³ Local governments dominate in education, fire protection, sewerage, sanitation, airports, and parking.

The national government is central in policies to serve low-income and other needy persons. In these redistributive policies, those paying for a service in taxes are not usually those receiving the service.¹⁵ These programs rarely get positive coverage in the local news, which often shows them as “something-for-nothing”

11.¹²

12. This section draws on Paul E. Peterson, *The Price of Federalism*(Washington, DC: Brookings, 1995).

13.¹⁴

14. Thomas Anton, *American Federalism & Public Policy: How the System Works*(Philadelphia, PA: Temple University Press, 1988), table 3.3.

15.¹⁶

16. This definition comes from Paul E. Peterson, Barry George Rabe, and Kenneth K. Wong, *When Federalism Works* (Washington, DC: Brookings, 1986), 15.

benefits that undeserving individuals receive, not as ways to address national problems.¹⁷

States cannot effectively provide redistributive benefits. It is impossible to stop people from moving away because they think they are paying too much in taxes for services. Nor can states with generous benefits stop outsiders from moving there—a key reason why very few states enacted broad health care coverage¹⁹—and why President Obama pressed for and obtained a national program. Note, however, that, acknowledging federalism, it is the states' insurance commissioners who are supposed to interpret and enforce many of the provisions of the new federal health law

The three levels of government also rely on different sources of taxation to fund their activities and policies. The national government depends most heavily on the national income tax, based on people's ability to pay. This enables it to shift funds away from the wealthier states (e.g., Connecticut, New Jersey, New Hampshire) to poorer states (e.g., New Mexico, North Dakota, West Virginia).

Taxes of local and state governments are more closely connected to services provided. Local governments depend mainly on property taxes, the more valuable the property the more people pay. State governments collect state income taxes but rely most on sales taxes

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18. Paul E. Peterson, Barry George Rabe, and Kenneth K. Wong, *When Federalism Works* (Washington, DC: Brookings, 1986), 19.

19.²⁰

20. Mark C. Rom and Paul E. Peterson, *Welfare Magnets: A New Case for a New National Standard* (Washington, DC: Brookings, 1990).

gathered during presumably necessary or pleasurable consumer activity.

Link: Tax and Budget Information for Federal, State, and Local Governments

Find more information about government budgets and taxes:

[Federal](#)

[State](#)

[Local](#)

The language of “no new taxes” or “cutting taxes” is an easy slogan for politicians to feature in campaign ads and the news. As a result, governments often increase revenues on the sly, by lotteries, cigarette and alcohol taxes, toll roads, and sales taxes falling mostly on nonresidents (like hotel taxes or surcharges on car rentals).²¹

21. ²²

22. Glenn R. Beamer, *Creative Politics: Taxes and Public Goods in a Federal System* (Ann Arbor: University of Michigan Press, 1999), chap. 4.

The Intergovernmental Lobby

A third reason federalism often works is because interest groups and professional associations focus simultaneously on a variety of governments at the national, state, and local levels. With multiple points of entry, policy changes can occur in many ways.²³

In bottom-up change, a problem is first identified and addressed, but not resolved at a local level. People, and often the media, then pressure state and national governments to become involved. Bottom-up change can also take place through an interest group calling on Congress for help.²⁵ In 1996, pesticide manufacturers, fed up with different regulations from state to state, successfully pushed Congress to set national standards to make for more uniform, and less rigorous, regulation.

In top-down change, breaking news events inspire simultaneous policy responses at various levels. Huge publicity for the 1991 beating that motorist Rodney King received from Los Angeles police

23.²⁴

24. Thomas Anton, *American Federalism & Public Policy: How the System Works* (Philadelphia, PA: Temple University Press, 1988), chap. 5.

25.²⁶

26. David R. Berman, *Local Government and the States: Autonomy, Politics, and Policy* (Armonk, NY: M.E. Sharpe, 2003), 20.

officers propelled police brutality onto the agenda nationwide and inspired many state and local reforms.²⁷

Policy diffusion is a horizontal form of change.²⁹ State and local officials watch what other state and local governments are doing. States can be “laboratories of democracy,” experimenting with innovative programs that spread to other states. They can also make problems worse with ineffective or misdirected policies.

These processes—bottom-up, top-down, and policy diffusion—are reinforced by the intergovernmental lobby. State and local governments lobby the president and Congress. Their officials band together in organizations, such as the National Governors Association, National Association of Counties, the U.S. Conference of Mayors, and the National Conference of State Legislatures. These associations trade information and pass resolutions to express common concerns to the national government. Such meetings are one-stop-shopping occasions for the news media to gauge nationwide trends in state and local government.

27.²⁸

28. Regina G. Lawrence, *The Politics of Force: Media and the Construction of Police Brutality* (Berkeley: University of California Press, 2000).

29.³⁰

30. Jack L. Walker, “Diffusion of Innovations among American States,” *American Political Science Review* 63 (1969): 880–99.

Democrats, Republicans, and Federalism

The parties stand for different principles with regard to federalism. Democrats prefer policies to be set by the national government. They opt for national standards for consistency across states and localities, often through attaching stringent conditions to the use of national funds. Republicans decry such centralization and endorse devolution, giving (or, they say, “returning”) powers to the states—and seeking to shrink funds for the national government.

Principled distinctions often evaporate in practice. Both parties have been known to give priority to other principles over federalism and to pursue policy goals regardless of the impact on boundaries between national, state, and local governments.³¹

So Republicans sometimes champion a national policy while Democrats look to the states. In 2004, the Massachusetts Supreme Court ruled that the state could not deny marriage licenses to same-sex couples, and officials in cities like San Francisco defied state laws and began marrying same-sex couples. Led by President George W. Bush, Republicans drafted an amendment to the U.S. Constitution to define marriage as between a man and a woman. Bush charged that “activist judges and local officials in some parts of the country are not letting up in their efforts to redefine marriage

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32. Paul L. Posner, *The Politics of Unfunded Mandates: Whither Federalism?* (Washington, DC: Georgetown University Press, 1998), 223.

for the rest of America.”³³ Democrats, seeking to defuse the amendment’s appeal, argued that the matter should be left to each of the states. Democrats’ appeal to federalism swayed several Republican senators to vote to kill the amendment.

“The American Recovery and Reinvestment Act,” enacted in February 2009, is another example. This was a dramatic response by Congress and the newly installed Obama administration to the country’s dire economic condition. It included many billions of dollars in a fiscal stabilization fund: aid to the states and localities struggling with record budget deficits and layoffs. Most Democratic members of Congress voted for the legislation even though it gave the funds unconditionally. Republicans opposed the legislation, preferring tax cuts over funding the states.

Economic Woes

The stimulus package was a stopgap measure. After spending or allocating most of the federal funds, many states and localities still faced a dire financial situation. The federal government, running a huge budget deficit, was unlikely to give the states significant additional funding. As unemployment went up and people’s incomes

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34. Carl Hulse, “Senators Block Initiative to Ban Same-Sex Unions,” *New York Times*, July 15, 2004, A1.

went down, states' tax collections decreased and their expenditures for unemployment benefits and health care increased. Many states had huge funding obligations, particularly for pensions they owed and would owe to state workers.

State governors and legislators, particularly Republicans, had promised in their election campaigns not to raise taxes. They relied on cutting costs. They reduced aid to local governments and cities. They fired some state employees, reduced pay and benefits for others, slashed services and programs (including welfare, recreation, and corrections), borrowed funds, and engaged in accounting maneuvers to mask debt.

At the University of California, for example, staff were put on furlough, which cut their pay by roughly 8 percent, teaching assistants were laid off, courses cut, library hours reduced, and recruitment of new faculty curtailed. Undergraduate fees (tuition) were increased by over 30 percent, provoking student protests and demonstrations.

At the local level, school districts' budgets declined as they received less money from property taxes and from the states (about one quarter of all state spending goes to public schools). They fired teachers, hired few new ones (resulting in a horrendous job market for recent college graduates wanting to teach), enlarged classes, cut programs, shortened school hours, and closed schools.

KEY TAKEAWAYS

The federal system functions, more or less, because of the authority of national over state laws, which trump local laws; crucial

assistance provided by states and local governments to execute national policy; the complementary capacities of the three levels of government; and the intergovernmental lobby. The functioning of the system is being challenged by the economic woes faced by government at all levels. The Democratic and Republican parties differ ideologically about federalism, although these differences can be changed to achieve political objectives.

32. Reading: State Legislatures As 'Laboratories of Democracy'

Read “State Legislatures As ‘Laboratories of Democracy’” by Ralph Nader [here](#).

33. Video: United States of ALEC—A Follow-Up

Does sending decision-making power back to the states necessarily produce more democracy? Watch “United States of ALEC—A Follow-Up” [here](#) for a story that complicates that assumption.

34. Putting It Together

Summary

Federalism is the American political system's arrangement of powers and responsibilities among national, state, and local governments. While the general principle of divided power under federalism is fairly easy to grasp, in practice the commitment to this sort of "sovereignty sharing" has become far more complex over time. During the early years of the republic, the clear divisions of authority between the levels of government gradually evolved into a more interconnected and cooperative reality—a reality that also includes ongoing conflict and competition as the nation grapples with policy challenges the framers of our system didn't anticipate.

In this modern context the national government has accumulated far more power than was originally designed into the system, mostly because of continuing attempts to deal with the consequences of industrialization, as well as increased efforts to defend civil rights and liberties. Big-ticket political controversies of the day have focused attention on debates over the proper arrangement and location of governing power. Republicans—especially since the 1970s—tend to be associated with calls to "devolve" power back toward the states in the name of democracy, however problematic that may be in a post-industrial era characterized by concentrated private power. Meanwhile, Democrats are often more comfortable moving authoritative decisions up the ladder to the federal level. Of course we need to be careful with these generalizations since, as we have seen, they tend to break down from time to time depending on the issue at hand. It's complicated!

PART V

CH. 2 CIVIL RIGHTS AND LIBERTIES

35. Why It Matters

Summarize the evolving commitment to civil rights and liberties



Introduction

What does it mean to be free? What does it mean to be treated fairly

and equally? Are there particular freedoms and rights we should consider fundamental to a free and just society? These are tougher questions to answer than you might think. Indeed, the American experience demonstrates that each generation must be committed to defending and defining rights and liberties given new challenges and changing circumstances.

Take the right to privacy. Prior to the rise of the Internet, who would have thought that governments and corporations might develop the ability to read or listen in on all of our private communications? Yet, that world has arrived, as the controversy surrounding the Edward Snowden NSA leaks has demonstrated. How do we maintain a commitment to privacy in these circumstances?

Similarly, our evolving commitment to equality and basic fairness demands a flexible approach and an acknowledgment that various groups of Americans have not always been treated fairly. How do we ensure that race, ethnicity, gender, sexual orientation, disability, or other characteristics do not inhibit life chances or access to the rights and liberties that mainstream groups take for granted?

As you work through this module, consider how historical factors have shaped fundamental rights and liberties, as well as the experiences of various groups. How do we remain committed to a realm of liberty and justice for all?

Learning Outcomes

- Identify and assess the tensions between commitments to “negative liberty” versus more modern commitments to “positive liberty” provided by the state
- Identify and explain important developments in the protection of civil liberties under the Constitution
- Explain protection of religion, speech, the press, assembly, and petition in the Constitution

- Explain the constitutional protections related to arms, search and seizure, accusation, punishment, property, and privacy
- Identify challenges to civil liberties inherent in the information age
- Explain the purpose of the Civil War Amendments; evaluate their success and failure with regard to African American communities after the war
- Summarize the civil rights struggles of other minorities, women, lesbians, gay men, and the disabled
- Identify civil rights efforts in the information age

36. Evolving Protections

Identify and explain important developments in the protection of civil liberties under the Constitution

Learning Activities

The learning activities for this section include:

- Reading: The Bill of Rights
- Reading: Vox Cards: The War on Drugs

Take time to review and reflect on each of these activities in order to improve your performance on the assessment for this section.

37. A. Reading: The Bill of Rights

Learning Objectives

After reading this section, you should be able to answer the following questions:

1. What is the Bill of Rights?
2. What historical periods were central to the evolution of civil liberties protections?
3. What is the relationship of the Fourteenth Amendment to civil liberties?

The foundation of civil liberties is the Bill of Rights, the ten amendments added to the Constitution in 1791 to restrict what the national government may do.

The state conventions that ratified the Constitution obtained promises that the new Congress would consider adding a Bill of Rights. James Madison—the key figure in the Constitutional Convention and an exponent of the Constitution’s logic in the Federalist papers—was elected to the first House of Representatives. Keeping a campaign promise, he surveyed suggestions from state-ratifying conventions and zeroed in on those most often recommended. He wrote the amendments not just as goals to pursue but as commands telling the national government what it

must do or what it cannot do. Congress passed twelve amendments, but the Bill of Rights shrank to ten when the first two (concerning congressional apportionment and pay) were not ratified by the necessary nine states.

Link: The Bill of Rights

View the [Bill of Rights online](#).

The first eight amendments that were adopted address particular rights. The Ninth Amendment addressed the concern that listing some rights might undercut unspoken natural rights that preceded government. It states that the Bill of Rights does not “deny or disparage others retained by the people.” This allows for unnamed rights, such as the right to travel between states, to be recognized. We discussed the Tenth Amendment in module 2, as it has more to do with states’ rights than individual rights.

The Rights

Even before the addition of the Bill of Rights, the Constitution did not ignore civil liberties entirely. It states that Congress cannot restrict one's right to request a writ of habeas corpus giving the reasons for one's arrest. It bars Congress and the states from enacting bills of attainder (laws punishing a named person without trial) or ex post facto laws (laws retrospectively making actions illegal). It specifies that persons accused by the national government of a crime have a right to trial by jury in the state where the offense is alleged to have occurred and that national and state officials cannot be subjected to a "religious test," such as swearing allegiance to a particular denomination.

The Bill of Rights contains the bulk of civil liberties. Unlike the Constitution, with its emphasis on powers and structures, the Bill of Rights speaks of "the people," and it outlines the rights that are central to individual freedom.¹

The main amendments fall into several broad categories of protection, as follow:

1. Freedom of expression (I)
2. The right to "keep and bear arms" (II)
3. The protection of person and property (III, IV, V)
4. The right not to be "deprived of life, liberty, or property, without due process of law" (V)

1. ²

2. This section draws on Robert A. Goldwin, *From Parchment to Power* (Washington, DC: American Enterprise Institute, 1997).

5. The rights of the accused (V, VI, VII)
6. Assurances that the punishment fits the crime (VIII)
7. The right to privacy implicit in the Bill of Rights

The Bill of Rights and the National Government

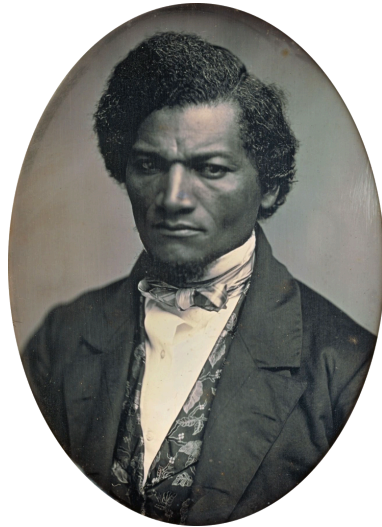
Congress and the executive have relied on the Bill of Rights to craft public policies, often after public debate in newspapers.³ Civil liberties expanded as federal activities grew.

3.⁴

4. This theme is developed in Michael Kent Curtis, *Free Speech, "The People's Darling Privilege": Struggles for Freedom of Expression in American History* (Durham, NC: Duke University Press, 2000).

The First Century of Civil Liberties

The first big dispute over civil liberties erupted when Congress passed the [Sedition Act](#) in 1798, amid tension with revolutionary France. The act made false and malicious criticisms of the government—including Federalist president John Adams and Congress—a crime. While printers could not be stopped from publishing, because of freedom of the press, they could be punished after publication. The Adams administration and Federalist judges used the act to threaten with arrest and imprisonment many Republican editors who opposed them. Republicans



Frederick Douglass, c. 1847–52. The ex-slave Frederick Douglass, like many prominent abolitionists, published a newspaper. Much of the early debate over civil liberties in the United States revolved around the ability to suppress such radical statements.

argued that freedom of the press, before or after publication, was crucial to giving the people the information they required in a republic. The Sedition Act was a key issue in the 1800 presidential election, which was won by the Republican Thomas Jefferson over Adams; the act expired at the end of Adams's term.⁵

Debates over slavery also expanded civil liberties. By the mid-1830s, Northerners were publishing newspapers favoring slavery's abolition. President Andrew Jackson proposed stopping the US Post Office from mailing such "incendiary publications" to the South. Congress, saying it had no power to restrain the press, rejected his idea. Southerners asked Northern state officials to suppress abolitionist newspapers, but they did not comply.⁷

6. See James Morton Smith, *Freedom's Fetters: The Alien and Sedition Laws and American Civil Liberties* (Ithaca, NY: Cornell University Press, 1956). For how the reaction to the Sedition Act produced a broader understanding of freedom of the press than the Bill of Rights intended, see Leonard W. Levy, *Emergence of a Free Press* (New York: Oxford University Press, 1985).

7.⁸

8. Michael Kent Curtis, *Free Speech, "The People's Darling Privilege": Struggles for Freedom of Expression in American History* (Durham, NC: Duke University Press, 2000), especially chaps. 6–8, quote at 189.

World War I

As the federal government's power grew, so too did concerns about civil liberties. When the United States entered the First World War in 1917, the government jailed many radicals and opponents of the war. Persecution of dissent caused Progressive reformers to found the [American Civil Liberties Union](#) (ACLU) in 1920. Today, the ACLU pursues civil liberties for both powerless and powerful litigants across the political spectrum. While it is often deemed a liberal group, it has defended reactionary organizations, such as the American Nazi Party and the Ku Klux Klan, and has joined powerful lobbies in opposing campaign finance reform as a restriction of speech.

The Bill of Rights and the States

Later we discuss the Fourteenth Amendment, added to the Constitution in 1868, and how its due process clause, which bars states from depriving persons of “life, liberty, or property, without due process of law,” is the basis of civil rights. The Fourteenth Amendment is crucial to civil liberties, too. The Bill of Rights restricts only the *national* government; the Fourteenth Amendment allows the Supreme Court to extend the Bill of Rights to the states.

The Supreme Court exercised its new power gradually. The Court followed selective incorporation: for the Bill of Rights to extend to the states, the justices had to find that the state law violated a principle of liberty and justice that is fundamental to the inalienable rights of a citizen. Table 1, “The Supreme Court’s Extension of the Bill of Rights to the States,” below, shows the years when many protections of the Bill of Rights were applied by the Supreme Court to the states; some have never been extended at all.

Table 1. The Supreme Court’s Extension of the Bill of Rights to the States

Date	Amendment	Right	Case
1897	Fifth	Just compensation for eminent domain	<i>Chicago, Burlington & Quincy Railroad v. City of Chicago</i>
1925	First	Freedom of speech	<i>Gitlow v. New York</i>
1931	First	Freedom of the press	<i>Near v. Minnesota</i>
1932	Fifth	Right to counsel	<i>Powell v. Alabama (capital cases)</i>
1937	First	Freedom of assembly	<i>De Jonge v. Oregon</i>
1940	First	Free exercise of religion	<i>Cantwell v. Connecticut</i>
1947	First	Nonestablishment of religion	<i>Everson v. Board of Education</i>
1948	Sixth	Right to public trial	<i>In Re Oliver</i>
1949	Fourth	No unreasonable searches and seizures	<i>Wolf v. Colorado</i>
1958	First	Freedom of association	<i>NAACP v. Alabama</i>
1961	Fourth	Exclusionary rule excluding evidence obtained in violation of the amendment	<i>Mapp v. Ohio</i>
1962	Eighth	No cruel and unusual punishment	<i>Robinson v. California</i>
1963	First	Right to petition government	<i>NAACP v. Button</i>
1963	Fifth	Right to counsel (felony cases)	<i>Gideon v. Wainwright</i>
1964	Fifth	Immunity from self-incrimination	<i>Mallory v. Hogan</i>
1965	Sixth	Right to confront witnesses	<i>Pointer v. Texas</i>
1965	Fifth, Ninth, and others	Right to privacy	<i>Griswold v. Connecticut</i>
1966	Sixth	Right to an impartial jury	<i>Parker v. Gladden</i>
1967	Sixth	Right to a speedy trial	<i>Klopfer v. N. Carolina</i>

1969	Fifth	Immunity from double jeopardy	<i>Benton v. Maryland</i>
1972	Sixth	Right to counsel (all crimes involving jail terms)	<i>Argersinger v. Hamlin</i>
2010	Second	Right to keep and bear arms	<i>McDonald v. Chicago</i>

Rights not extended to the states

Third	No quartering of soldiers in private dwellings
Fifth	Right to grand jury indictment
Seventh	Right to jury trial in civil cases under common law
Eighth	No excessive bail
Eighth	No excessive fines

Interests, Institutions, and Civil Liberties

Many landmark Supreme Court civil-liberties cases were brought by unpopular litigants: members of radical organizations, publishers of anti-Semitic periodicals or of erotica, religious adherents to small sects, atheists and agnostics, or indigent criminal defendants. This pattern promotes a media frame suggesting that civil liberties grow through the Supreme Court's staunch protection of the lowliest citizen's rights.

The finest example is the saga of Clarence Gideon in the book *Gideon's Trumpet* by Anthony Lewis, then the Supreme Court reporter for the *New York Times*. The indigent Gideon, sentenced

to prison, protested the state's failure to provide him with a lawyer. Gideon made a series of handwritten appeals. The Court heard his case under a special procedure designed for paupers. Championed by altruistic civil-liberties experts, Gideon's case established a constitutional right to have a lawyer provided, at the state's expense, to all defendants accused of a felony.⁹ Similar storylines often appear in news accounts of Supreme Court cases. For example, television journalists personalize these stories by interviewing the person who brought the suit and telling the touching individual tale behind the case.¹¹

This mass-media frame of the lone individual appealing to the Supreme Court is only part of the story. Powerful interests also benefit from civil-liberties protections. Consider, for example, freedom of expression: Fat-cat campaign contributors rely on freedom of speech to protect their right to spend as much money as they want to in elections. Advertisers say that commercial speech should be granted the same protection as political speech. Huge media conglomerates rely on freedom of the press to become unregulated and more profitable.¹³

9.¹⁰

10. Anthony Lewis, *Gideon's Trumpet* (New York: Vintage Books, 1964).

11.¹²

12. Richard Davis, *Decisions and Images: The Supreme Court and the News Media* (Englewood Cliffs, NJ: Prentice-Hall, 1994).

13.¹⁴

14. Frederick Schauer, "The Political Incidence of the Free

Many officials have to interpret the guarantees of civil liberties when making decisions and formulating policy. They sometimes have a broader awareness of civil liberties than do the courts. For example, the Supreme Court found in 1969 that two Arizona newspapers violated antitrust laws by sharing a physical plant while maintaining separate editorial operations. Congress and the president responded by enacting the Newspaper Preservation Act, saying that freedom of the press justified exempting such newspapers from antitrust laws.

Key Takeaways

In this section we defined civil liberties as individual rights and freedoms that government may not infringe on. They are listed primarily in the Bill of Rights, the ten amendments added in 1791 by the founders to address fears about the new federal government's potential to abuse power. Initially limited to the federal government, they now apply, though unevenly, to the states. What those liberties are and how far they extend are the focus of political conflict. They are shaped by the full range of people, processes, and institutions in American politics. Both unpopular minorities and powerful interests claim civil liberties protections to gain favorable outcomes.

Speech Principle,” *University of Colorado Law Review* 64 (1993): 935–57.

38. B. Reading: Vox Cards: The War on Drugs

How should we think about individual liberty and the ongoing war on drugs? Investigate this question by reading through the Vox “cards” [here](#).

39. The First Amendment

Explain protection of religion, speech, the press, assembly, and petition in the Constitution

Learning Activities

The learning activities for this section include:

- Reading: Religion, Speech, the Press, Assembly, and Petition
- Video: The Kalb Report—Ruth Bader Ginsberg and Antonin Scalia

Take time to review and reflect on each of these activities in order to improve your performance on the assessment for this section.

40. C. Reading: Religion, Speech, the Press, Assembly, and Petition

Learning Objectives

After reading this section, you should be able to answer the following questions:

1. What two clauses protect freedom of religion?
2. What exceptions apply to freedom of speech?
3. What protections do the media enjoy under freedom of the press?
4. What are the benefits of and limitations on the right to assemble and petition?

Civil liberties touch upon many issues. In the next two sections, we describe the current interpretation of each right and outline the policies it affects.

Freedom of Religion

The First Amendment addresses freedom of religion in two distinct clauses: the establishment clause and the free expression clause.

Establishment Clause

Rejecting the British legacy of “established” churches, the establishment clause bars Congress from giving any religion an official status. In Jefferson’s much-quoted line, the establishment clause erects a “wall of separation between church and state.” A public policy may advance religious objectives only if its aim and main effect have nothing to do with religion. Thus a law forcing stores to close on Sundays can be justified to require employers to give staff a day off but not to enforce a Sabbath.¹

The separation of church and state has generated high-profile controversies. The drama surrounding such confrontations is often captured by the press. In the 1920s, John Thomas Scopes was found guilty of teaching evolution in violation of a Tennessee law requiring that the Bible’s version of creation be taught in public schools.

1. ²

2. *Lemon v. Kurtzman*, 403 US 602 (1971).

Scopes's trial, portrayed in the stage play and film *Inherit the Wind*, was a precursor of later battles.

Link: The Scopes Trial

Learn more about the [Scopes trial online](#).

Starting in the 1960s, the Supreme Court, in a series of rulings, prohibited nondenominational state-issued prayers in school, Bible readings, moments of silence intended for prayer, and student-led prayers at graduation ceremonies and football games. (The Court did refrain from invalidating the Pledge of Allegiance for containing the words “under God.”)³ Court attempts to stop prayers are hard to enforce across the country—especially since they often receive saturation media coverage that gives most of the attention to those decrying what they see as judicial activism.

3.⁴

4. Respectively, *Engel v. Vitale*, 370 US 421 (1962); *Abington School District v. Schempp*, 374 US 203 (1963); *Wallace v. Jaffree*, 472 US 38 (1985); *Lee v. Weisman*, 507 US 577 (1992); and *Santa Fe Independent School District v. Doe*, 530 US 290 (2000).

Free Exercise Clause

The First Amendment also says that Congress shall not prohibit the “free exercise” of religion. Individuals have the right to believe and practice their religions as they see fit. Government policies cannot target individuals’ religious practices or force actions that violate their religions.

This free exercise clause gained potency in 1943 when the Supreme Court ruled that Jehovah’s Witnesses could not be expelled from public schools for refusing to salute the American flag, an act contrary to their religion. More recently, the Supreme Court limited the clause’s reach when it ruled, in 1990, that American Indians had no right to disobey an Oregon law barring controlled substances in order to ingest peyote as part of a religious service. The Court held that laws hindering religious practices do not violate the First Amendment if they apply to all persons and do not openly refer to religion.

The establishment clause tries to keep religion out of government; the free exercise clause tries to keep government out of religion. The two objectives are not always compatible. For example, President George W. Bush proposed to allow government to contract with “faith-based” organizations to administer social programs. Opponents argued that this would violate the establishment clause by endorsing religion; Bush responded that existing policy violated the free exercise clause by discriminating against religious organizations.

Freedom of Speech

The Supreme Court has held that “debate on public issues should be uninhibited, robust, and wide-open.”⁵ Offensive speech is less detrimental than the “chilling effect” of individuals being silenced for fear of retribution. Nevertheless, freedom of speech is not absolute. Governments can regulate or restrict it under certain conditions.

Thoughts, Words, and Actions

Thoughts are deemed beyond the scope of government regulation; actions are heavily regulated by government; words are somewhere in between. The distinctions between thoughts, words, and actions are not always clear. Two cases of protest against the Vietnam War show how lines are drawn.⁷ In one, a protester burned his draft

5. ⁶

6. *New York Times v. Sullivan*, 376 US 254 (1964).

7. ⁸

card and was charged with violating a federal law that makes it a crime to knowingly destroy draft cards. The Court upheld the law, saying that the law aimed to maintain draft records, not to stifle free expression. When two students wore black armbands to their high school to protest the war and were suspended for violating the dress code, the Court found the policy sought to suppress free expression and sided with the students.

When Speech Can Be Regulated

The First Amendment does not protect speech that fails to contribute to the exchange of ideas that is crucial in a democracy—for instance, libel, obscenity, and “fighting words”—but such forms of speech are narrowly defined.

The publication of defamatory information, or libel, can be challenged in court. But officials and other public figures must demonstrate “actual malice” displayed by a “reckless disregard for the truth.”⁹ Thus libel cases are hard to win. Nonetheless, some

8. *United States v. O’Brien*, 391 US 367 (1968); and *Tinker v. Des Moines Independent Community School District*, 393 US 503 (1969).

9.¹⁰

litigants sue to shame a media organization publicly or to force it to spend money defending itself in court.

There is now a right to possess most obscene material in one's home, but not to produce, sell, or ship it. Early in the twentieth century, obscenity laws had halted the circulation of works of art such as James Joyce's now classic novel *Ulysses*. In 1957, the Supreme Court shrank the definition of obscenity from anything to do with sex to "material that deals with sex in a manner appealing to prurient interest" and "utterly without redeeming social importance." This decision forced the justices to hear dozens of cases in order to distinguish obscenity from protected speech. The results were almost comical. The often elderly justices viewed numerous pornographic films, the earthy Thurgood Marshall recounting the goings-on to his patrician, sight-impaired colleague John Harlan. At one point, Justice Potter Stewart exasperatedly wrote in one opinion, "I know it when I see it." Finally, in 1973, the Court established three rules that must be met for material to be obscene: it appeals to a prurient interest by the standards of the local community; it depicts specified sexual conduct in a patently offensive way; and it lacks serious literary, artistic, political, or scientific value.¹¹

In the 1920s, the Supreme Court allowed government to bar fighting words as long as there was a "clear and present danger" of provoking an immediate attack or acts of violence. In Justice Oliver Wendell Holmes's terms, freedom of speech does not extend to the

10. *New York Times v. Sullivan*, 376 US 254 (1964).

11.¹²

12. The key cases here are *Roth v. United States*, 354 US 476 (1957); *Stanley v. Georgia*, 394 US 557 (1969); and *Miller v. California*, 413 US 15 (1973).

right to falsely yell “Fire!” in a crowded theater. Such a rule allowed for suppression of radical voices. As late as 1951, the Court upheld a federal law banning advocacy of the violent overthrow of the government. But the Court, in 1969, held that speech favoring illegal action is protected unless violence is both intended and likely.¹³

Even when the government cannot bar speech, it can direct its time, place, and manner. But policies may not target particular content and must provide alternative ways to express oneself. If public universities and colleges cannot ban political speeches, they may restrict them to certain parts of campus such as “Free Speech Alleys.”

Speech Codes

Like fighting words, intimidation and harassment are not protected forms of free speech. By this logic, colleges and universities in the 1980s proposed campus speech codes to forbid the demeaning or stigmatizing of persons on the basis of race, ethnicity, gender, or sexual orientation. Proponents argued that speech codes would actually boost free speech, since “hate speech” deterred individuals

13. ¹⁴

14. Respectively, *Schenck v. United States*, 249 US 47 (1919); *Dennis v. United States*, 341 US 494 (1951); and *Brandenburg v. Ohio*, 395 US 444 (1969).

who felt under attack from speaking out. But courts struck down the codes as too broad.¹⁵

Freedom of the Press

The media claim special privileges under the First Amendment's guarantee of "freedom of the press."

Prior Restraint

The government is rarely able to stop material from being published. Even the Sedition Act of 1798 did not include this prior restraint. The

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16. James B. Jacobs and Kimberly Potter, *Hate Crimes: Criminal Law and Identity Politics* (New York: Oxford University Press, 1998), 112–21.

Supreme Court extended the ban to the states in 1931 when it struck down a Minnesota law allowing the state to suppress a “malicious, scandalous and defamatory” publication as a “public nuisance”—in this case, an abusively anti-Semitic periodical. Prior restraint is rarely justified: in 1971, the Court refused to issue an injunction sought by the executive branch against the *New York Times* and *Washington Post* on grounds of violations of national security. In the absence of the government’s *proof* that the national interest would be harmed, the Court allowed the publication of the Pentagon Papers, a leaked classified set of documents revealing decisions leading to the Vietnam War.¹⁷

News Media Privileges

Reporters have privileges that the public lacks: greater access to the workings of government, the ability to question officeholders, legal protection from revealing confidential sources, and access to government public information offices that feed them quotations and stories. But such privileges stem from policy and practice, not from constitutional rights.

Laws aimed at public disclosure, such as sunshine laws preventing

17. ¹⁸

18. *Near v. Minnesota*, 283 US 697 (1931); and *New York Times v. United States*, 403 US 713 (1971).

government from working behind closed doors, benefit reporters. The [Freedom of Information Act](#) (FOIA), enacted in 1966, allows for access to executive agencies and commissions' records and files closed to public inspection.¹⁹ Information obtained under the FOIA provides documentation for stories like *USA Today's* discovery of a huge increase in the use and dealing of crack cocaine by individuals under age fifteen. Such information can also reveal scandals. In 1990, *Washington Post* reporter Ann Devroy was frustrated with White House Chief of Staff John Sununu's refusal to answer her dogged questions about his rumored use of perquisites of office for private gain. Devroy filed for documents under the FOIA and found Sununu had used government planes to get to a dentist's appointment and to attend postage-stamp auctions. Sununu resigned in disgrace.

Broadcast Regulation

Public policy treats different media differently. Broadcast and cable

19.²⁰

20. Herbert N. Foerstel, *Freedom of Information and the Right to Know: The Origins and Applications of the Freedom of Information Act* (Westport, CT: Greenwood Press, 1999).

slots, being inherently limited, can be regulated by government in ways that are not allowed for print media or the Internet.²¹

The [Federal Communications Commission](#) (FCC), established in 1934, has the power to issue licenses for a given frequency on the basis of “the public interest, convenience, or necessity.” From the start, the FCC favored big commercial broadcasters aiming at large audiences. Such limits on competition enabled the establishment of hugely profitable radio (and later television) stations and networks, whose licenses—sometimes jokingly termed licenses to print money—the FCC almost automatically renewed.

The FCC has regulatory authority to penalize the broadcast media, but not cable television, for indecent content. During the halftime show at the 2004 Super Bowl, televised by CBS, singer Justin Timberlake tore the costume and briefly exposed the right breast of singer Janet Jackson. The FCC fined CBS \$550,000 for the Super Bowl “wardrobe malfunction.” The fine was overturned by a federal court of appeals in July 2008. In May 2009, the Supreme Court returned the case to the court for reconsideration.

Rights to Assemble and

21.²²

22. *Red Lion Broadcasting Company v. Federal Communication Commission*, 395 US 367 (1969) and *Turner Broadcasting System, Inc. et al. v. Federal Communication Commission*, 520 US 180 (1997).

Petition

Rights to assemble and petition government allow individuals to come together as groups and voice concerns. These rights permitted groups that were denied the vote—such as women before 1920—to state views and pressure government.²³ Social movements claim that the rights protect protesting; interest groups argue that the right to petition government includes all lobbying.

Like speech, freedom of assembly can be regulated in its time, place, and manner. Thus demonstrations outside political party conventions may be limited to given areas, sometimes far from the event. Moreover, the right is “to *peaceably* assemble.” Governments have the power and responsibility to ensure that protests do not turn violent. But the failure to distinguish between an assembly and a mob has resulted in tragic consequences when unarmed protesters have lost their lives.

23.²⁴

24. See Susan Zaeske, *Signatures of Citizenship: Petitioning, Antislavery, and Women's Political Identity* (Chapel Hill: University of North Carolina Press, 2003), and Linda J. Lumsden, *Rampant Women: Suffragists and the Right of Assembly* (Knoxville: University of Tennessee Press, 1997).

Enduring Images: Kent State

On May 4, 1970, at Ohio's Kent State University, National Guardsmen fired on unarmed student protesters who had planned a noontime antiwar rally. Four students, including two passersby, died. A photographer snapped fifteen-year-old runaway Mary Ann Vecchio kneeling and screaming over Jeffrey Miller's dead body. Another showed National Guardsmen, impersonal under gas masks, aiming rifles at defenseless students. Such images conjure up brutal, deliberate repression of rights of protest. They reappear on anniversaries of the Kent State killings, with captions like, "Americans were stunned to see photographs showing the government shooting on its own citizens, here in the world's oldest democracy where the right of political dissent is supposedly fundamental."²⁵

The history of these enduring images is more complex.²⁷ Protests

25. ²⁶

26. Sue Schuurman, "[Kent State Killings Shock Nation: 28 Years Ago This Week](#)," *Weekly Alibi*, May 11, 1998. The leading historian of Kent State is J. Gregory Payne, who provides a valuable narrative at [May4Archive.org](#).

27. ²⁸

28. Writings on Kent State, particularly in the immediate aftermath of the shooting, are highly politicized, with government commissions' reports being dismissed as cover-ups of conspiracies. A balanced assessment of the literature is Thomas R. Hensley and Jerry M. Lewis, eds.,

began on college campuses on April 30, 1970, when President Richard Nixon announced an invasion of Cambodia, expanding the Vietnam War. Protests were not always peaceful. In Kent, students smashed store windows on May 1, and Kent State's ROTC building was burned down on May 2. Ohio's governor mobilized the National Guard to defend the campus. On May 4, the Guard, badly outnumbered, sought to stop the rally. Other photos from May 4 show students taunting the Guard, fogs of tear gas, and volleys of empty tear-gas canisters and rocks thrown at soldiers. The picture of soldiers aiming their rifles may have been an early attempt to subdue the protest without shooting. The immediate response to the shootings did not blame the Guard. Nixon's reaction was widely reprinted: "This should remind us all once again that when dissent turns to violence it invites tragedy."²⁹ Polls showed most of the public blamed students for the deaths and backed the Guard's actions.³¹

Kent State and May 4th: A Social Science Perspective
(Dubuque, IA: Kendall/Hunt, 1978).

29.³⁰

30. Quoted in Sue Schuurman, "[Kent State Killings Shock Nation: 28 Years Ago This Week](#)," *Weekly Alibi*, May 11, 1998.

31.³²

32. See the Gallup poll from *Newsweek*, May 25, 1970, 30, cited in James J. Best, "Kent State: Answers and Questions," in *Kent State and May 4th: A Social Science Perspective*, ed. Thomas R. Hensley and Jerry M. Lewis (Dubuque, IA: Kendall/Hunt, 1978), 25.

The enduring image, however, is of Mary Ann Vecchio. One reason is its emotional resonance: it resembles a Pietà sculpture of Mary grieving over the body of Jesus. Also, American politics after the invasion of Cambodia turned from engaging in to ending the Vietnam War—in part as a response to unrest that racked the country. And President Nixon's law-and-order rhetoric lost support as revelations of illegal misdeeds surfaced in the Watergate scandal. By the fall of 1973, a majority in a Harris poll saw the shootings as “unjustified and repressive.”³³ As images of Kent State were winnowed down to the one picture of Mary Ann Vecchio over the body of Jeffrey Miller, the meaning of what happened at Kent State shifted from a tragic consequence of disorder to a vivid symbol of civil liberties denied.

33. ³⁴

34. *New York Post*, October 3, 1973, as reported in J. Gregory Payne, “Aftermath,” May4Archive.org.



Mary Ann Vecchio kneeling over the body of Jeffrey Miller.

Key Takeaways

In this section we discussed the constitutional protections guaranteeing freedoms of religion, speech, the press, assembly, and petition. These important protections are far reaching but nonetheless subject to important exceptions.

4I. Video: The Kalb Report—Ruth Bader Ginsberg and Antonin Scalia

On the following edition of *The Kalb Report*, Supreme Court Justices Antonin Scalia and Ruth Bader Ginsburg join journalist/scholar Marvin Kalb to offer their views of the U.S. Constitution in a rare glimpse behind the gavel and inside one of our nation's vital branches of government.



One or more interactive elements has been excluded from this version of the text. You can view them online

here: <https://library.achievingthedream.org/herkimeramericangovernment/?p=61#oembed-1>

42. Fundamental Freedoms

Explain the constitutional protections on arms, search and seizure, accusation, punishment, property, and privacy

Learning Activities

The learning activities for this section include:

- Reading: Arms, Search and Seizure, Accusation, Punishment, Property, and Privacy
- Reading: So You Think You Know the Second Amendment?
- Reading: Death by the Barrel
- Video: Eric Foner on the Origins of the Right to Privacy
- Reading: The NSA Scandal
- Reading: Vox Cards: The NSA Spying Debate
- Video: Munk Debate on State Surveillance
- Reading: Civil Liberties in the Information Age

Take time to review and reflect on each of these activities in order to improve your performance on the assessment for this section.

43. D. Reading: Arms, Search and Seizure, Accusation, Punishment, Property, and Privacy

Learning Objectives

After reading this section, you should be able to answer the following questions:

1. What is the Second Amendment?
2. What constitutes an illegal search and seizure?
3. What amendments protect the rights of the accused?
4. What is eminent domain?
5. What is the current state of abortion as a civil liberty?

The Right to Keep and Bear Arms

The Second Amendment reads, “A well-regulated militia being necessary to the security of a free state, the right to keep and bear arms shall not be infringed.” Is this a right of self-defense that is akin to the protection of one’s dwelling guaranteed by other amendments?¹ Or is it simply a basis for states to build militias, balancing off the standing army of the national government—in which case the gradual replacement of volunteer state militias by the National Guard rendered the Second Amendment obsolete?³

Most crime rates in the United States are similar to those of countries such as Canada or Australia. But the United States has a far higher rate of violent crime, in part because of the greater availability of firearms. A large majority of the public supports restrictions on the sale of firearms, but few policies have been enacted to do so. Although opponents of gun control are

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2. Joyce Lee Malcolm, *To Keep and Bear Arms: The Origins of an Anglo-American Right* (Cambridge, MA: Harvard University Press, 1994).

3. ⁴

4. H. Richard Uviller and William G. Merkel, *The Militia and the Right to Arms, Or, How the Second Amendment Fell Silent* (Durham, NC: Duke University Press, 2002).

outnumbered, they are more likely than supporters to vote on this issue.

Policy debate on gun control usually occurs only after a dramatic, heavily covered news event like an assassination or a massacre at a school. One political scientist described the result as “furious politics, marginal policy.”⁵⁶ For example, after the killings of Martin Luther King Jr. and Robert Kennedy in 1968, Congress debated President Lyndon Johnson’s proposal for a federal system of firearm registration and licensing of gun owners but passed only limited, ineffective legislation. In 1994, dramatic fights over banning assault weapons and mandating a waiting period for gun purchases produced a law with huge loopholes when it failed to cover gun shows.

The “right to keep and bear arms” has been debated by the public and politicians more than by courts. But in June 2008, the Supreme Court, by a vote of 5–4, ruled that individuals have the right to bear arms. This decision, an interpretation of the Second Amendment, struck down the District of Columbia’s thirty-two-year-old law banning the possession of handguns.⁸ In June 2010, the Court, again by a vote of 5–4, applied the ruling to cities and states by overturning Chicago’s ban on handguns.¹⁰ The Court has not

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7. Robert J. Spitzer, *The Politics of Gun Control* (Chatham, NJ: Chatham House, 1995), 168.

8.⁹

9. *District of Columbia v. Heller*, 554 US 570 (2008).

10.¹¹

11. *McDonald v. Chicago*, 561 US ____, 130 S.Ct. 3020 (2010).

prohibited all legislation and limitation of guns, but such governmental actions would likely conflict with the Court's interpretation of the Second Amendment.

Searches and Seizures

The Fourth Amendment prevents the government from conducting “unreasonable searches and seizures.” A reasonable search is conducted with a warrant issued by a judge and based on probable cause. What is “unreasonable” varies with how much privacy people can expect when they are being searched. Cars are less private than houses, so rules for searches of cars are less stringent. And government agencies can state reasons to compel persons not suspected of a crime to submit to searches and seizures. The goal of preventing airplanes from being hijacked authorizes mandatory searches of persons and their property before boarding aircraft and allows the confiscation of objects deemed dangerous.

Electronic Searches

New technologies complicate searches and seizures. In 1967, the Supreme Court ruled that the Fourth Amendment did not simply restrict physical entry: it “protects people, not places.”¹² The pivotal test is whether a person has “a legitimate expectation of privacy” regardless of the technological means used to search. Thus the Court has held that the use of heat-sensing devices able to find intensive marijuana farms inside closets requires a search warrant as much as would a physical entry to one’s house.¹⁴

New technologies can also intrude into formerly private domains hitherto free from the potentially prying eye of government. For example, e-mail passes through many portals en route to delivery, each of which may be available for search without the sender’s or receiver’s knowledge. E-mail and web searches are still available in shadowy form even after the hard drive has seemingly been erased, and they can be searched for key words or other patterns efficiently. Police and prosecutors now have new weapons at their disposal in tracking down possible criminal activity.

The massive computerization of information tempts the government even more. In May 2004, the Government Accountability Office (GAO) released a report on data mining. It documented 52 federal agencies conducting 122 projects to collect,

12.¹³

13. *Olmstead v. United States*, 277 US 438 (1928) and *Katz v. United States*, 389 US 347 (1967).

14.¹⁵

15. *Kyllo v. US*, 533 US 27 (2001).

analyze, and use identifiable information on US persons for national security and law enforcement purposes. These numbers, which omit classified projects, are probably low-ball estimates.

Electronic Eavesdropping

In 2006, newspapers leaked word of a secret executive order signed by President George W. Bush authorizing electronic eavesdropping on computerized and cell phone conversation without a warrant.¹⁶

Bush claimed that the inherent powers of the president and Congress's authorization of force to respond to the 9/11 attacks allowed him to initiate this policy. Members of Congress, unhappy that the program had been put into place without their knowledge, supported legislation obliging the president to seek warrants from a secret court.

16.¹⁷

17. For revelations and details, see Eric Lichtblau, *Bush's Law: The Remaking of American Justice* (New York: Pantheon, 2008).

The Exclusionary Rule

The Fourth Amendment's exclusionary rule prevents evidence from an illegal search or seizure being introduced against a defendant in court. The Supreme Court adopted this rule for federal cases in 1914 and extended it to states in 1961.

Law enforcement officers have long bridled at the exclusionary rule and claim that “technicalities” allow guilty suspects to be set free. The Supreme Court has permitted the use in trial of seized evidence that would have been “inevitably discovered” even without an unconstitutional search—such as that “in plain view”—or which police officers acquired under a search warrant that they did not know was improperly issued.¹⁸

18.¹⁹

19. The cases that established the exclusionary rule are *Weeks v. United States*, 232 US 383 (1914) and *Mapp v. Ohio*, 367 US 643 (1961). See, more recently, *Nix v. Williams*, 467 US 431 (1984); *United States v. Leon*, 468 US 897 (1984); and *Massachusetts v. Sheppard*, 468 US 981 (1984).

The Rights of the Accused

Collectively, the Fifth, Sixth and Seventh Amendments set forth procedural guarantees known as “rights of the accused,” which exist through the criminal process from accusation to trial to conviction.

Innocent until Proven Guilty

The central right of the accused is the presumption that anyone charged with a crime is innocent until proven guilty in court. This rule can be hard to preserve when an accused individual has been subjected to massive unfavorable media attention prior to or during a trial. For example, the police have perfected a technique known as the “perp walk” (for “perpetrator”), allowing television cameras to film the accused—often handcuffed and in prison garb—escorted by police. Such images, repeated over and over again in news broadcasts, can lead viewers to presume guilt rather than innocence.

“Taking the Fifth”

The Constitution’s Fifth Amendment gives people the right to refuse to answer questions from any entity of government if they claim such responses might lead to criminal prosecution. Claiming this right not to incriminate oneself is popularly called “taking the fifth.” Witnesses may be compelled to testify only if given immunity from prosecution.²⁰

Such restrictions frustrate law enforcement officers, who find confessions among the best means to obtain a guilty verdict.

The right against self-incrimination originally meant only that individuals could not be forced to testify against themselves during their trials. In the 1920s, the Supreme Court threw out convictions for which evidence had been gained by torture or coercion and slowly expanded the right to cover all discussions with all law enforcement officials.

By 1966, the Court was weary of issuing case-by-case decisions about whether the police had gone too far in questioning suspects. In *Miranda v. Arizona* (384 US 436), the justices, having reviewed numerous police manuals, concluded that police often tried to create an atmosphere designed to intimidate or manipulate the accused into confessing. The justices ruled that law enforcement officials must “demonstrate the use of procedural safeguards” by ensuring that the accused is “adequately and effectively apprised of his rights.” The *Miranda* decision required a warning to be read to

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21. *Quinn v. United States*, 349 US 155 (1955); *Emspak v. United States*, 349 US 190 (1955) and *Ullman v. United States*, 350 US 422 (1956).

suspects prior to interrogation—this warning is known as Miranda rights—without which their statements could not be admitted as evidence in court. Suspects must be notified of the following: that they have the right to remain silent, that whatever they say can be used against them in court, that they have the right to be represented by a lawyer before and during questioning, that they have the right to have a lawyer provided by the court if they cannot afford one, and that they have the right to terminate questioning at any time.

Congressional investigations that provide grants of immunity can complicate judicial proceedings. The conviction of Oliver North, a central figure in the arms-for-money Iran-Contra scandal of the 1980s, was overturned for that reason.

These rights are familiar to anyone who has seen criminal detective movies or television shows.

Video Clip: *Dragnet*

Watch the infamous *Dragnet* “Blue Boy” LSD scene below:

<https://youtu.be/P0zgIzqgxFU>

Miranda rights were effectively introduced to the American public when the tough-guy detectives of the sixties television show *Dragnet* read them to suspects they were arresting.

But are they effective? Police officers view the reading of these rights as a mere technicality. They can get information by appealing

to a suspect's desire to tell his or her story and by acting as if they are on the suspect's side. Even after suspects invoke Miranda rights, officers can try to change their minds or elicit what they term off-the-record information. Eighty percent of suspects voluntarily waive their rights; many confess.²²

Trial Procedures

Over time, Supreme Court decisions have outlined processes for a suspect to be tried in court. The most important are the following:

- Individuals cannot be subject to double jeopardy; in other words, they cannot be tried again for a crime after being acquitted of it in an earlier trial. This restriction does not prevent someone acquitted in a criminal case from being sued in a civil case: actor-athlete O. J. Simpson, found not guilty of the murder of his ex-wife and her friend, was found in civil court to be responsible and financially liable for their deaths.
- Suspects must know and understand the charges and evidence against them; therefore, cases against those “incompetent to

22.²³

23. Welsh S. White, *Miranda's Waning Protections: Police Interrogation Practices after Dickerson* (Ann Arbor: University of Michigan Press, 2001), especially chap. 7.

stand trial” for reasons of illness or insanity must be dismissed, and juvenile suspects cannot be tried as adults.

- The trial must be speedy, so that someone not yet proven guilty is not punished by lengthy incarceration before trial.
- Defendants for serious crimes (punishable by more than six months in prison or a \$500 fine) and those in federal civil cases have a right to a trial by an “impartial jury” of their peers.
- Defendants have a right to face and confront witnesses against them.
- The accused has a right to a defense attorney. At first, this meant only that accused persons could pay for lawyers to represent them. But the 1932 case of seven young African American men sentenced in Scottsboro, Alabama, to die on a charge of raping two white women (a charge later found to be trumped-up) persuaded the Supreme Court otherwise. The justices ruled that these defendants—poor, illiterate, and charged with a capital offense—had to be represented by a public defender, a defense attorney employed and paid by the state.

This ruling gradually extended to all defendants in federal courts, then to felony defendants in state courts, and eventually to anyone facing any jail time.²⁴ But public defenders are underpaid and overworked. And their convicted clients can win on appeal only if they can show that public defenders made serious errors, depriving them of a fair trial.²⁶

24.²⁵

25. *Johnson v. Zerbst*, 304 US 458 (1938); *Gideon v. Wainwright*, 372 US 335 (1963) and *Argersinger v. Hamlin*, 407 US 25 (1972).

26.²⁷

Moreover, most charges are resolved prior to trial when a defendant agrees to plead guilty to a lesser charge. They thereby avoid being charged with—and found guilty of—a more serious crime and receiving a more severe sentence, but they lose out on the many protections of trial procedures.

The War on Terror

Civil liberties are often impaired during international crises. Witness the “war on terrorism,” which is no exception. While the revelations in April 2004 of abuse and torture of Iraqi prisoners in the Abu Ghraib prison may be a matter more for international law than civil liberties, other rights of the accused were also in question after the terrorist attacks of 9/11.

In October 2001, Congress enacted the [USA Patriot Act](#). Among other things, it authorized the attorney general to detain indefinitely a noncitizen when there are “reasonable grounds to believe” that the person is a threat to national security. Attorney General John Ashcroft praised these policies, correctly observing, “It is difficult for a person in jail or under detention to murder innocent people or to aid or abet in terrorism.”²⁸

27. *United States v. Cronin*, 466 US 648 (1984) and *Strickland v. Washington*, 466 US 668 (1984).

28.²⁹

The Bush administration used these powers vigorously. Hundreds of resident aliens were detained without explanation in the fall of 2001, many in solitary confinement. When the Taliban government was overthrown in Afghanistan in late 2001, American forces captured some ten thousand soldiers and other Afghanis. Many of them were named “enemy combatants” (not “prisoners of war,” who would have greater protection under international law). Shackled and hooded, they were shipped to a military prison at the base at Guantánamo Bay. Some were subjected to abusive interrogation. The base was located on land the United States had leased from Cuba in perpetuity, and thus, according to the Bush administration, it was outside the jurisdiction of the federal judiciary.³⁰

Many rights of the accused were directly challenged by these policies: the right to know charges against oneself, the right to counsel, the right to a speedy and public trial, the right to a jury of one’s peers, the right to confront adverse witnesses, and the ability to appeal decisions to a higher court.

In 2004, the Supreme Court upheld the president’s power as

29. Quoted in Matthew Purdy, “Bush’s New Rules to Fight Terror Transform the Legal Landscape,” *New York Times*, November 25, 2001, B4.

30.³¹

31. For a detailed history of abuses in the war on terror, see Jane Mayer, *The Dark Side: The Inside Story of How the War on Terror Turned into a War on American Ideals* (New York: Doubleday, 2008); and for a critique of the trade-off between liberty and security see David Cole and Jules Lobel, *Less Safe, Less Free: Why America Is Losing the War on Terror* (New York: New Press, 2007).

commander in chief to name persons as enemy combatants, to hold them indefinitely under Congress's authorization of military force, and to fashion trial proceedings with less stringent standards of evidence. But that due process required that a citizen held in the United States as an enemy combatant be given a meaningful opportunity to contest the detention's basis before a neutral decision maker. The Court also ruled that because the United States controlled Guantánamo, all detainees there had the habeas corpus right to go to federal court to challenge their detention.³²

In response, the Bush administration began keeping detainees in a camp in Bagram, Afghanistan, in the theater of war, where judges could not go. And Congress passed the Military Commissions Act of 2006, removing the federal courts' jurisdiction to hear habeas corpus applications from detainees designated as enemy combatants. Then, in 2008, the Supreme Court, by a vote of 5-4, declared the Military Commissions Act unconstitutional, thereby giving back to enemy combatants their habeas corpus rights.³⁴

32.³³

33. *Hamdi v. Rumsfeld*, 542 US 507 (2004) and *Rasul et al. v. Bush, President of the United States, et al.*, 542 US 466 (2004).

34.³⁵

35. *Boumediene et al. v. Bush, President of the United States, et al.* (Nos. 06-1195 and 06-1196), 476 F. 3d 1981 (2008).

Punishment of Convicted Criminals

The Eighth Amendment also gives rights to people convicted of a crime. It aims to make the punishment fit the crime and to prohibit “cruel and unusual punishment.” Policies affected by the Eighth Amendment include the length of prison sentences, prison conditions, and the death penalty.

Prisons

Through the 1970s, prisoners were rarely expected to serve out their full sentences. Parole or “time off for good behavior” gave incentives to cooperate and acquire skills needed to reenter society. But media stories about crimes committed by paroled ex-cons impelled “truth-in-sentencing” laws—mandatory minimums or fixed sentences for given crimes.

States began adopting “three-strikes-and-you’re-out” laws. These typically increase the sentence for a second felony conviction and require life in prison without parole for a third. These lengthy sentences often bear little connection to the gravity of the crimes committed.

Lengthy sentences and the fact that over three-fourths of those put in state or federal prison each year commit nonviolent crimes

raise an Eighth Amendment question: does the punishment fit the crime?³⁶ In 2003 the Supreme Court decided that “three strikes” was not so “grossly disproportionate” as to violate restrictions on “cruel and unusual punishment.”³⁸

The United States is the world leader in the proportion of its population that is incarcerated. When you include those on probation or parole, about 3.2 percent of adults live under the criminal justice system’s direct supervision.⁴⁰

When prison policies are reexamined, it is less for civil liberties than for their costs. States badly needed to cut expenses when the economic depression that started in 2007 slashed their tax receipts. They instituted sentencing alternatives to prison for first-time offenders, those seeking early parole, and prisoner-release programs.

36. ³⁷

37. Steven R. Donziger, ed., *The Real War on Crime: The Report of the National Criminal Justice Commission* (New York: Harper Collins, 1996), chap. 1.

38. ³⁹ The basis for “proportionality” as an Eighth Amendment test is *Solem v. Helm*, 462 US 277 (1983).

39. *Ewing v. California*, 538 US 11 (2003) and *Lockyer v. Andrade*, 538 US 63 (2003).

40. ⁴¹

41. Steven R. Donziger, ed., *The Real War on Crime: The Report of the National Criminal Justice Commission* (New York: Harper Collins, 1996), 34; Fox Butterfield, “U.S. ‘Correctional Population’ Hits New High,” *New York Times*, July 26, 2004, A10.

Prisoners may organize to pursue common interests, such as seeking decent conditions in prison.⁴² Inspired by 1960s civil rights movements, they claimed a denial of basic rights. Their perspectives were bolstered by Hollywood films of the 1960s and 1970s, such as *Birdman of Alcatraz*, *Cool Hand Luke*, and *One Flew Over the Cuckoo's Nest*, that vividly depicted inhumane conditions of involuntary confinement. Some inmates taught themselves to become lawyers and sued the prisons. Starting in the 1960s, the Supreme Court recognized prisoners' rights to bring suit and said the ban on "cruel and unusual punishment" included prison conditions. While harsh conditions may be part of a convict's penalty, prisoners cannot be subjected to "unnecessary and wanton" pain by the "deliberate indifference" of authorities.⁴⁴

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43. Ronald Berkman, *Opening the Gates: The Rise of the Prisoners' Movement* (Lexington, MA: D. C. Heath, 1979).

44.⁴⁵

45. *Cooper v. Pate*, 378 US 546 (1964); *Estelle v. Gamble*, 429 US 97 (1976); *Wilson v. Seiter*, 501 US 299 (1991) and *Lewis v. Casey*, 516 US 804 (1996).

The Death Penalty

The death penalty is now reserved for the most serious of crimes: murder and treason. In 1972, the Supreme Court threw out all state laws imposing the death penalty as a violation of due process being arbitrarily applied from one case to the next. In 1976, the Court allowed states to impose capital punishment as long as it is decided on by a jury following a strict process, weighing mitigating and aggravating circumstances to decide if death is the most appropriate punishment.⁴⁶ After 1976, thirty-eight states reinstated the death penalty, which by then was endorsed by a strong majority of the public.

The main objection to the death penalty today is that it cannot be applied dependably enough to meet the Bill of Rights' standards for due process. Death sentences vary greatly based on the race of the convicted murderer and of the murder victim; blacks convicted of murdering a white person are far more likely to receive a death sentence than blacks convicted of murdering a black person.

46.⁴⁷

47. *Furman v. Georgia*, 408 US 238 (1972); *Gregg v. Georgia*, 428 US 153 (1976); *Woodson v. North Carolina*, 428 US 280 (1976).

Comparing Content: Victims and Capital Punishment

Victims are everywhere in the media. But who gets to play the part? For some investigative journalists, the answer is innocent death row inmates. Building on evidence dug up by journalism professor David Protess and his students at Northwestern University, reporters for the *Chicago Tribune* compiled two devastating series about prisoners sentenced to die on faulty evidence—“Trial and Error” and “The Failure of the Death Penalty in Illinois.” The first story in the series began by listing accusations against prosecutors: “They have prosecuted black men, hiding evidence the real killers were white. They have prosecuted a wife, hiding evidence her husband committed suicide....They do it to win. They do it because they won’t get punished.”⁴⁸

Evidence of mistaken convictions led Illinois governor George Ryan to declare a moratorium on capital punishment and, just before leaving office in 2003, to commute all death penalties to life in prison without parole. Days later, Ryan went on *Oprah*. The show’s host, Oprah Winfrey, aired two episodes she termed “our show with the governor who emptied death row.” Before the broadcast, Winfrey videotaped interviews with surviving relatives of those whose murderers had been spared the death penalty. She

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49. Ken Armstrong and Maurice Possley, “Trial and Error, Part 1: Verdict: Dishonor,” *Chicago Tribune*, January 10, 1999.

confronted Ryan with this video testimony of survivors describing the gruesome crimes and their sense of betrayal.

For investigative journalism, the victims are wrongfully convicted death row inmates, whose wrongful convictions justify a halt to the death penalty, so that the state does not put innocent people to death. This focus on the exoneration of the wrongfully convicted, sometimes by dramatic revelations of exculpatory DNA evidence, shifts the media's frame away from the victims of crime to the victims of prosecution, and may thereby shift public opinion. But for the daytime talk show, the victims are survivors of violent crime who rely on the justice system to give them what Winfrey called "closure." The future of capital punishment may depend on which frame wins.

Property Rights and Eminent Domain

The Fifth Amendment includes a takings clause: government must provide "just compensation" (usually market value) when it uses its power of eminent domain to take property for public use, or if government action removes "all the purposes for which it was acquired."⁵⁰

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Some civil liberty advocates propose expanding this right to limit government regulation. They echo Chief Justice Rehnquist, who wrote, “We see no reason why the Takings Clause of the Fifth Amendment, as much a part of the Bill of Rights as the First Amendment or Fourth Amendment, should be relegated to the status of a poor relation.”⁵² Corporations and business associations have funded probusiness legal centers that argue that any regulation restricting a property’s value or use is a “taking” requiring compensation. This approach would throw out such land-use policies as zoning, rent control, wetland conservation laws, and regulations like the Endangered Species Act.⁵⁴

The Supreme Court has resisted putting property rights front and center. The justices ruled in 2005 against a homeowner who contested the city’s plan to replace her economically depressed neighborhood with an office park, hotel, and conference center. They said that governments have broad discretion to take property for “public use” as long as it is put to a “public purpose,” including

51. This statement comes from *Duquesne Light Company v. Barasch*, 488 US 299 (1989).

52.⁵³

53. *Dolan v. City of Tigard*, 512 US 374 at 392 (1994).

54.⁵⁵

55. For an effective statement of this position, see Richard Epstein, *Takings: Private Property and the Power of Eminent Domain* (Cambridge, MA: Harvard University Press, 1985).

economic development, even when the land is transferred to other private owners.⁵⁶⁵⁷

Right to Privacy

A right to privacy is nowhere explicitly named in the Bill of Rights. However, some members of the Supreme Court recognized the right in a 1965 case. They overturned the conviction of executives of Connecticut's Planned Parenthood for violating a state law that banned advising married couples about the use of birth control and prescribing contraceptives. One justice found privacy implicit in the First, Third, Fourth, and Fifth Amendments. Other justices found it in the Ninth Amendment's reminder that the Bill of Rights does not exhaust the sum total of liberties.⁵⁹ Justice applied the right to the states through the due process clause of the Fourteenth Amendment.

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57.⁵⁸ In reaction, several states began to limit the uses of eminent domain.

58. *Kelo v. New London*, 545 US 469 (2005).

59.⁶⁰

60. *Griswold v. Connecticut*, 381 US 479 (1965).

Roe v. Wade and Abortion Rights

In this 1973 decision, the Supreme Court, invoking privacy, recognized a woman's constitutional right to an abortion in the first three months of a pregnancy.⁶¹ Whether to have an abortion was seen as a private decision between a woman and her doctor. Before and since then, a debate has raged between two sides calling themselves “pro-choice” and “pro-life”—a debate and a divide exaggerated by the news media's preference for vivid conflicts.

Link: Oral Arguments in *Roe v. Wade*

Listen to [oral arguments in *Roe v. Wade*](#).

The *Roe* decision mobilized a pro-life movement. Members of Congress sought but failed to obtain the two-thirds majorities

61. ⁶²

62. *Roe v. Wade*, 410 US 113 (1973).

necessary for a constitutional amendment declaring that life begins with conception, thereby recognizing the fetus as a “person” able to receive the protection of the Bill of Rights. President Reagan, elected in 1980, also pushed to reverse *Roe*. States tried to test *Roe*’s boundaries. The Court initially rejected such efforts as requiring the written consent of the woman’s spouse or her parents, demanding that abortions be performed in a hospital, or enforcing twenty-four-hour waiting periods.

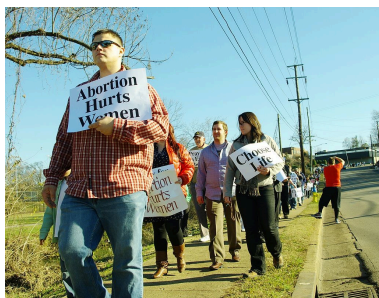
By the end of the 1980s—President Reagan having named new justices to the Supreme Court—the original majority for *Roe* had eroded. In 1989, the Court limited abortion rights by ruling that the state’s interest in the fetus begins at conception, not viability; states could now regulate abortions in the first trimester.⁶³

63.⁶⁴

64. *Webster v. Reproductive Health Services*, 492 US 490 (1989).

Roe Reaffirmed

When pro-life president George H. W. Bush named David Souter and Clarence Thomas to replace retiring pro-choice justices William Brennan and Thurgood Marshall, Roe seemed doomed. In 1992, the justices considered a Pennsylvania law that required a married woman's husband to be notified before she could have an abortion and a twenty-four-hour waiting period for a woman to be provided with information about risks and



Roe v. Wade anniversary. The justices of the Supreme Court presumably did not realize when they issued the Roe v. Wade decision on January 22, 1973, that its anniversary would be marked by demonstrations by opponents and counterdemonstrations of proponents in front of their building.

consequences of abortion. But Justice Anthony Kennedy, allying with Souter and Sandra Day O'Connor (a Reagan appointee), jointly wrote an opinion. They declined to overturn Roe's central tenet that a woman had a right to an abortion prior to the ability of the fetus to live outside the womb. But they scrapped the trimester scheme of Roe and put in a new (if less clear) test of whether a law imposes an "undue burden" on a woman's right to an abortion. The decision supported most of the restrictions Pennsylvania had placed on abortion. It fit public opinion that was against reversing *Roe v. Wade* but in support of conditions and exceptions.⁶⁵

D&X or Partial-Birth Abortion?

With the Court's reaffirmation of *Roe*, the pro-life movement was on the defensive—until it began focusing on an unusual abortion procedure known technically as “dilate and extract” (D&X). Giving it the unsettling term “partial-birth abortion” and recounting dramatic examples of its use late in a pregnancy, the pro-life side refocused the attention of the media on the fetus and away from the pro-choice emphasis on a woman's right to decide (with her physician) on abortion without government interference.

In 2003, Congress passed—and President George W. Bush signed—a law banning partial-birth abortion. The law allowed an exception to save the lives of women but no exception for their health. It was the first time since *Roe* that federal law criminalized an abortion procedure. With President George W. Bush's two appointees voting in the majority, the Supreme Court upheld the law by a vote of 5–4 in April 2007.⁶⁷

66. *Planned Parenthood of Southeastern Pennsylvania v. Casey*, 505 US 833 (1992).

⁶⁸
67.

68. *Gonzales v. Carhart* and *Gonzales v. Planned Parent Federation of America*, 550 US 124 (2007).

Key Takeaways

This section covered rights dealing with arms, search and seizure, the accused, punishment, property, and privacy. The Supreme Court has interpreted the Second Amendment as allowing people to bear arms. Freedom from unreasonable searches and seizures is complicated by the development of new technologies. Rights of the accused include the right to be considered innocent until proven guilty, protection against self-incrimination, the Miranda rights, and trial processes. Some policies initiated by the government's war on terror have challenged these rights. The rights of convicted criminals apply to punishment, prison terms, and the death penalty. Property rights can conflict with the government's power of eminent domain. Abortion is subject to Supreme Court decisions and political conflict.

44. Reading: So You Think You Know the Second Amendment?

Read “So You Think You Know the Second Amendment?” by Jeffrey Toobin [here](#).

45. Reading: Death by the Barrel

Read “Death by the Barrel” by Craig Lambert [here](#).

46. Video: Eric Foner on the Origins of the Right to Privacy

In the video below, Eric Foner responds to the follow question: Would you discuss the origins of the right to privacy in the Supreme Court's *Griswold* decision, and then in *Roe v. Wade*?

<https://www.youtube.com/watch?v=XULqiOpasVY>

47. Reading: The NSA Scandal

Read “The NSA Scandal: What Data Is Being Monitored and How Does It Work?” [here](#).

48. E. Reading: Vox Cards: The NSA Spying Debate

How should we think about the right to privacy in light of the National Security Agency's programs for spying on Americans? Investigate this question by reading through the Vox "cards" [here](#).

49. **Video: Munk Debate on State Surveillance - LINK

It is the debate of the moment. In a risk-filled world, are democracies justified in turning to large-scale state surveillance, at home and abroad, to fight complex and unconventional threats? Or is the emergence of the surveillance state and the awesome powers it derives from information technology a new and pervasive threat to our basic freedoms? For some the answer is obvious: the threats more than justify the current surveillance system, and the laws and institutions of democracies are more than capable of balancing the needs of individual privacy with collective security. For others, we are in peril of sacrificing to state surveillance and exaggerated terrorist threats the civil liberties that guarantee citizens' basic freedoms. Watch the following video to learn more.

https://www.youtube.com/watch?v=_d1tw3mEOoE

50. F. Reading: Civil Liberties in the Information Age

Learning Objectives

After reading this section, you should be able to answer the following questions:

1. Which civil liberty is vital to media operations and why?
2. Why are civil liberties vulnerable to media frames?
3. Why is the media's depiction of civil liberties ambivalent?

“Liberty” is a word with special resonance in the United States. It is hailed in the Pledge of Allegiance. It is featured in the lyrics of patriotic songs. It is emblazoned on coins. The Liberty Bell and the Statue of Liberty are among the most central symbols of the promise of the United States. News and entertainment often pay homage to the value of civil liberties. Indeed, the media, like the American people as a whole, are strongly committed in principle to civil liberties, especially when presented as elements of the hallowed Bill of Rights. Yet, the media often slight, even undermine, specific civil liberties.

Media Interactions

Media personnel find civil liberties to be a vital topic because they hold fast to freedom of expression as a crucial protection to perform their jobs. Also, the frame of the virtuous individual standing up for beloved principles against the government is easily presentable as a defense of civil liberties.

The rights of the accused are the kernel of many a media story. For instance, dramas from the vantage point of a person wrongly accused by officials of a crime are perennial favorites in films and television. The television drama *Perry Mason* compiled 271 episodes from 1957 to 1966, and they are endlessly rerun. Each episode is similar: the brilliant lawyer Perry Mason defends his client in court against a rush to judgment by the district attorney and police and, in a climactic cross-examination, unveils the true guilty party.

Nowadays, the media feature crime control. Witness the television show *Law and Order* and its various spin-offs: these shows are presented from the perspectives of police and prosecutors, not civil liberties. Or consider crime in the news: its good-guys-versus-bad-guys dynamic makes it easy to tell and enables the news to crank out accounts of crime on a day-in-day-out (or hour-in-hour-out) basis. These stories are reported almost entirely from sources in police stations and courts. Crime-beat reporters call up police spokespersons every day and ask, “What have you got?” Police officers are happy to direct reporters to newsworthy events and quick, reliable information. By one estimate, newspapers report nine crime stories a day; local television news includes four a day. Because reporters rely so heavily on police

for information, police misconduct, including violations of civil liberties, usually get scant attention.¹

Similarly, war or other national security crises rarely invite critical media coverage, particularly in the early phases when the media act within a sphere of consensus: a general agreement about the causes of and how to respond to a crisis. The media, already suspected by many of left-leaning bias, are sensitive to accusations of being unpatriotic and are attracted to the saga of the United States unified against its demonized enemies. As a result, the government's voice is usually enhanced, and dissenters' voices are muffled, making it easier for the government to advance restrictions on civil liberties in the name of national security.

In the first months after 9/11 officials and reporters began to ask if the failure to predict the terrorist attacks was occasioned by legal restrictions on cooperation between the Federal Bureau of Investigation (FBI) and the Central Intelligence Agency (CIA). These laws had been set in place to protect civil liberties and discourage the government from spying on its own citizens. Such concerns were eclipsed when the news media referred to legislation to lift those restrictions as "laws to make it easier for the FBI to gather information."

The media are may be distracted away from civil liberties—and downplay their importance—for one other reason. Asserting civil liberties is often the way unpopular minorities struggle against being repressed or silenced in a majority-rule political system. But such outsiders have trouble getting their concerns into the news on

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2. See the ethnographic research of Steven M. Chermak in his book *Victims in the News: Crime and the American News Media* (Boulder, CO: Westview Press, 1995), especially chap. 2.

their own terms, particularly if they are opposed to the government. They often have no choice except to make theatrical efforts to attract the news media's appetite for dramatic conflict, such as demonstrating against or disrupting official events. This makes it hard for them to use the media to claim the civil liberty protections that are vital to their survival.

Media Consequences

The mass media's choice of frames between law and order and civil liberties has powerful consequences. In one study, people were presented with different frames for a Ku Klux Klan march. When the news story framed the event as a threat to law and order, people gave high priority to the importance of order and low support for the application of civil liberties, the reverse of those who viewed a news story framing the march as an instance of freedom of expression.³

3.⁴

4. Thomas E. Nelson, Rosalee A. Clawson, and Zoe M. Oxley, "Media Framing of a Civil Liberties Conflict and Its Effect on Tolerance," *American Political Science Review* 91 (1997): 567–83; also George E. Marcus, John L. Sullivan, Elizabeth Theiss-Morse, and Sandra L. Wood, *With Malice toward*

Such ambivalence is not unique to the mass media. All the institutions, processes, and participants in American politics display a strong commitment to civil liberties alongside a willingness to submerge that commitment when other commitments (especially the maintenance of law and order) become more prominent—unless the issue is reframed, notably through media presentations, as one of civil liberties.

That said, the primary advocates and the main beneficiaries of civil liberties are not always—in fact, not often—the downtrodden and the underdog. As we have seen, powerful political forces use the leverage of civil liberties to win battles and gain yet more power. The freedoms of the Bill of Rights are not simply dusty statements of long-held principle. Nor are they simply obligations for government to protect the vulnerable. Instead, the words of the Bill of Rights are tools used in politics by all—and all kinds of—political players.

Key Takeaways

In this section we saw that the media are ambivalent about civil liberties, much like the American public and the participants in American government, as their focus on civil liberties is in tension with at least equally strong concerns about crime and the need

Some: How People Make Civil Liberties Judgments (New York: Cambridge University Press, 1995).

for law and order. American politics, powerfully buttressed by the media, is thus equivocal toward civil liberties, valued in principle but often submerged by other, seemingly more pressing, concerns.

51. Achieving Equality?

Explain the purpose of the Civil War Amendments; evaluate their impact on African American communities

Learning Activities

The learning activities for this section include:

- Reading: Civil War Amendments and African Americans
- Video: The Racism of the U.S. Justice System in 10 Charts
- Reading: The Case for Reparations
- Reading: The Use of Force Continuum: Police, Power, and Prejudice
- Reading: Vox Cards: The 2014 Ferguson Protests
- Reading: Urban Policing, without Brutality
- Video: The Future of Race in America
- Video: The Charleston Shooting

Take time to review and reflect on these activities in order to improve your performance on the assessment for this section.

52. G. Reading: Civil War Amendments and African Americans

LEARNING OBJECTIVES

After reading this section, you should be able to answer the following questions:

1. What are the Civil War amendments?
2. What civil-rights challenges faced African Americans?
3. What are de jure and de facto segregation?
4. What did the U.S Supreme Court decide in *Plessy v. Ferguson* and *Brown v. Board of Education*?
5. What are the Civil Rights and the Voting Rights Acts?
6. What is affirmative action?

The Civil War Amendments

Equality did not enter the Constitution until the Civil War Amendments (the Thirteenth, Fourteenth, and Fifteenth) set forth the status and rights of former slaves.

In early 1865, with the Union's triumph in the Civil War assured, Congress passed the Thirteenth Amendment. Quickly ratified by victorious Union states, it outlawed slavery and "involuntary servitude." It authorized Congress to pass laws enforcing the amendment—giving it the power to eradicate not simply slavery but all "badges of servitude."¹

Abraham Lincoln, assassinated in 1865, was succeeded as president by Andrew Johnson, who pushed for a quick reunion of North and South. Republicans in Congress feared that the rights of newly freed slaves would be denied by a return to the old order. Distrusting Johnson, they decided protections had to be put into the Constitution. Congress enacted the Fourteenth Amendment in 1868 and made its ratification a condition for the Southern states' reentry into the Union.

The Fourteenth Amendment contains three key clauses. First, anyone born in the United States is a U.S. citizen, and anyone residing in a state is a citizen of that state. So it affirmed African Americans as U.S. and state citizens.

Second, the amendment bars states from depriving anyone, whether a citizen or not, of "life, liberty, or property, without due

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2. Herman Belz, *A New Birth of Freedom: The Republican Party and Freedmen's Rights, 1861–1866*, 2nd ed. (New York: Fordham University Press, 2000), chap. 7.

process of law.” It thereby extended the Bill of Rights’ due process requirement on the federal government to the states.

Third, the amendment holds that a state may not “deny to any person within its jurisdiction the equal protection of the laws.” This equal protection clause is the Supreme Court’s major instrument for scrutinizing state regulations. It is at the heart of all civil rights. Though the clause was designed to restrict states, the Supreme Court has ruled that it applies to the federal government, too.³

The Fifteenth Amendment, ratified in 1870, bars federal and state governments from infringing on a citizen’s right to vote “on account of race, color, or previous condition of servitude.”

The Bill of Rights *limited* the powers of the federal government; the Civil War Amendments *expanded* them. These amendments created new powers for Congress and the states to support equality. They recognized for the first time a right to vote.

Political debate and conflict surround how, where, and when civil rights protections are applied. The complex U.S. political system provides opportunities for disadvantaged groups to claim and obtain their civil rights. At the same time, the many divisions built into the Constitution by the separation of powers and federalism can be used to frustrate the achievement of civil rights.

3. ⁴

4. *Bolling v. Sharpe*, 347 US 497 (1954). See also *Adar and Constructors v. Peña*, 515 US 200 (1995).

African Americans

The status of African Americans continued to be a central issue of American politics after the Civil War.

Disenfranchisement and Segregation

The federal government retreated from the Civil War Amendments that protected the civil rights of African Americans. Most African Americans resided in the South, where almost all were disenfranchised and segregated by the end of the nineteenth century by Jim Crow laws that enforced segregation of public schools, accommodation, transportation, and other public places.

Link: Jim Crow Laws

“Jim Crow” was a derogatory term for African Americans, named after “Jump Jim Crow,” a parody of their singing and dancing as performed by a white actor in blackface.

Learn more about [Jim Crow laws online](#).

Enforcing the Fifteenth Amendment’s right to vote proved difficult and costly. Blacks voted in large numbers but faced violence from whites. Vigilante executions of blacks by mobs for alleged or imagined crimes reached new highs. In 1892 alone, 161 lynchings were documented, and many more surely occurred.

In 1894, Democrats took charge of the White House and both houses of Congress for the first time since the Civil War. They repealed all federal oversight of elections and delegated enforcement to the states.⁵ Southern states quickly restricted African American voting. They required potential voters to take a literacy test or to interpret a section of the Constitution. Whites who failed an often easier test might still qualify to vote by virtue of a “grandfather clause,” which allowed those whose grandfathers had voted before the Civil War to register.

The Supreme Court also reduced the scope of the Civil War Amendments by nullifying federal laws banning discrimination. The

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6. William Gillette, *Retreat from Reconstruction, 1869–1879* (Baton Rouge: Louisiana State University Press, 1979), chap. 2. Data on lynching are in Robert L. Zangrando, *The NAACP’s Crusade Against Lynching, 1909–1950* (Philadelphia: Temple University Press, 1980), table 2.

Court ruled that the Fourteenth Amendment did not empower the federal government to act against private persons.

De jure segregation—the separation of races by the law—received the Supreme Court’s blessing in the 1896 case of *Plessy v. Ferguson*. A Louisiana law barred whites and blacks from sitting together on trains. A Louisiana equal rights group, seeking to challenge the law, recruited a light-skinned African American, Homer Plessy, to board a train car reserved for whites. Plessy was arrested. His lawyers claimed the law denied him equal protection. By a vote of 8–1, the justices ruled against Plessy, stating that these accommodations were acceptable because they were “separate but equal.” Racial segregation did not violate equal protection, provided both races were treated equally.⁷

Plessy v. Ferguson gave states the green light to segregate on the basis of race. “Separate but equal” was far from equal in practice. Whites rarely sought access to areas reserved for blacks, which were of inferior quality. Such segregation extended to all areas of social life, including entertainment media. Films with all-black or all-white casts were shot for separate movie houses for blacks and whites.

7.⁸

8. *Plessy v. Ferguson*, 163 US 537 (1896)

Mobilizing against Segregation

At the dawn of the twentieth century, African Americans, segregated by race and disenfranchised by law and violence, debated how to improve their lot. One approach accepted segregation and pursued self-help, vocational education, and individual economic advancement. Its spokesman, Booker T. Washington, head of Alabama's Tuskegee Institute, wrote the best-selling memoir *Up from Slavery* (1901) and worked to build institutions for African Americans, such as colleges for blacks only. Sociologist W. E. B. Du Bois replied to Washington with his book *The Soul of Black Folk* (1903), which argued that blacks should protest and agitate for the vote and for civil rights.

Du Bois's writings gained the attention of white and black Northern reformers who founded the National Association for the Advancement of Colored People (NAACP) in 1909. Du Bois served as director of publicity and research, investigating inequities, generating news, and going on speaking tours.⁹

The NAACP brought test cases to court that challenged segregationist practices. Its greatest successes came starting in the 1930s, in a legal strategy led by Thurgood Marshall, who would later be appointed to the Supreme Court. Marshall urged the courts to nullify programs that provided substandard facilities for blacks

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10. Charles Flint Kellogg, *NAACP: A History of the National Association for the Advancement of Colored People*, vol. 1 (Baltimore: Johns Hopkins University Press, 1967).

on the grounds that they were a violation of “separate but equal.” In a key 1937 victory, the Supreme Court ruled that, by providing a state law school for whites without doing the same for blacks, Missouri was denying equal protection.¹¹ Such triumphs did not threaten segregation but made Southern states take “separate but equal” more seriously, sometimes forcing them to give funds for black colleges, which became centers for political action.¹³

During World War I, Northern factories recruited rural Southern black men for work, starting a “Great Migration” northward that peaked in the 1960s. In Northern cities, African Americans voted freely, had fewer restrictions on their civil rights, organized themselves effectively, and participated in politics. They began to elect black members of Congress, and built prosperous black newspapers. When the United States entered World War II, many African Americans were brought into the defense industries and the armed forces. Black soldiers who returned from fighting for their country engaged in more militant politics.

President Harry S. Truman saw black citizens as a sizable voting bloc. In 1946, he named an advisory commission to recommend civil rights policies. Amid his 1948 election campaign, Truman issued executive orders that adopted two of its suggestions: desegregating

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12. *Missouri ex rel. Gaines v. Canada*, 305 US 676 (1937). See Mark V. Tushnet, *The NAACP's Legal Strategy Against Segregated Education, 1925–1950* (Chapel Hill: University of North Carolina Press, 1987), chaps. 2–5.

13.¹⁴

14. Doug McAdam, *Political Process and the Development of Black Insurgency, 1930–1970*, 2nd ed. (Chicago: University of Chicago Press, 1999), 100–103.

the armed forces and creating review boards in each cabinet department to monitor discrimination. With the crucial help of Northern black votes, Truman won in an upset.

The End of De Jure Segregation

In the 1940s, Supreme Court decisions on lawsuits brought by the NAACP and argued by Thurgood Marshall chipped away at “separate but equal.” In 1941, Arthur Mitchell, a black member of Congress from Chicago, was kicked out of a first-class sleeping car when his train entered Arkansas. The Court ruled that the Arkansas law enforcing segregation was unconstitutional. In 1944, the Court ruled that the Fifteenth Amendment barred Texas from running an all-white primary election. In 1948, it stopped enforcement of covenants that home buyers signed that said they would not resell their houses to blacks or Jews.¹⁵

Marshall decided to force the justices to address the issue of segregation directly. He brought suit against school facilities for

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16. *Mitchell v. United States*, 313 US 80 (1941); *Smith v. Allwright*, 321 US 649 (1944); *Shelley v. Kraemer*, 334 US 1 (1948).

blacks that were physically equal to those for whites. With the 1954 decision, *Brown v. Board of Education*, the Supreme Court overturned *Plessy v. Ferguson* and ruled unanimously that racial segregation in public education violated the Constitution.¹⁷

Only 6 percent of Southern schools had begun to desegregate by the end of the 1950s. In 1957, Arkansas Governor Orval Faubus, backed by white mobs, mobilized the National Guard to fight a federal court order to desegregate Little Rock's public schools. President Eisenhower took charge of the Arkansas National Guard and called up U.S. troops to enforce the order.¹⁹ Television images of the nine Little Rock students attempting to enter Central High surrounded by troops and an angry mob brought the struggle for civil rights into American living rooms.

17.¹⁸

18. *Brown v. Board of Education*, 347 US 483 (1954).

19.²⁰

20. Harvard Sitkoff, *The Struggle for Black Equality, 1954–1992*, rev. ed. (New York: Hill and Wang, 1993), chap. 2.

Link: Central High Conflicts:

Learn more about the
conflicts at [Central High
online.](#)

The African American Civil Rights Movement

Even before the *Brown v. Board of Education* decision, a mass movement of African Americans had emerged from black churches and black colleges. Such organizations provided networks for communicating with and organizing recruits. The black press in both the North and the South publicized the movement.

Daily newspapers in the South, which covered a white power structure and were aimed at white readers, all but ignored the African American civil rights movement. Southern reporters who

covered the movement were threatened, and even harmed physically, by the Ku Klux Klan, a white supremacist group.²¹²² Northern newspapers were slow to discover the movement, although the attention they eventually accorded civil rights protests would help the movement grow and expand.

The first mass action for civil rights took place in Baton Rouge, Louisiana, in 1953. African Americans led by a Baptist minister boycotted the city's segregated public buses. Although African Americans provided about three-quarters of the ridership, they had to stand behind an often near-empty white section. A deal was struck: the city council saved the first two rows for whites but blacks could sit anywhere else, as long as they were not in front of whites.

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22. ²³

23. Gene Roberts and Hank Klibanoff, *The Race Beat*. (New York: Random House, 2006).

Another bus boycott took place in Montgomery, Alabama. Rosa Parks, a seamstress and an activist in the local NAACP, was arrested in December 1955 after refusing to give up her bus seat to a white man.



Enduring Images: Rosa Parks

Rosa Parks (and Martin Luther King, Jr), ca. 1955. NAACP leaders sued the city and started a boycott led by a twenty-six-year-old Baptist preacher fresh out of divinity school—Martin Luther King Jr. The boycott lasted 381 days and ended only after the US Supreme Court had declared Montgomery's segregated public transportation unconstitutional.

Two enduring images of the African American civil rights movement are of Rosa Parks. In one, she is being arrested. In a later photograph taken for *Look* magazine, she is sitting on a city bus *in front of* a white passenger. Her refusal to give up her bus seat to a white person and move to the back of the bus touched off the massive Montgomery bus boycott that ended with a Supreme Court decision ordering the city to desegregate public transportation. The images endure because of the simple, moving tale of a lone individual affirming her dignity and equality by a simple act—sitting down.

What the images do not show is that Parks was a longstanding activist in local civil rights politics and was secretary of the

Montgomery chapter of the NAACP. The photo of her arrest was not for her action on the bus, but for later activity in the boycott.

Parks was not the first African American woman to refuse to give up her seat in a bus. Claudette Colvin, a fifteen-year-old young woman active in the NAACP Youth Council, had refused to give up her bus seat a few months before. Colvin cried out as she was arrested, “this is my constitutional right.” NAACP leaders had hoped to draw attention to Colvin’s case, until they realized that she was foul-mouthed and unruly—the pregnant, unmarried Colvin was not the symbol of African American resistance the NAACP wished to portray. Parks, a diminutive, devout, soft-spoken, married woman, was ideal for favorable publicity.²⁴

Civil rights activists receive most positive coverage when they are able to present themselves as noble, oppressed victims. The images of Parks, arrested and sitting at the front of the bus, have lasted and been widely reproduced. Other images of Parks as political activist and organizer, roles that are equally central to her life, have not.

King founded the [Southern Christian Leadership Conference](#) (SCLC) to lead black resistance, confirmed himself as the leading orator of the movement, and honed a strategy by which black victims of discrimination confronted repressive white power nonviolently. Rosa Parks’s example revealed how this “David-and-Goliath” story was well suited to getting the issue of civil rights into the news.

Students created the next wave of activism. In 1960, four freshmen at North Carolina A&T State University sat down at a dime-store, whites-only lunch counter in Greensboro and would not leave until they were served.

The students tipped off a local white photographer, who took a

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25. Douglas Brinkley, *Rosa Parks* (New York: Viking Penguin, 2000), chap. 5.

picture of them that gained national attention. The “Greensboro four” were arrested and jailed. Twenty-nine students sat at the lunch counter the next day, and hundreds more followed. After months of dwindling sales, Greensboro’s merchants agreed to desegregate. The sit-in was rapidly imitated across the South.²⁶ It inspired a new, younger, more confrontational organization—the Student Nonviolent Coordinating Committee (SNCC).

In 1961, white and black activists launched a Freedom Ride to travel together on buses from Washington, DC, to New Orleans in defiance of state laws. They did not make it. In Alabama, one bus was stopped, and its occupants were badly beaten. Another bus was set on fire, and the freedom riders barely escaped alive.

Dramatic, widely distributed photographs of these events forced President John F. Kennedy to order federal agencies to halt segregation and discrimination in interstate transportation.²⁸ Civil rights activists used depictions of white repression to win dramatic news coverage and generate public sympathy for their cause.

The SNCC organized the Freedom Summer of 1964, a campaign to register voters in Mississippi, the state with the largest percentage of blacks and the lowest rate of black voter registration. Massive resistance from whites resulted in violence, culminating in the

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27. William H. Chafe, *Civilities and Civil Rights: Greensboro, North Carolina, and the Black Struggle for Freedom* (New York: Oxford University Press, 1980), chap. 3.

28.²⁹

29. David Niven, *The Politics of Injustice: The Kennedys, the Freedom Rides, and the Electoral Consequences of a Moral Compromise* (Knoxville: University of Tennessee Press, 2003).

murder of three civil rights workers—one black and two white. Murders of white civil rights activists generated more public outrage and received more news coverage than murders of black participants.

In 1963, King and the SCLC conducted an all-out campaign, including mass meetings, sit-ins, and boycotts of downtown stores in Birmingham, Alabama. Their attempts to march to city hall were violently suppressed by police. Marchers, including young children, were chased and attacked by police dogs and pummeled with water from fire hoses so powerful it tore off their clothes and removed bark from trees. Thousands were arrested.

These protests, and the official response, received saturation coverage in the news. After five weeks, Birmingham's business leaders signed an agreement to desegregate stores and enhance black employment.³⁰ In a nationally televised address in June, President Kennedy proposed a far-reaching Civil Rights Act. Riding a surge of attention, King planned a national march on Washington. A quarter of a million people jammed around the Lincoln Memorial in August to hear speeches and songs, capped off by King's "I Have a Dream" vision of racial reconciliation.

30.³¹

31. Glenn T. Eskew, *But For Birmingham: The Local and National Movements in the Civil Rights Struggle* (Chapel Hill: University of North Carolina Press, 1997).

Link: Dr. Martin Luther King's "I Have a Dream" Speech

Listen to [King's "I Have a Dream" speech online](#).

The 1964 Civil Rights Act and 1965 Voting Rights Act

After the assassination of President Kennedy in November 1963, the new president, Lyndon B. Johnson, asked Congress to pass the [Civil Rights Act](#), which Kennedy had initiated. It became law after weeks of lobbying, concessions, deals, and filibusters by Southern senators.

The Civil Rights Act forbids discrimination on the basis of “race, color, religion, or national origin” in public accommodations and employment. It set up the [Equal Employment Opportunity Commission](#) (EEOC) to implement the law.



Landmark civil rights legislation was signed into law by a son of the Old South, Texan Lyndon B. Johnson, who pointedly invited the civil rights leader Martin Luther King Jr. to the White House for the ceremony.

With the passage of the Civil Rights Act, the movement turned from discrimination to the vote. Southern blacks trying to register to vote were required to answer impossible questions, such as “how many bubbles in a bar of soap?” Those who managed to register and then tried to vote might be beaten or fired from their jobs. King and the SCLC marched on Selma, Alabama, to peacefully push the goal of registering black citizens to vote. Such a simple message was ideal for transmission through the national news.

In March of 1965, King organized a march from Selma to the state capital, Montgomery. A column of six hundred marchers were confronted by fifty Alabama state troopers, some on horseback, and ordered to disperse. When they did not move, the troopers charged them and shot tear gas, brutally injuring one hundred of the demonstrators. Television footage of this “Bloody Sunday” was widely broadcast.

The upsurge in news coverage prompted membership and funding for civil rights organizations to soar. Public opinion polls revealed that civil rights was the nation’s most important problem.³² Officials felt pressure to act. President Johnson gave a

32. ³³

televised speech before Congress to propose the Voting Rights Act, stating, “It is all of us who must overcome the crippling legacy of bigotry and injustice.” He paused, then evoked the civil rights battle cry: “We shall overcome.” The act sailed through Congress. ([See Johnson speak.](#))

The [Voting Rights Act of 1965](#) gave new powers to the federal government. The act outlawed literacy tests and required the states to prove to the justice department that any changes in voting practices would not abridge the right to vote. It authorized the federal government to use poll watchers and registration examiners to supervise state and local elections. It instantly removed barriers to black registration and voting. In Mississippi, the percentage of blacks registered to vote swelled from under 7 percent in 1964 to 60 percent in 1967.

From South to North

Victorious in the South, the African American civil rights movement turned north. Blacks and whites were separated by locality and attended different schools in both North and South. Separation of

33. Tom W. Smith, “America’s Most Important Problem—A Trend Analysis, *Public Opinion Quarterly* 44, no. 2 (Summer 1980): 164–80.

the races in the North was by practice more than by law; such de facto segregation proved tougher to address by legal efforts alone.

African Americans began rioting in Northern cities, and the rioting reached a peak in 1967. Many rioters saw their actions as protest or rebellion. Some of their violence targeted white-owned stores, which they looted, and police stations, which they set on fire. Scores of African Americans died after police and soldiers were brought in to restore order.

In part due to their perennial interest in vivid, dramatic conflict, the media shifted their focus from nobly suffering victims to fiery, demanding militants. The unity, discipline, and influence of the African American civil rights movement ebbed. King's doctrine of nonviolent resistance was challenged by the rhetoric of the Black Muslim leader Malcolm X who advocated "any means necessary" to advance equality and promoted SNCC's new motto, "Black Power." In 1968, King was assassinated in Memphis, where he had gone to support the sanitation workers' campaign for improved pay and working conditions.

Black militancy, amplified in the news, spawned a white backlash. Republican Richard Nixon was elected president in 1968 on a "law and order" platform that called for slowing down desegregation. The news prominently displayed the dramatic, sometimes violent, reaction by whites against the busing of black students to white schools in supposedly liberal Northern cities such as Boston. It did not miss the irony of massive demonstrations against the busing to desegregate the public schools of Boston, the city at the center of the opposition to slavery prior to the Civil War.

In 1974, the Supreme Court rejected a Detroit plan that required busing across school district lines. The judicial push for integration slowed.³⁴

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35. J. Harvie Wilkinson III, *From Brown to Bakke: The Supreme*

Affirmative Action

In recent years, the main mass-media focus on African American civil rights has been affirmative action: efforts made or enforced by government to achieve equality of opportunity by increasing the percentages of racial and ethnic minorities and women in higher education and the workplace.

Most members of racial and ethnic minorities support affirmative action; majorities of whites are opposed. Supporters tend to focus on remedying the effects of past discrimination; opponents respond that government should never discriminate on the basis of race. The media largely frame the issue as a question of one side winning and the other side losing.³⁶

The Supreme Court first weighed in on affirmative action in 1978. Allan Bakke, a white applicant, was denied entrance to the medical school of the University of California, Davis. Bakke noted that his test scores were higher than other applicants admitted on a separate track for minorities. He sued, charging “reverse discrimination.” The Court concluded that UC Davis’s approach of separating white and minority applicants into two separate groups violated the principle of equal protection. School programs like

Court and School Desegregation (New York: Oxford University Press, 1979), chaps. 8–9.

36.³⁷

37. Robert M. Entman and Andrew Rojecki, *The Black Image in the White Mind: Media and Race in America* (Chicago: University of Chicago Press, 2000).

Harvard's, which considered race as one of many criteria, were permissible.³⁸

A 2003 Supreme Court decision affirmed this position by voiding the undergraduate admission program at the University of Michigan that added points to a candidate's application on the basis of race but upholding the graduate admission approach that considered race in a less quantitative way.

In 2007, the Supreme Court rejected the actions of the Seattle and Louisville school systems to promote racial integration by assigning students to particular schools in order to make the population of each school reflect the cities' racial composition. This 5-4 decision by Chief Justice Roberts, leading the Court's conservative majority, seemed to prohibit school systems from using race to classify and thus assign students. It did, however, allow the use of other (unspecified) race-conscious measures to combat racial segregation.⁴⁰

38.³⁹

39. *Regents of the University of California v. Bakke*, 438 US 265 (1978).

40.⁴¹

41. *Parents Involved in Community Schools v. Seattle School District No. 1*, 551 US 701 (2007).

Civil Rights Issues Persist

The legacy of slavery and segregation is evident in not only the higher rates of poverty, unemployment, and incarceration but also the lower life expectancy and educational test scores of African Americans compared to whites. Visitors to the [NAACP website](#) will find many subjects connected to race, such as police practices of racial profiling of suspects. But the NAACP also deals with issues that disproportionately affect African Americans and that some might think have “nothing to do with race.” These include a practice the NAACP labels “environmental racism,” whereby polluting factories are placed next to poor, largely African American neighborhoods.

The mass media tend to focus on incidents of overt discrimination rather than on damage caused by the poverty, poor education, and environmental hazards that disadvantaged groups often face. This media frame explains why television reporters, facing the devastation of New Orleans by Hurricane Katrina, were so thunderstruck by the overwhelming number of black faces among the victims. The topic of black urban poverty is simply not something the press routinely covers.

Key Takeaways

Civil rights protect people against discrimination and focus on equal

access to society and political life. In this section we have described the evolution and contents of the civil rights of African Americans. We started with the Civil War Amendments added to the Constitution to guarantee newly freed slaves' legal status. We covered African Americans' disenfranchisement and segregation, their mobilizing against segregation, the end of de jure segregation, and the civil rights movement. We described the 1964 Civil Rights Act and 1965 Voting Rights Act, and the issue of affirmative action. African Americans have had more success in combating segregation by law than fighting discrimination by practice. They have variously been helped and hindered by media coverage and depictions of their situation and struggles. Civil rights issues persist today.

53. Video: The Racism of the U.S. Justice System in 10 Charts

Michael Brown's shooting offers yet another reminder that the U.S. criminal justice system is riddled with racial disparities . . .



One or more interactive elements has been excluded from this version of the text. You can view them online

here: <https://library.achievingthedream.org/herkimeramericangovernment/?p=73#oembed-1>

54. Reading: The Case for Reparations

Read “The Case for Reparations” by Ta-Nehisi Coates [here](#).

55. Reading: The Use of Force Continuum: Police, Power, and Prejudice

Read “The Use of Force Continuum: Police, Power, and Prejudice” by Joe Ponce [here](#).

56. H. Reading: Vox Cards: The 2014 Ferguson Protests

What can the Michael Brown shooting and Ferguson protests tell us about racial disparities in the criminal justice system? Investigate this question by reading through the Vox “cards” [here](#).

57. Reading: Urban Policing, without Brutality

Read “Urban Policing, without Brutality” by Nathalie Baptiste [here](#).

58. Video: The Future of Race in America

In the following video, Michelle Alexander discusses racial bias and the criminal justice system and the future of race in America.



One or more interactive elements has been excluded from this version of the text. You can view them online

here: <https://library.achievingthedream.org/herkimeramericangovernment/?p=78#oembed-1>

59. Video: The Charleston Shooting

Was the shooting that killed nine people in Charleston's Emanuel AME Church in June 2015 terrorism? Vox's Dara Lind explains in the following video.



One or more interactive elements has been excluded from this version of the text. You can view them online

here: <https://library.achievingthedream.org/herkimeramericangovernment/?p=79#oembed-1>

6o. Expanding the Struggle for Equality

Summarize the civil rights struggles of other minorities, women, lesbians, gay men, and the disabled

Learning Activities

The learning activities for this section include:

- Reading: Other Minorities, Women, Lesbians, Gay Men, and the Disabled
- Video: The March of Marriage Equality
- Video: How Most States Discriminate against LGBT People
- Video: Nine Facts About Violence against Women Everyone Should Know
- Reading: Civil Rights in the Information Age

Take time to review and reflect on these activities in order to improve your performance on the assessment for this section.

6I. I. Reading: Other Minorities, Women, Lesbians, Gay Men, and the Disabled

Learning Objectives

After reading this section, you should be able to answer the following questions:

1. What civil rights challenges have Latinos, Asian Americans, and Native Americans faced?
2. What is the Nineteenth Amendment?
3. What is the Equal Rights Amendment?
4. What is sexual harassment?
5. What political and legal challenges do lesbians and gay men face?
6. What is the Americans with Disabilities Act?

Other Minorities

Policies protecting African Americans' civil rights automatically extend to other racial and ethnic minorities. Most prominent of

these groups are Latinos, Asian Americans, and Native Americans. They all have civil rights concerns of their own.

Latinos

Latinos have displaced African Americans as the largest minority group in the United States. They are disproportionately foreign-born, young, and poor. They can keep in touch with issues and their community through a burgeoning Spanish-language media. Daily newspapers and national television networks, such as Univisión, provide a mix of news and advocacy.

Politicians court Latinos as a growing bloc of voters.¹ As a result, Latinos have had some success in pursuing civil rights, such as the use of Spanish in voting and teaching. After Latino groups claimed that voting rights were at risk for citizens not literate in English, the Voting Rights Act was amended to require ballots to be available in a language other than English in election districts where that

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2. Benjamin Márquez, *LULAC: The Evolution of a Mexican American Political Organization* (Austin: University of Texas Press, 1993); David Rodríguez, *Latino National Political Coalitions: Struggles and Challenges* (New York: Routledge, 2002).

language was spoken by 5 percent or more of the electorate. And the Supreme Court has ruled that school districts violate the Civil Rights Act of 1964 when students are taught in a language that they do not understand.³

Latino success has not carried over to immigration.⁵ Illegal immigrants pose vexing questions in terms of civil rights. If caught, should they be jailed and expelled? Should they be eligible to become citizens?

In 2006, Congressman Jim Sensenbrenner (R-WI) introduced legislation to change illegal immigration from a violation of civil law to a felony and to punish anyone who provided assistance to illegal immigrants, even church ministers. Hundreds of thousands rallied in cities across the country to voice their opposition. President George W. Bush pushed for a less punitive approach that would recognize illegal immigrants as “guest workers” but would still not allow them to become citizens.

Other politicians have proposed legislation. Mired in controversy, none of these proposals have become law. President Obama revisited one aspect of the subject in his 2011 State of the Union message:

Today, there are hundreds of thousands of students excelling in our schools who are not American citizens. Some are the children of undocumented workers, who had nothing to do with the actions of their parents. They grew up as Americans and pledge allegiance

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4. *Lau v. Nichols*, 414 US 56 (1974).

5. ⁶

6. Rodolfo O. de la Garza et al., *Latino Voices: Mexican, Puerto Rican, and Cuban Perspectives on American Politics* (Boulder, CO: Westview Press, 1992).

to our flag, and yet they live every day with the threat of deportation....It makes no sense.

Now, I strongly believe that we should take on, once and for all, the issue of illegal immigration. I am prepared to work with Republicans and Democrats to protect our borders, enforce our laws, and address the millions of undocumented workers who are now living in the shadows. I know that debate will be difficult and take time.⁷

Link: The National Council of La Raza

To learn more about Latino civil rights, visit the [National Council of La Raza online](#).

7.⁸

8. "[State of the Union 2011: President Obama's Full Speech](#)," ABC News, accessed February 3, 2011.

Asian Americans

Many landmark cases on racial discrimination going back to the nineteenth century stemmed from suits by Asian Americans. World War II brought more discrimination out of an unjustified, if not irrational, fear that some Japanese Americans might be loyal to Japan and thus commit acts of sabotage against the United States: the federal government imposed curfews on them. Then after President Roosevelt signed Executive Order 9066 on February 19, 1942, roughly 120,000 Japanese Americans (62 percent of them US citizens) were forcibly moved from their homes to distant, desolate relocation camps. Ruling toward the end of the war, the Supreme Court did not strike down the internment policy, but it did hold that classifying people by race is unconstitutional.⁹

Japanese Americans who had been interred in camps later pressed for redress. Congress eventually responded with the Civil Liberties Act of 1988, whereby the US government apologized to and compensated camp survivors.¹¹

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10. *Korematsu v. United States*, 323 US 214 (1944).

11.¹²

12. Leslie T. Hatamiya, *Righting a Wrong: Japanese Americans and the Passage of the Civil Liberties Act of 1988* (Stanford, CA: Stanford University Press, 1993); Mitchell T. Maki, Harry H. L. Kitano, and S. Megan Berthold, *Achieving the Impossible Dream: How Japanese Americans Obtained Redress* (Urbana: University of Illinois Press, 1999).

Link: Japanese Internment

Learn more about Japanese internment [here](#).

Japanese Americans boarding a train bound for one of ten American concentration camps.

Asian Americans have united against discrimination. During the Vietnam era, Asian American students opposing the war highlighted its impact on Asian populations. Instead of slogans such as “Bring the GIs home,” they chanted, “Stop killing our Asian brothers and sisters.”

These Asian American student groups—and the periodicals they spawned—provided the foundation for a unified Asian American identity and politics.¹³

A dazzling array of Asian American nationalities, religions, and cultures has emerged since 1965, after restrictions on immigration from Asia were removed. Yet vestiges of discrimination remain. For



Los Angeles, California, 1942. Japanese Americans being shipped to internment camps during World War II.

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14. Yen Le Espiritu, *Asian American Panethnicity: Bridging Institutions and Identities* (Philadelphia: Temple University Press, 1992), chap. 2; Pei-Te Lien, *The Making of Asian America Through Political Participation* (Philadelphia: Temple University Press, 2001), chap. 5.

example, Asian Americans are paid less than their high education would warrant.¹⁵¹⁶

Native Americans

Native Americans represent many tribes with distinct languages, cultures, and traditions. Nowadays, they obtain protection against discrimination just as members of other racial and ethnic groups do. Specifically, the Indian Civil Rights Act (ICRA) of 1968 guaranteed them many civil rights, including equal protection under the law and due process; freedom of speech, press, and assembly; and protection from unreasonable search and seizure, self-incrimination, and double jeopardy.

Native Americans' civil rights issues today center on tribal autonomy and self-government on Indian reservations. Thus some of the provisions of the Bill of Rights, such as the separation of

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16.¹⁷ They point to mass-media stereotypes as contributing to such discrimination.

17. Mia Tuan, *Forever Foreigners or Honorary Whites. The Asian Experience Today* (New Brunswick, NJ: Rutgers University Press, 1998).

church and state, do not apply to tribes.¹⁸ Reservations may also legally discriminate in favor of hiring Native Americans.

For much of history, Native Americans residing outside of reservations were in a legal limbo, being neither members of self-governing tribal nations nor US citizens. For example, in 1881, John Elk, a Native American living in Omaha, claimed that he was denied equal protection of the laws when he was prevented from voting. The Supreme Court ruled that since he was “born to an Indian nation,” Elk was not a citizen and could not claim a right to vote.²⁰ Nowadays, Native Americans living on or outside reservations vote as any other citizens.

Link: The Native American Civil Rights Movement

Read more on the [Native American Civil Rights movement](#).

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19. *Talton v. Mayes*, 163 US 376 (1896).

20.²¹

21. *Elk v. Wilkins*, 112 US 94 (1884).

Women

Women constitute a majority of the population and of the electorate, but they have never spoken with a unified voice for civil rights, nor have they received the same degree of protection as racial and ethnic minorities.

The First Wave of Women's Rights

In the American republic's first years, the right to vote was reserved for property owners, most of whom were male. The expansion of the franchise to "universal white manhood suffrage" served only to lock in women's disenfranchisement.

Women's activism arose in the campaign to abolish slavery. Women abolitionists argued that the case against slavery could not be made as long as women did not have political rights as well. In 1848, women and men active in the antislavery movement, meeting in Seneca Falls, New York, adopted a Declaration of Sentiments. Emulating the Declaration of Independence, it argued that "all men

and women are created equal” and catalogued “repeated injuries and usurpations on the part of man toward woman.”²²

Link: The Seneca Falls Convention

Learn more about the Seneca Falls Convention [here](#).

After the Civil War, women abolitionists hoped to be rewarded with the vote, but women were not included in the Fifteenth Amendment. In disgust, Susan B. Anthony and Elizabeth Cady Stanton, two prominent and ardent abolitionists, launched an independent women’s movement.²⁴ Anthony drafted a

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23. Nancy Isenberg, *Sex and Citizenship in Antebellum America* (Chapel Hill: University of North Carolina Press, 1998); Susan Zaeske, *Signatures of Citizenship: Petitioning, Antislavery, and Women’s Political Identity* (Chapel Hill: University of North Carolina Press, 2003).

24.²⁵

25. Louise Michele Neuman, *White Women’s Rights: The*

constitutional amendment to guarantee women's right to vote: "The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any state on account of sex."²⁶ Modeled on the Fifteenth Amendment, it was introduced in the Senate in 1878.

At first, the suffragists demurely petitioned and testified. By 1910, their patience was at an end. They campaigned against members of Congress and picketed the White House.



Women picketing in front of the White House embarrassed President Woodrow Wilson during World War I. They pointed out that his promise "to make the world safe for democracy" did not include extending the vote to women. Wilson changed his position to one of support for the Nineteenth Amendment.

Racial Origins of Feminism in the United States (New York: Oxford University Press, 1999).

26.²⁷

27. Jean H. Baker, ed., *Votes for Women: The Struggle for Suffrage Revisited* (New York: Oxford University Press, 2002).

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They went to jail and engaged in hunger strikes. Such efforts, widely publicized in the news, eventually paid off in 1920 when the Nineteenth Amendment was added to the Constitution.²⁸

The Second Wave of Women's Rights

When the vote won, the women's movement lost its central focus. Women were split by a proposed Equal Rights Amendment (ERA) to the Constitution, mandating equal treatment of men and women under the law. It was proposed in 1923 by well-to-do Republican working professional women but was opposed by women Democrats in labor unions, who had won "specific bills for specific ills"—minimum wage and maximum hours laws for working women. Meanwhile, women constituted an increasing proportion of voters and made inroads in party activism and holding office.³⁰

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29. Lee Ann Banaszak, *Why Movements Succeed or Fail: Opportunity, Culture, and the Struggle for Woman Suffrage* (Princeton, N.J.: Princeton University Press, 1996).

30.³¹

Link: The Equal Rights Amendment

Learn more about the Equal Rights Amendment [here](#).

Then came an unexpected breakthrough: Conservative Southern House members, hoping to slow down passage of the 1964 Civil Rights Bill, offered what they deemed frivolous amendments—one of which expanded the act to protect women. Northern and Southern male legislators joined in derision and laughter. The small contingent of congresswomen berated their colleagues and allied with Southern conservatives to pass the amendment.

Thus the Civil Rights Act ended up also barring discrimination in employment on the basis of sex. However, the Equal Employment Opportunity Commission (EEOC), created to implement the act, decided that its resources were too limited to focus on anything but race.

In 1967, women activists reacted by forming the [National Organization for Women](#) (NOW), which became the basis for a revived women's movement. NOW's first president was Betty Friedan, a freelance writer for women's magazines. Her 1963 best seller, *The Feminine Mystique*, showed that confining women to the domestic roles of wife and mother squelched opportunities for middle-class, educated women.³² Women's organizations adopted

31. Cynthia Ellen Harrison, *On Account of Sex: The Politics of Women's Issues, 1945–1968* (Berkeley: University of California Press, 1988).

32.³³

the slogan “the personal is political.” They pointed out that even when men and women in a couple worked outside the home equally, housework and child care fell more heavily on wives, creating a “second shift” limiting women’s opportunity for political activism.

Equality without the ERA

By 1970, Democrats and Republicans alike backed the ERA and women’s rights. One House member, Bella Abzug (D-NY), later exulted, “We put sex discrimination provisions into everything. There was no opposition. Who’d be against equal rights for women?”³⁴

Such laws could be far reaching. Title IX of the Education Act

33. On EEOC’s initial implementation, see Hugh Davis Graham, *The Civil Rights Era: Origins and Development of National Policy* (New York: Oxford University Press, 1990), chap. 8; on the founding of NOW, see Jo Freeman, *The Politics of Women’s Liberation* (New York: Longman, 1975).

34.³⁵

35. Quoted in Christina Wolbrecht, *The Politics of Women’s Rights: Parties, Positions, and Change* (Princeton, NJ: Princeton University Press, 2000), 35.

Amendments of 1972, outlawing sex discrimination in federally funded educational programs, prompted little debate when it was enacted. Today it is controversial. Some charge that it pushes funds to women's sports, endangering men's sports. Defenders respond that all of women's sports put together get less funding at universities than men's sports, such as basketball or football.³⁶

NOW and other organizations focused on the ERA. It passed by huge bipartisan margins in the House in 1970 and the Senate in 1972; thirty of the thirty-eight states necessary to ratify approved it almost immediately. However, opposition to the ERA, led and generated by conservative women, arose among the general public, including women. While women working outside the home generally favored the ERA to fight job discrimination, housewives feared that the ERA would remove protection for them, such as the legal presumptions that women were more eligible than men for alimony after a divorce. The public's support of the ERA declined because of fears that it might allow military conscription of women and gay marriage. The political consensus crumbled, and in 1980, the Republican platform opposed ERA for the first time. ERA died in 1982 when the ratification process expired.³⁸

Although women have made strides toward equality, they still fall behind on important measures. The United States is twenty-

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37. Joyce Gelb and Marian Lief Palley, *Women and Public Policies: Reassessing Gender Politics*, rev. ed. (Charlottesville: University Press of Virginia, 1998), chap.5.

38.³⁹

39. Jane S. Mansbridge, *How We Lost the ERA* (Chicago: University of Chicago Press, 1986).

second among the thirty most developed nations in its proportion of women in Congress. The percentage of female state legislators and state elective officials is between 20 and 25 percent. The top twenty occupations of women are the same as they were fifty years ago: they work as secretaries, nurses, and grade school teachers and in other low-paid white-collar jobs.

Sexual Harassment

In 1980, the EEOC defined sexual harassment as unwelcome sexual advances or sexual conduct, verbal or physical, that interferes with a person's performance or creates a hostile working environment. Such discrimination on the basis of sex is barred in the workplace by the Civil Rights Act of 1964 and in colleges and universities that receive federal funds by Title IX. In a series of decisions, the Supreme Court has ruled that employers are responsible for maintaining a harassment-free workplace. Some of the elements of a sexually hostile environment are lewd remarks and uninvited and offensive touching.⁴⁰

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41. *Meritor Savings Bank v. Vinson*, 477 US 57 (1986); *Harris v. Forklift Systems, Inc.*, 510 US 17 (1993); *Burlington Industries, Inc., v. Ellerth*, 524 US 742 (1998); *Farragher v.*

Schools may be held legally liable if they have tolerated sexual harassment.⁴² Therefore, they establish codes and definitions of what is and is not permissible. The College of William and Mary, for example, sees a power difference between students and teachers and prohibits any and all sexual contact between them. Others, like Williams College, seek to ensure that teachers opt out of any supervisory relationship with a student with whom they are sexually involved. The news often minimizes the impact of sexual harassment by shifting focus away from a public issue of systematic discrimination to the question of personal responsibility, turning the issue into a private “he said, she said” spat.⁴⁴

City of Boca Raton, 524 US 775 (1998); *Oncale v. Sundowner Offshore Services, Inc.*, 523 US 75 (1998).

42.⁴³

43. *Davis v. Monroe County Board of Education*, 526 US 629 (1999).

44.⁴⁵

45. Mary Douglas Vavrus, *Postfeminist News: Political Women in Media Culture* (Albany: State University of New York Press, 2002), chap. 2.

Lesbians and Gay Men

Gay people, lesbians and gay men, are at the forefront of controversial civil rights battles today. They have won civil rights in several areas but not in others.⁴⁶

Gay people face unique obstacles in attaining civil rights. Unlike race or gender, sexual orientation may or may not be an “accident of birth” that merits constitutional protection. The gay rights movement is opposed by religious conservatives, who see homosexuality as a flawed behavior, not an innate characteristic. Moreover, gay people are not “born into” a visible community and identity into which they are socialized. A history of ostracism prompts many to conceal their identities. According to many surveys of gay people, they experience discrimination and violence, actual or threatened.

Election exit polls estimate that lesbians, gay men, and bisexuals make up 4 percent of the voting public. When candidates disagree on gay rights, gays vote by a three-to-one margin for the more progay of the two.⁴⁸ Some progay policies are politically powerful.

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47. Gary Mucciaroni, *Same Sex, Different Politics: Success and Failure in the Struggle over Gay Rights* (Chicago: University of Chicago Press, 2008); and Paul Brewer, *Value War: Public Opinion and the Politics of Gay Rights* (Lanham, MD: Rowman & Littlefield, 2008).

48.⁴⁹

49. Mark Hertzog, *The Lavender Vote: Lesbians, Gay Men, and*

For instance, the public overwhelmingly condemns discrimination against gay people in the workplace.

Gay Movements Emerge

The anti-Communist scare in the early 1950s spilled into worries about “sexual perverts” in government. Gay people faced harassment from city mayors and police departments pressured to “clean up” their cities of “vice.”

The first gay rights movement, the small, often secretive Mattachine Society, emerged to respond to these threats. Mattachine’s leaders argued that gay people, rather than adjust to society, should fight discrimination against them with collective identity and pride. Emulating the African American civil rights movement, they protested and confronted authorities.⁵⁰

Bisexuals in American Electoral Politics (New York: New York University Press, 1996).

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51. John D’Emilio, *Sexual Politics, Sexual Communities: The Making of a Homosexual Minority, 1940–1970* (Chicago: University of Chicago Press, 1983). On news coverage of the early movement, see Edward Alwood, *Straight News:*

In June 1969, during a police raid at a gay bar in New York City's Greenwich Village, the Stonewall Inn, customers fought back. Street protests and violent outbursts followed over several days and catalyzed a mass movement. The Stonewall riots were overlooked by network television and at best got only derisive coverage in the back pages of most newspapers. But discussion of the riot and the grievances of gay people blossomed in alternative newspapers such as *The Village Voice* and emerging weeklies serving gay urban enclaves. By the mid-1970s, a national newsmagazine, *The Advocate*, had been founded.

Gays, Lesbians, and the Media (New York: Columbia University Press, 1996).

By the early 1980s, the gay movement boasted national organizations to gather information, lobby government officials, fund electoral campaigns, and bring test cases to courts.⁵² The anniversary of the Stonewall riots is marked by “gay pride” marches and celebrations in cities across the country.



Lesbian and gay activists picked up a cue from the African American civil rights movement by picketing in front of the White House in 1965—in demure outfits—to protest government discrimination. Drawing on this new openness, media discussion in both news and entertainment grew dramatically from the 1950s through the 1960s.

Political and Legal Efforts

The gay rights movement's first political efforts were for laws to bar discrimination by sexual orientation in employment, the first

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53. Craig A. Rimmerman, *From Identity to Politics: The Lesbian and Gay Movements in the United States* (Philadelphia: Temple University Press, 2002), chaps. 2 and 3.

of which were enacted in 1971.⁵⁴ President Bill Clinton issued an executive order in 1998 banning discrimination on the basis of sexual orientation in federal government employment outside the military. By 2003, nondiscrimination laws had been enacted in 40 percent of American cities and towns.

The first legal victory for lesbian and gay rights occurred in 1965: a federal district court held that the federal government could not disqualify a job candidate simply for being gay.⁵⁶ In 1996, the Supreme Court voided a 1992 Colorado ballot initiative that prevented the state from passing a law to ban discrimination on the basis of sexual orientation. The justices said the amendment was so sweeping that it could be explained only by “animus toward the class” of gay people—a denial of equal protection.⁵⁸

In 2003, the Court rejected a Texas law banning same-sex sexual contact on the grounds that it denied equal protection of the law and the right to privacy. The decision overturned a 1986 ruling that had upheld a similar law in Georgia.⁶⁰

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55. James W. Button, Barbara A. Rienzo, and Kenneth D. Wald, *Private Lives, Public Conflicts: Battles Over Gay Rights in American Communities* (Washington, DC: CQ Press, 1997).

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57. *Scott v. Macy*, 349 F. 2d 182 (1965).

58.⁵⁹

59. *Romer v. Evans*, 517 US 620 (1996) at 632.

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The Military Ban

In 1992, presidential candidate Bill Clinton endorsed lifting the ban on gay people serving openly in the military. In a postelection press conference, Clinton said he would sign an executive order to do so. The news media, seeing a dramatic and clear-cut story, kept after this issue, which became the top concern of Clinton's first days in office. The military and key members of Congress launched a public relations campaign against Clinton's stand, highlighted by a media event at which legislators toured cramped submarines and asked sailors on board how they felt about serving with gay people. Clinton ultimately supported a compromise that was closer to a surrender—a “don't ask, don't tell” policy that has had the effect of substantially increasing the number of discharges from the military for homosexuality.⁶²

Over years of discussion and debate, argument, and acrimony, opposition to the policy increased and support declined. President Obama urged repeal, as did his secretary of defense and leaders of the military. In December 2010, Congress passed and the president signed legislation repealing “don't ask, don't tell.” As the president put it in his 2011 State of the Union message, “Our troops come from every corner of this country—they are black, white, Latino,

61. *Lawrence v. Texas*, 539 US 558 (2003) overturning *Bowers v. Hardwick* 478 US 186 (1986).

62.⁶³

63. Craig A. Rimmerman, ed., *Gay Rights, Military Wrongs: Political Perspectives on Lesbians and Gays in the Military* (New York: Garland Publishing, 1996).

Asian, and Native American. They are Christian and Hindu, Jewish and Muslim. And yes, we know that some of them are gay. Starting this year, no American will be forbidden from serving the country they love because of who they love.”⁶⁴

Same-Sex Marriage

Same-sex couples brought suits in state courts on the grounds that preventing them from marrying was sex discrimination barred by their state constitutions. In 1996, Hawaii’s state supreme court agreed. Many members of Congress, concerned that officials might be forced by the Constitution’s “full faith and credit” clause to recognize same-sex marriages from Hawaii, quickly passed a Defense of Marriage Act, which President Clinton signed. It defines marriage as the union of a man and a woman and denies same-sex couples federal benefits for married people. Many states followed suit, and Hawaii’s court decision was nullified when the state’s voters amended the state constitution before it could take effect.

In 2000, the highest state court in Vermont ruled that the state may not discriminate against same-sex couples and allowed the legislature to create civil unions. These give same-sex couples

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65. “[State of the Union 2011: President Obama’s Full Speech](#),” ABC News, , accessed February 3, 2011.

“marriage lite” benefits such as inheritance rights. Going further, in 2003, Massachusetts’s highest state court allowed same-sex couples to legally wed. So did the California and Connecticut Supreme Courts in 2008.

Voters in thirty states, including California in 2008 (by 52 percent of the vote), passed amendments to their state constitutions banning same-sex marriage. President George W. Bush endorsed an amendment to the US Constitution restricting marriage and its benefits to opposite-sex couples. It received a majority of votes in the House, but not the two-thirds required.

In 2010, a federal judge in San Francisco struck down California’s voter-approved ban on same-sex marriage on the grounds that it discriminates against gay men and women. In 2011 New York allowed same-sex marriage. The legal battle is almost certain to be settled by the U.S. Supreme Court.

People with Disabilities

People with disabilities have sought and gained civil rights protections. When society does not accommodate their differences, they view this as discrimination. They have clout because, by U.S. Census estimates, over 19 percent of the population has some kind of disability.

From Rehabilitation to Rights

Early in the twentieth century, federal policy began seeking the integration of people with disabilities into society, starting with returning veterans of World War I. According to these policies, disabilities were viewed as medical problems; rehabilitation was stressed.

By the 1960s, Congress began shifting toward civil rights by enacting a law requiring new federal construction to be designed to allow entrance for people with disabilities. In 1972, Congress voted, without debate, that work and school programs receiving federal funds could not deny benefits to or discriminate against someone “solely by reason of his handicap.”⁶⁶ Civil servants in the Department of Health, Education and Welfare built on this language to create a principle of reasonable accommodation. In the workplace, this means that facilities must be made accessible (e.g., by means of wheelchair ramps), responsibilities restructured, or policies altered so that someone with disabilities can do a job. At schools, it entails extra time for tests and assignments for those with learning disabilities.

The [Americans with Disabilities Act](#) (ADA) passed Congress by a large margin and was signed into law in 1990 by President George H. W. Bush. The act moves away from the “medical model” by defining

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67. Richard K. Scotch, *From Good Will to Civil Rights: Transforming Federal Disability Policy*, 2nd ed. (Philadelphia: Temple University Press, 2001), chap. 3.

disability as including a physical or mental impairment that limits a “major life activity.” It gives the disabled a right of access to public building. It prohibits discrimination in employment against those who, given reasonable opportunity, could perform the essential functions of a job.

However, the courts interpreted the law and its definition of disability narrowly; for example, to exclude people with conditions that could be mitigated (e.g., by a hearing aid or artificial limb), controlled by medication, or were in remission.

In response, on September 29, 2008, President Bush signed legislation overturning the Supreme Court’s decisions. It expanded the definition of disability to cover more physical and mental impairments and made it easier for workers to prove discrimination.

Depictions of Disabilities

Disability activists fight to be respected and accepted as they are. They advocate for what they *can* do when society does not discriminate against them and adapts to their needs. This effort is frustrated by the typical media frame presenting disabilities as terrible medical burdens to conquer. The mass media tend to present disabled people either as pitiable, helpless victims requiring a cure, or as what activists call “supercrips”: those courageously trying to “overcome” their handicaps.⁶⁸

Comparing Content: Christopher Reeve

In 1995, the actor Christopher Reeve suffered a devastating fall in a horseback-riding accident, which paralyzed him from the neck down and forced him to use a ventilator to breathe. Reeve—best known for playing the role of Superman in a series of movies—would not be deterred. He became a film director and found award-winning acting roles, such as a television remake of the classic *Rear Window*, in which the principal character has a broken leg.

Above all, Reeve resolved he would walk again. He began to campaign for a cure for spinal injuries, sponsoring television specials and raising money through a newly formed foundation. He gave countless speeches, including one to the Democratic National Convention in 2000. Reeve's efforts won praise in the media, which monitored his landmarks, such as breathing without a ventilator. A *Time* magazine headline in September 2002 was typical: "Against All the Odds: Christopher Reeve, in a visit with *TIME*, tells how he is regaining control of his body, one finger at a time."

69. Charles A. Riley II, *Disability and the Media: Prescriptions for Change* (Hanover, NH: University Press of New England, 2005).

The media attention lavished on Reeve until his death in 2004 irked many people with disabilities. They saw the massive publicity he received as undermining their struggle for civil rights and equal treatment. In magazines aimed at serving people with disabilities, such as *Ability Magazine* and *Ragged Edge*, writers blasted Reeve for presenting himself as, in their words, “incomplete” or “decayed.” Chet Cooper, editor of *Ability Magazine*, confronted Reeve in a 1998 interview.



Actor Christopher Reeve was adored by the news media—and politicians—for his committed fight to regain the use of his body after a horseback-riding accident.

Cooper began, “Promoting civil rights for people with disabilities would involve encouraging people to accept and respect people with disabilities just as they are...Their concept is ‘I don’t need to walk to be a whole human being. I am able to lead a fully functional life, independent of walking.’” Reeve answered, “We were not born to be living in wheelchairs. We were meant to be walking upright with all of our body systems fully functional and I’d like to have that back.”⁷⁰

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71. Christopher Reeve and Fred Fay, “[The Road I Have Taken: Christopher Reeve and the Cure](#),” interview by Chet Cooper, *Ability Magazine*, 1998.

Key Takeaways

In this section, we addressed the civil rights challenges facing Latinos, Asian Americans, and Native Americans, as well as women, lesbians and gays, and individuals with disabilities. Latinos have gained language but not immigration rights. After the horror of relocation inflicted on Japanese Americans, Asian Americans have obtained their rights, although vestiges of discrimination remain. Rights issues for Native Americans concern tribal autonomy and self-government. Women have gained less civil rights protection, in part because of policy disagreements among women and because of fear of undermining men's and women's traditional roles. Gay people have won protections against discrimination in states and localities and through the courts, but have been denied equality in marriage. People with disabilities have won civil rights protections through national legislative and executive action.

62. Video: The March of Marriage Equality

The U.S. Supreme Court struck down states' same-sex marriage bans on June 26, 2015, effectively bringing marriage equality to the entire U.S. In the video below, watch it sweep the United States over the last eleven years.

“No union is more profound than marriage, for it embodies the highest ideals of love, fidelity, devotion, sacrifice, and family,” Justice Anthony Kennedy, who joined the court’s liberals in the majority opinion, wrote. “[The challengers] ask for equal dignity in the eyes of the law. The Constitution grants them that right.”



One or more interactive elements has been excluded from this version of the text. You can view them online

here: <https://library.achievingthedream.org/herkimeramericangovernment/?p=82#oembed-1>

63. Video: How Most States Discriminate against LGBT People

The U.S. has a patchwork of civil rights protections for LGBT people, and in most states it's legal to discriminate against people based on their sexual orientation or gender identity. Learn more in the following video.



One or more interactive elements has been excluded from this version of the text. You can view them online

here: <https://library.achievingthedream.org/herkimeramericangovernment/?p=83#oembed-1>

64. Video: Nine Facts About Violence against Women Everyone Should Know

The statistics on women who suffer domestic abuse and sexual assault are heartbreaking—and everyone should know about them. Watch the following video to find out more.



One or more interactive elements has been excluded from this version of the text. You can view them online

here: <https://library.achievingthedream.org/herkimeramericangovernment/?p=84#oembed-1>

65. Reading: Civil Rights in the Information Age

Learning Objectives

After reading this section, you should be able to answer the following questions:

1. How do media portrayals of civil rights activities vary?
2. How and why do civil rights organizers exert pressure on media outlets?
3. How are new media being used to serve the interests of civil rights groups and raise awareness of civil rights issues?

The media are a potential resource for disadvantaged groups subject to discrimination to try to energize their members, attract support (sway opinion, raise funds) from the public, and achieve their policy objectives.

Media Interactions

Generating positive media depictions can be a struggle for disadvantaged groups, but it has proved essential in their progress toward achieving their civil rights.

Stages of Interaction

Civil rights movements' interactions with the media tend to move in stages. At first, fearing biased depictions, these groups try to stay out of the media or work defensively to limit negative coverage. Over time, activists become more sophisticated in dealing with the news media and more determined to use news attention as leverage. Their challenge is to find ways to “package” the discrimination they face every day into a compelling breaking story.

Demonstrations, marches, and protests are one way to respond, although they can quickly become “old news.” Some activists end up conducting larger and more militant protests in order to get covered, but this can be detrimental. After 1965, for example, the African American civil rights movement divided, as some participants embraced the confrontational, even inflammatory rhetoric of the “Black Power” movement. Coverage of militancy easily turns negative, so activists have learned to anticipate the needs of the news media and become more disciplined when they

plan their activities. As a result, they may downplay controversial issues and stress less sweeping policy changes.

Members of disadvantaged groups are quick to see the media acting as *agents of discrimination*, reinforcing derogatory stereotypes.¹ They therefore monitor media content and apply pressure on both news and entertainment media to influence how their members are portrayed.³ They threaten boycotts of media companies and advertisers. One of the first endeavors of the National Association for the Advancement of Colored People (NAACP) was to protest against D. W. Griffith's feature film *Birth of a Nation* (1913), which portrayed African Americans after the Civil War as stupid and venal and celebrated the Ku Klux Klan. Even if the controversy does not end in a withdrawal of the offensive material, it sensitizes media executives to the risks of potentially inflammatory programming.

Targets of public criticism may respond by reforming their depictions. Griffith himself was stung by the accusations of insensitivity. His next film, *Intolerance* (1916), is an eloquent epic combining multiple stories across the ages to plead for understanding between groups. More recently, director Jonathan Demme faced protests from lesbian and gay groups over his film *Silence of the Lambs*, whose villain was a seductive, murderous

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2. For an exhaustive catalog of stereotypes, see Stephanie Greco Larson, *Media and Minorities* (Lanham, MD: Rowman & Littlefield, 2005).

3.⁴

4. Kathryn C. Montgomery, *Target Prime Time: Advocacy Groups and the Struggle over Entertainment Television* (New York: Oxford University Press, 1989).

cross-dresser. In response, Demme's next film, *Philadelphia*, featured Tom Hanks as a sympathetic gay man with AIDS who sues the law firm that fired him.

Supportive Media

Through old and new media, disadvantaged groups can reach out and mobilize among themselves in favor of civil rights.

Supportive media have long prospered in one old technology: newsprint. Newspapers aimed at black readers date back to *Freedom's Journal*, a newspaper founded in 1827 in New York to rebut the racist claims of other newspapers. Today the black press, ranging from small local weeklies to glossy high-circulation national magazines like *Ebony* and *Jet*, continues the tradition. It provides news items that might otherwise go unnoticed in the mainstream media and also adds information and interpretation about ongoing stories explicitly taking the interests and viewpoints of African Americans into account.⁵

The burgeoning number of foreign-language daily and weekly newspapers (many of them also online), which serve other racial

5.⁶

6. Susan Herbst, *Politics at the Margin: Historical Studies of Public Expression Outside the Mainstream* (New York: Cambridge University Press, 1994), chap. 3.

and ethnic minorities, are among the few gaining readership today. Many are small, independent operations; others are offshoots of established newspapers such as *El Nuevo Herald* in Miami or *Viet Mercury* in San Jose. They often provide information and perspectives that challenge narrow or stereotypical coverage. Magazines such as *Ms.* enable women to address each other about political concerns.

News and entertainment cable channels serving disadvantaged groups include Oxygen for women, Black Entertainment Television for African Americans, and Logo for gay people. The small “indie” subsidiaries of Hollywood studios in 2005 produced two Oscar finalists with challenging content: *Crash* on race and *Brokeback Mountain* on sexual orientation.

Going Online

There are numerous resources online that can inform disadvantaged individuals and groups about their civil rights. Websites such as Civilrights.org, sponsored by the Leadership Conference on Civil Rights, provide up-to-date information about a wide range of issues, such as how homeowners with disabilities can protect their homes during an economic downturn. Rich resources recounting the struggles for civil rights throughout history are available online, including the Library of Congress's [Voices of Civil Rights](#), an online exhibition of thousands of documents, oral histories, photos, and news reports on the African American civil rights movement.

Disadvantaged groups use digital media to mobilize an often far-flung constituency and spark action for civil rights. They organize online communities on Facebook to share information and concerns. They use e-mail alerts and text messages to keep their supporters abreast of the latest developments and to call them to action when needed. They orchestrate blast e-mail messages and online petitions urging members of Congress to support their cause.

Media Consequences

The media sometimes sympathetically depict and amplify disadvantaged groups' demands for civil rights, especially when they are voiced by individuals who ask only for equality of opportunity and to be judged on their own merits. Coverage is unfavorable when it frames the demands as undeserved or requiring special privileges or the issue as a conflict in which one side will win and the other lose. The media's frame of interracial conflict increases racial divides on affirmative action. If affirmative action is presented in terms that are less stark than win-lose or either-or, whites' views become more favorable.⁷

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8. Paul M. Sniderman and Thomas Piazza, *The Scar of Race*

Civil rights issues often make the news in the form of dramatic, unexpected events. Two widely publicized hate crime murders from 1999 drew attention to these issues. James Byrd Jr., an African American, was chained to the back of a truck and dragged to his death in Jasper, Texas. Matthew Shepard, a gay University of Wyoming student was beaten, tied to a remote fence in Laramie, and left to die. These murders provoked massive attention to the threat of violence against African Americans and gay men.

Televised docudramas were made about both cases. The media's constant images of the dusty back roads of Jasper and the buck-and-rail fence outside Laramie evoked images of the old South and the Wild West. These media depictions sparked debates about the persistence of discrimination. But they presented it as an isolated problem, and not one that concerns mainstream America.

The media can depict members of disadvantaged groups positively to the public. Given that most Americans are surrounded by and interact with people like themselves, such visibility can push toward understanding and tolerance. Perhaps the most notable example of this effect is the shift in the portrayals of gay people in the mass media.⁹ Positive images appeared on television series, such as *Will and Grace*. Familiar, openly gay showbiz personalities appear on talk shows, including Ellen DeGeneres, who "came out of

(Cambridge, MA: Belknap Press of Harvard University Press, 1993).

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10. Larry Gross, *Up from Invisibility: Lesbians, Gay Men, and the Media in America* (New York: Columbia University Press, 2001); Suzanna Danuta Walters, *All the Rage: The Story of Gay Visibility in America* (Chicago: University of Chicago Press, 2001).

the closet” in real life and in playing her character in her situation comedy *Ellen*. She subsequently hosted a talk show of her own. Such depictions create a climate of tolerance in which gay people are more comfortable being open. As a result, more Americans report knowing someone who is gay, which in turn increases their support for equal treatment.¹¹

11.¹²

12. On the dynamics of public opinion, see Alan S. Yang, “The Polls—Trends: Attitudes Toward Homosexuality,” *Public Opinion Quarterly* 61, no. 3 (1997): 477–507; and *From Wrongs to Rights, 1973–1999: Public Opinion on Gay and Lesbian Americans Moves Toward Equality* (New York: Policy Institute, The National Gay and Lesbian Task Force, 2001).



Ellen DeGeneres's character on her situation comedy Ellen came out of the closet, and so did DeGeneres herself, to huge media attention.

Key Takeaways

In this section we showed that the media are a potential resource for disadvantaged groups to energize their members, sway public opinion, and achieve their policy objectives. Such groups may engage in behavior that attracts media attention; they may monitor and try to influence media coverage. Disadvantaged groups also benefit from their own media and through their use of digital media. Depictions in the mass media can be unfavorable—for example,

when a group's demands are framed as undeserved or requiring special privileges—or favorable, as in portrayals of gays on television entertainment shows.

66. Putting It Together

Summary

Civil liberties are individual rights and freedoms that government may not infringe on, while civil rights protect people against discrimination and focus on equal access to society and political life.

Our most fundamental civil liberties are listed primarily in the Bill of Rights, the ten amendments added in 1791 by the founders to address fears about the new federal government's potential to abuse power. Initially limited to the federal government, they now apply, though unevenly, to the states. What those liberties are and how far they extend are the focus of ongoing political conflict. They are shaped by the full range of people, processes, and institutions in American politics. Both unpopular minorities and powerful interests claim civil liberties protections to gain favorable outcomes.

Some policies initiated by the government's war on terror have challenged these rights. Indeed, we have seen that the media (in much the same way as the American public and participants in American government) are ambivalent about civil liberties, as their focus on civil liberties is in tension with equally strong concerns about crime and the need for law and order. American politics, powerfully buttressed by the media, is thus equivocal toward civil liberties—valued in principle but often submerged by other, seemingly more pressing, concerns.

With regard to civil rights, we have described the evolution and contents of the civil rights of African Americans. We started with the Civil War Amendments added to the Constitution to guarantee newly freed slaves' legal status. We covered African Americans' disenfranchisement and segregation, their mobilizing against segregation, the end of de jure segregation, and the civil rights movement. We described the 1964 Civil Rights Act and 1965 Voting

Rights Act, and the issue of affirmative action. African Americans have had more success in combating segregation by law than fighting discrimination by practice. They have variously been helped and hindered by media coverage and depictions of their situation and struggles. Civil rights issues persist today.

We also addressed the civil rights challenges facing Latinos, Asian Americans, and Native Americans, as well as women, lesbians and gays, and individuals with disabilities. Latinos have gained language but not immigration rights. After the horror of relocation inflicted on Japanese Americans, Asian Americans have obtained their rights, although vestiges of discrimination remain. Rights issues for Native Americans concern tribal autonomy and self-government. Women have gained less civil rights protection, in part because of policy disagreements among women and because of fear of undermining men's and women's traditional roles. The LGBT community has won protections against discrimination in states and localities and through the courts. People with disabilities have won civil rights protections through national legislative and executive action.

In this section we showed that the media are a potential resource for disadvantaged groups to energize their members, sway public opinion, and achieve their policy objectives. Such groups may engage in behavior that attracts media attention; they may monitor and try to influence media coverage. Disadvantaged groups also benefit from their own media and through their use of digital media. Depictions in the mass media can be unfavorable—for example, when a group's demands are framed as undeserved or requiring special privileges—or favorable, as in portrayals of the LGBT community on television entertainment shows.

Additional Resources

Read the “Investigation of the Ferguson Police Department Report” by the U.S. Department of Justice [here](#).

PART VI

CH. 3 - THE LEGISLATIVE BRANCH

67. Why It Matters

Summarize the role and function of Congress in the constitutional system



Introduction

The framers of the Constitution thought that Congress would be the most powerful of the three branches, and even though the presidency assumed that role over the course of the twentieth century, the legislative branch remains a vitally important, if flawed, aspect of our constitutional system.

Most of the power granted to the national government can be found in Article I, Section 8, of the Constitution, which spells out the sorts of laws Congress can pass. These are the powers that the framers thought best exercised by a central government as opposed

to states or localities. If you had been involved in the creation of those powers, are there things you would have included that the framers left out? Are there powers the framers gave the national government that you would not have included? On what basis can these sorts of questions be answered?

As you work through this module, consider how the powers of Congress—and the national government as a whole—have changed over time. What historical developments led to the expansion of federal power? How should we think about the rise of “big government”? What sorts of challenges has Congress been good at addressing, and which ones has it struggled with? To what degree can congressional success and failure (or dysfunction) be linked to its constitutional roots? To what degree should current politicians, political arrangements, and parties share the praise or blame?

68. The Powers of Congress

Identify the powers granted to Congress in the Constitution

Learning Activities

The learning activities for this section include:

- Reading: The Powers of Congress

Take time to review and reflect on this activity in order to improve your performance on the assessment for this section.

69. A. Reading: The Powers of Congress

Learning Objectives

After reading this section, you should be able to answer the following questions:

1. What are the powers of Congress as enumerated in the U.S. Constitution?
2. What powers are reserved specifically for the House of Representatives, and what powers are held by the Senate alone?
3. What is the Constitution's elastic clause, and how is it used to expand the powers of Congress?

The institution of Congress is responsible for carrying out the legislative duties of the federal government. The powers of Congress are enumerated in Article I of the Constitution. The founders established Congress in Article I, Section 1, which states, "All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives." By instituting Congress in the first article of the Constitution the founders asserted their belief that the legislative branch should be the chief policymaking body. They preferred a government with power vested in the legislature, which they

considered most representative of the people, rather than one where the executive was preeminent. They associated the executive branch with the British monarchy, which they had fought against in the Revolutionary War, so they relegated the presidency to the second article of the Constitution. As James Madison wrote in Federalist No. 51, “In a republican government, the legislative authority necessarily predominates.”¹

Constitutional Powers

Congress was granted tremendous political power by the founders. These powers are listed primarily in Article I, Section 8, of the Constitution, which states that Congress has broad discretion to “provide for the common defense and general welfare of the United States.” To achieve this end, Congress has the authority to make and implement laws.

The Constitution lists a number of specific powers entrusted to Congress. These include responsibility for the nation’s budget and commerce, such as the power to lay and collect taxes, to pay the debts, to regulate commerce with foreign nations and among the

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2. Clinton Rossiter, ed., “Federalist 51,” in *The Federalist*, Alexander Hamilton, James Madison, and John Jay (New York: Mentor, 1961), 322.

states, to coin money, and to establish post offices. Congress is assigned the power to declare war and to raise an army and navy. Congress has the right to propose amendments to the Constitution and to create new states.

Article I, Section 8, reads:

The Congress shall have Power To lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defense and general Welfare of the United States; but all Duties, Imposts and Excises shall be uniform throughout the United States;

To borrow Money on the credit of the United States;

To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes;

To establish an uniform Rule of Naturalization, and uniform Laws on the subject of Bankruptcies throughout the United States;

To coin Money, regulate the Value thereof, and of foreign Coin, and fix the Standard of Weights and Measures;

To provide for the Punishment of counterfeiting the Securities and current Coin of the United States;

To establish Post Offices and post Roads;

To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries;

To constitute Tribunals inferior to the supreme Court;

To define and punish Piracies and Felonies committed on the high Seas, and Offenses against the Law of Nations;

To declare War, grant Letters of Marque and Reprisal, and make Rules concerning Captures on Land and Water;

To raise and support Armies, but no Appropriation of Money to that Use shall be for a longer Term than two Years;

To provide and maintain a Navy; To make Rules for the Government and Regulation of the land and naval Forces;

To provide for calling forth the Militia to execute the Laws of the Union, suppress Insurrections and repel Invasions;

To provide for organizing, arming, and disciplining, the Militia, and for governing such Part of them as may be employed in the Service of the United States, reserving to the States respectively, the Appointment of the Officers, and the Authority of training the Militia according to the discipline prescribed by Congress;

To exercise exclusive Legislation in all Cases whatsoever, over such District (not exceeding ten Miles square) as may, by Cession of particular States, and the Acceptance of Congress, become the Seat of the Government of the United States, and to exercise like Authority over all Places purchased by the Consent of the Legislature of the State in which the Same shall be, for the Erection of Forts, Magazines, Arsenals, dock-Yards and other needful Buildings;-And

To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof.

Article IV, Section 3, reads:

New States may be admitted by the Congress into this Union; but no new State shall be formed or erected within the Jurisdiction of any other State; nor any State be formed by the Junction of two or more States, or Parts of States, without the Consent of the Legislatures of the States concerned as well as of the Congress.

The Congress shall have Power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States; and nothing in this Constitution shall be so construed as to Prejudice any Claims of the United States, or of any particular State.

Amendment XVI (Ratified February 3, 1913) reads:

The Congress shall have power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several States, and without regard to any census or enumeration.

Certain powers are granted specifically to the House, such as the power to initiate all tax and spending bills. While the Senate cannot propose such bills, it can accept, reject, or amend them. The Senate has certain authority not vested in the House. High-level presidential nominees, such as cabinet officers, Supreme Court justices, and ambassadors, must gain Senate approval. The Senate also must concur in treaties with foreign countries.

The final paragraph of Article I, Section 8, grants to Congress the power “to make all laws which shall be necessary and proper for carrying into execution the foregoing powers.” This provision is known as the elastic clause because it is used to expand the powers of Congress, especially when national laws come into conflict with state laws. Legislation making it a federal crime to transport a kidnapped person across state lines was justified on the basis that the elastic clause allowed Congress to apply its power to regulate commerce in this situation. The reach of congressional power is explored on the website of the [University of Missouri–Kansas City Law School](#).

Key Takeaways

Article I of the Constitution establishes Congress as the legislative branch of government with broad powers to provide for the “common defense and general welfare of the United States,” along with specific powers in important areas of domestic and foreign affairs. Certain powers, such as the ability to initiate taxing and spending bills, rest exclusively with the House of Representatives. Other powers, including the approval of presidential appointments, lie solely with the Senate. The powers of Congress have been extended through the elastic clause of the Constitution, which states that Congress can make all laws that are “necessary and proper” for carrying out its duties.

70. Bicameralism

Explain why a bicameral legislative branch was established and the different roles of the House and Senate

Learning Activities

The learning activities for this section include:

- Reading: A Bicameral Legislative Branch

Take time to review and reflect on this activity in order to improve your performance on the assessment for this section.

7I. B. Reading: A Bicameral Legislative Branch

Learning Objectives

After reading this section, you should be able to answer the following questions:

1. What is a bicameral legislative structure, and why was it established in Congress?
2. What are the different characteristics of the House and Senate?

The bicameral structure of the U.S. Congress was established by the founders to minimize the possibility of any one governmental body becoming too powerful. The House was meant to be the most democratic of the national institutions, as its members are subject to reelection every two years. The Senate was designed by the framers as an elite body that would act as a check on the House. The two bodies differ in terms of characteristics and norms as well as in the way they operate.

Bicameral Legislative Structure

The founders established Congress as a bicameral legislature as a check against tyranny. They feared having any one governmental body become too strong. This bicameral system distributes power within two houses that check and balance one another rather than concentrating authority in a single body. The House of Representatives is the larger body with membership based on each state's population. The Senate is the smaller body with each state having two delegates. With one hundred members, the Senate is a more intimate, less formal legislative body than the House, which has 435 members elected from districts that are roughly the same size in population.

Members of Congress must reside in the district or state that elects them, although the Constitution does not specify for how long. Residency can become a campaign issue, as it did when former first lady and current secretary of state, Hillary Rodham Clinton, ran for a Senate seat from New York soon after leaving the White House, despite having never lived in the state. She was successful despite having to fend off criticism that as a carpetbagger she was not suited to represent New York's interests in Congress. The term "carpetbagger" refers to a politician who runs for office from an area where he or she has lived for only a short time and has few community ties. It derives from a derogatory term coined after the Civil War referring to Northerners who went south to profit from the Reconstruction, carrying "carpet bags" for luggage.

Members of Congress are elected locally to serve nationally. All aspects of members' jobs, whether it be making laws or providing service to people in their home districts, are influenced by this dual concern with representing local constituencies while dealing with national policy.

The Electoral Connection

The Constitution anticipated that the House would be more attentive to the people than the Senate. The House is designed to be the most democratic institutional body in the U.S. government because each member represents a particular district within a state rather than the entire state, which is the case for the Senate. House members stand for election every two years to ensure that they keep in close touch with the opinions and interests of the people they represent or face defeat at the polls. There are no limits on the number of terms a member can serve. Consequently, many members are constantly campaigning to keep their seats in office.

Congress establishes the number of House members by enacting legislation. In 1787, there were 65 members, and the founders anticipated that House members would never represent more than 30,000 people. In 1910, the current number of 435 representatives was reached. The number of



Members of Congress engage in a permanent campaign for reelection that begins the minute they take office.

people represented by a single member has increased from 210,583 in 1910 to 646,947 in 2000 and 710,767 in 2010. The U.S. Census Bureau calculates these apportionment figures, which can be viewed on an [interactive map](#). This number of people per congressional district is projected to top 900,000 in 2050.¹ Some

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observers question if the democratic character of the House will be compromised if constituencies grow even larger, while others oppose enlarging an institution that is already difficult to manage.

House members are elected in districts whose lines are drawn by state legislatures after the census, which takes place every ten years. States can gain or lose representatives if there are population shifts. Redistricting can be controversial as legislators seek to draw district lines that advantage their own political parties. In 2003, the process of redrawing congressional district lines in Texas attracted national media attention. Democratic state legislators twice fled to neighboring states to prevent a vote on a redistricting plan that they felt favored Republicans. The media depicted the fugitive Democratic legislators hanging out on the balcony of a cheap hotel in New Mexico as the infuriated Republicans threatened to call out the Texas Rangers to forcibly return them to the state. The media attention did not stop the redistricting plan.³ This strategy of lawmakers fleeing to another state to stop the legislative process was used in Wisconsin in 2011, when Democratic senators left the state to prevent having a quorum to pass a budget bill supported by the Republican governor that would cut workers' benefits in order to improve the state budget.

The framers felt that the Senate should be constituted as an elite body that would act as a check on the House, the branch closest to the mass public. Senators serve six-year terms of office, and like the House, there are no limits on the number of terms they

2. Roger H. Davidson and Walter J. Oleszek, *Congress and Its Members*, 8th ed. (Washington, DC: CQ Press, 2002), 27.

3. ⁴

4. [“Texas District Fight Goes to Court,”](#) CBSNews.com, October 15, 2003, accessed February 15, 2011.

can serve. Senators, in theory, should have more time than House members to think about something besides reelection. However, as the cost of elections has grown and Senate elections have become more competitive, fundraising has become a constant concern for many senators.⁵ The founders' expectations that the House would be close to the people and the Senate would be more distant have not been realized. House members often hold safe seats and do not face serious challenges to reelection, so they often hold office for years.

House members are chosen in districts whose boundaries can cut across media markets and other political jurisdictions, such as county or city lines. Some parts of Maryland and Virginia receive most of their news from the District of Columbia, and their House members are given limited coverage. As a result, it can be difficult for local television news to cover House members and their reelection challengers. Senators, having won statewide races, receive more attention. Their opponents also are likely to receive significant media coverage, which often makes for hotly contested elections.

House and Senate

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6. Quoted in Roger H. Davidson and Walter J. Oleszek, *Congress and Its Members*, 8th ed. (Washington, DC: CQ Press, 2002), 25.

Comparisons

The House and Senate are institutions that have decidedly different characters. Because of its large size and more frequent turnover in membership, the House is an impersonal institution. House members may not recognize their colleagues, and some have staff members assigned as “spotters,” who whisper names into their ears to avoid embarrassment. The House operates under formal rules. It is hierarchical, and seniority is important. Members serve for a long time before they become leaders. Senior members have more influence over decision making than their junior colleagues.

The Senate does not rely as heavily on hierarchy as the House. It is less rule-bound and operates more loosely and unpredictably than the House, especially as it requires unanimous consent for any bill to be taken up. This means that a lone senator has the power to stop legislative action, a power that House members do not possess. Senators serve long terms and get to know their colleagues. Seniority is less meaningful, as junior senators have considerable power to make decisions along with their senior colleagues. The smaller size of the chamber allows members to pursue a fast track to leadership and increased public visibility early in their careers.

The differences between the House and Senate are reflected in their respective chambers. The House meets in the largest parliamentary room in the world. Members do not have assigned seats and take any available place on padded benches. Few members spend time in the chamber other than when they are speaking or voting. The Senate chamber is smaller and more ornate. Senators are assigned desks and chairs, many of which have been held by distinguished members. Since the introduction of television to the Senate chamber in 1986, senior senators have taken back-row seats, which provide favorable camera angles against a flattering blue backdrop and have space for displaying charts and graphs.

The distinctions between the chambers extend to their ability

to attract media coverage. The Senate routinely garners greater press attention than the House because it is easier for journalists to cover the smaller chamber and establish long-term relationships with its members. The hierarchical structure of the House makes it easy for leaders to become national media headliners, while other members must compete for attention.⁷ The proliferation of digital media outlets has made it somewhat easier for media-savvy members to get their message out through websites, blogs, Twitter feeds, and online videos.

Key Takeaways

The framers provided for a bicameral legislative branch with equal representation in the Senate and proportional representation based on state population in the House. The two bodies differ in a number of important ways that influence the way that they operate. The House is a more formal institution, where hierarchy and seniority are important factors. The Senate, as a smaller, more intimate body, is less bound by formal rules than the House. Senators typically

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8. Patrick J. Sellers, “Winning Media Coverage in the U.S. Congress,” in *U.S. Senate Exceptionalism*, ed. Bruce I. Oppenheimer (Columbus, OH: Ohio State University Press, 2002), 132–53.

garner more media attention than House members because they serve statewide constituencies and serve longer terms of office.

72. Organizing Congress

Explain the role of parties, interest groups, committees, and leadership roles in organizing Congress

Learning Activities

The learning activities for this section include:

- Reading: Parties in Congress
- Reading: Vox Cards: Congressional Dysfunction
- Reading: House Leadership
- Reading: Senate Leadership
- Reading: Committees

Take time to review and reflect on each of these activities in order to improve your performance on the assessment for this section.

73. C. Reading: Parties in Congress

Learning Objectives

After reading this section, you should be able to answer the following questions:

1. How are political parties in Congress organized?
2. What role do political party organizations play in Congress?
3. How do factional organizations function in Congress?

Maintaining order in an institution consisting of hundreds of individuals with often competing agendas is about as easy as herding cats. Political parties and the House and Senate leadership help members work together to perform their duties effectively. The Constitution says little about how Congress should be organized. Most of the functions of parties and congressional leaders have developed as members have sought to shape the institution over time.

Party Organization

Political parties provide Congress with organizational structure and discipline. The Democratic and Republican parties are a robust presence in Congress. Almost all members of Congress are either Republicans or Democrats. Party organizations have permanent offices and staffs on the Hill. Parties facilitate lawmaking and are the basis for the most stable coalitions in Congress. They unite individuals who share ideological orientations and policy goals and help them work together to pass legislation. Congressional campaign committees help party members get elected to Congress.

Formal party organizations consist of caucuses and committees. The majority party controls the top leadership positions. The minority party forms an organized opposition to the majority party.

Party Caucuses

All members of the House and Senate belonging to a political party form that party's caucus or conference. Caucuses elect leaders, approve committee assignments, and appoint task forces to study specific issues. They provide a forum for debating policies and developing strategies for passing legislation. Party staffers serve members by supplying reports on pending legislation and assisting them with media relations by producing radio and television interviews, webcasts, and podcasts in studios on Capitol Hill.

Caucuses promote party loyalty by granting rewards to members, such as prestige committee assignments. For this reason, few members switch parties, with only twenty-seven instances in the Senate and fewer than ninety in the House since the 1880s.¹ In May 2001, Senator Jim Jeffords (I-VT) left the Republican Conference and became an Independent. His defection caused the Republicans to lose their majority position in the Senate. Jeffords was appointed to a committee chair by the Democratic Party, but his prestige was short-lived. When the Republicans became the majority party after winning additional seats in the 2002 election, Jeffords lost his chair. Senator Arlen Specter of Pennsylvania, a Republican senator since 1980, became a Democrat in 2009 due to his support of an economic stimulus package that was opposed by Republicans. Specter faced a difficult reelection bid as a Democrat in 2010 and lost to Joe Sestak in the primary, ending over four decades in Congress.²

In the aftermath of the 2010 midterm elections, party switching in the House became an issue when Congress was considering major taxing, spending, and health-care bills. Democratic House member Parker Griffith switched to the Republican Party as votes on these issues were pending, causing great distress within the House Democratic caucus.

1. Steven S. Smith, Jason Roberts, and Ryan Vander Wielen, *The American Congress*, 3rd ed. (New York: Houghton Mifflin Company, 2003).

2.³

3. Paul Kane, "[Arlen Specter's Party Switch Haunts Him in Primary Campaign](#)," *Washington Post*, May 12, 2010, accessed February 12, 2011.

Party Committees

The two major parties have established party committees that perform specific tasks. In the House, steering committees consisting of party leaders recommend members to serve on legislative committees. Each party's House and Senate policy committee conducts research and advises members about legislative proposals. The campaign committees raise funds, conduct election research, organize volunteers, and develop campaign publicity to promote the election of party members to Congress. House Democrats' Organization, Study, and Review Committee recommends changes in party organization and rules.

Party Voting

Congressional parties promote party voting on bills. Party votes occur when a majority of members of one party votes against a majority of members of the opposing party on major legislation.⁴

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5. Keith T. Poole and Howard Rosenthal, *Congress: A*

The percentage of party votes over the past twenty years has averaged around 50 percent, which is high considering that many votes are routine and nondivisive and therefore do not precipitate a party vote. In recent Congresses, 70 percent to 80 percent of members have voted consistently with their party.⁶

Link: Party Votes

The *Washington Post* has compiled an interactive database of party votes in the U.S. Congress from the 102nd Congress to the present. See it [here](#).

Political parties' influence on members' decisions and actions has been on the rise since the 1970s, especially in the House. One explanation for this increase in partisanship is that members come from districts where constituents are strongly affiliated with the Democratic or Republican Party.⁸ Another explanation is that

Political-Economic History of Roll Call Voting (New York: Oxford, 2000).

6.⁷

7. Gary W. Cox and Matthew D. McCubbins, *Legislative Leviathan* (Berkeley: University of California Press, 1993).

8.⁹

reforms instituted when Republicans took control of the House in 1994 have given more power to congressional leaders to handle procedural matters. When policy preferences among majority party members are consistent, members will delegate responsibility to the Speaker of the House and committee chairs to advance the party's legislative program.¹⁰ Some scholars argue that this results in the majority party promoting policy goals that are closer to the ideals of the leadership than those of rank-and-file members and the general public.¹²

The tension between the institution of Congress and individual members is evident in party voting. The primary source of conflict within party ranks stems from members' disagreement with a party's policy position because it deviates from their commitment to the voters back home. Party voting usually declines in election

9. Keith Krehbiel, *Pivotal Politics* (Chicago: University of Chicago Press, 1998).

10.¹¹

11. David W. Rohde, *Parties and Leaders in the Postreform House* (Chicago: University of Chicago Press, 1991); Nicol C. Rae and Colton C. Campbell, eds., *New Majority or Old Minority?* (Lanham, MD: Rowman & Littlefield, 1999).

12.¹³

13. John H. Aldrich, David W. Rohde, and Michael W. Tofias, "[One D Is Not Enough: Measuring Conditional Party Government, 1887–2002](#)," Paper presented at the History of Congress Conference, Stanford University, Palo Alto, CA, April 9–10, 2004, accessed January 29, 2011.

years, as members are less willing to face criticism in their districts for supporting unpopular positions.

Media reports on Congress commonly emphasize conflicts between the Republican and Democratic parties. The partisan conflict frame is prevalent when high-profile legislative issues are being debated. Journalists find it easier to focus on partisan dynamics, which are a legitimate part of the story, than to cover the often complicated details of the legislation itself.

Media coverage of the congressional debate over health care in recent years illustrates the use of the conflict frame, which often excludes coverage of the substance of policy issues. The media focused heavily on the strategies employed by President Barack Obama and Democratic members of Congress on the one hand and Republican members on the other to advance their positions on health care. Lawmakers on each side of the debate conducted extensive research and issued reports detailing the policy issues involved, yet news organizations focused primarily on fights between members and parties. According to the Pew Research Center, over 70 percent of the public felt that news organizations provided only fair or poor coverage of the details of various health-care proposals and their effect on people despite the health-care debate dominating the news agenda.¹⁴

Members have very different legislative experiences depending on whether or not their party is in power. Majority party members profit from pork barrel spending on projects that benefit their districts. Earmarks are legislative provisions that provide funding for pork barrel projects. Pork barrel projects include federally

14.¹⁵

15. Pew Research Center for the People & the Press, “[Many Faulty Media Coverage of Health Care Debate](#),” August 6, 2009, accessed June 6, 2011.

funded parks, community centers, theaters, military bases, and building projects that benefit particular areas. These projects can help members curry favor with their constituents and help their reelection prospects. However, opponents of pork barrel spending argue that these projects should be funded by state and local budgets in the places they benefit rather than the federal treasury. A proposal calling for a moratorium on earmarks in the 112th Congress was introduced by the Republican leadership in the House.¹⁶

Factions and Policy Groups

Outside of parties, like-minded members can form factions or specialized coalitions to promote a particular agenda. Some factions are long-standing groups with pronounced ideological leanings. They form coalitions to support or oppose legislation.¹⁸ Some

16.¹⁷

17. “[Tea Party’s First Legislative Victory: McConnell Backs Earmark Ban](#),” *Newsweek*, November 15, 2010, accessed December 16, 2010.

18.¹⁹

19. Steven S. Smith, Jason Roberts, and Ryan Vander Wielen,

factions are based on members' identification with a group. These include the Congressional Black Caucus and the Congressional Hispanic Caucus.

In addition to the major party caucuses of the Democrats and Republicans, there also are caucuses representing offshoots of the major parties. The Tea Party caucus consists of Republicans who gained office with the backing of the Tea Party grassroots movement. While more than forty Tea Party-backed candidates were elected to the House during the 2010 midterm contests, only around a dozen, or less than 10 percent of Republican members, joined the Tea Party caucus for the 112th Congress.²⁰

The American Congress, 3rd ed. (New York: Houghton Mifflin Company, 2003).

20.²¹

21. David M. Herszenhorn, "[Senate Tea Party Caucus Holds First Meeting](#)," *New York Times*, January 27, 2011, accessed February 18, 2011.



Congressional causes can form around surprising issues. The Congressional Soccer Caucus encourages legislation, activities, and events that promote soccer, including improvement of fields and use of soccer for building communities.

Policy groups (factions) also unite members interested in a particular policy area and include both Republicans and Democrats. The Congressional Wine Caucus consists of 250 House and Senate members who share a concern with the wine industry's cultural and financial significance. In addition to sponsoring wine seminars and tastings, and legislative briefings, the Wine Caucus holds fundraisers for charities.

Key Takeaways

Political parties are central to the organizational structure of Congress. Parties provide a measure of discipline that helps the House and Senate to function more efficiently. Members who switch parties often lose the benefits of seniority, such as committee chair positions, and face an uncertain future when they seek reelection.

74. D. Reading: Vox Cards: Congressional Dysfunction

What is congressional dysfunction and what are its effects? How can it be fixed? Investigate these and other questions by reading through the Vox “cards” [here](#).

75. E. Reading: House Leadership

LEARNING OBJECTIVES

After reading this section, you should be able to answer the following questions:

1. What criteria do House members use when selecting their leadership?
2. What roles do the Speaker, floor leaders, and whips play in the House?

The House leadership consists of the Speaker, floor leaders, and whips. Committee chairs also are part of the House leadership. The rules of the House give extensive power to leaders to direct the legislative process.

Leadership Criteria

House members consider a number of factors when choosing leaders. A member's personal reputation, interactions with other members, legislative skills, expertise, experience, length of service, and knowledge of the institution are taken into account. Members tend to choose leaders who are in the ideological mainstream of their party and represent diverse regions of the country. The positions that a member has held in Congress, such as service on important committees, are evaluated. Fundraising ability, media prowess, and communications skills are increasingly important criteria for leadership. The ability to forge winning coalitions and the connections that a member has to leaders in the Senate or the executive branch are factored into the decision.¹

Holding a congressional leadership position is challenging, especially as most members think of themselves as leaders rather than followers. Revolts can occur when members feel leaders are wielding too much power or promoting personal agendas at the expense of institutional goals. At times, a leader's style or personality may rub members the wrong way and contribute to their being ousted from office.³

1. ²

2. Robert L. Peabody, *Leadership in Congress* (Boston: Little, Brown, 1976).

3. ⁴

4. Joseph Cooper and David W. Brady, "Institutional Context and Leadership Style: The House from Cannon to

Speaker of the House

The Speaker of the House is at the top of the leadership hierarchy. The Speaker is second in succession to the presidency and is the only officer of the House mentioned specifically in the Constitution. The Speaker's official duties include referring bills to committees, appointing members to select and conference committees, counting and announcing all votes on legislation, and signing all bills passed by the House. He rarely participates in floor debates or votes on bills. The Speaker also is the leader of his or her political party in the House. In this capacity, the Speaker oversees the party's committee assignments, sets the agenda of activities in the House, and bestows rewards on faithful party members, such as committee leadership positions.⁵

In addition to these formal responsibilities, the Speaker has significant power to control the legislative agenda in the House. The Rules Committee, through which all bills must pass, functions as an arm of the Speaker. The Speaker appoints members of the Rules Committee who can be relied on to do his or her bidding. He or she exercises control over which bills make it to the floor for consideration and the procedures that will be followed during debate. Special rules, such as setting limits on amendments or

Rayburn," *American Political Science Review* 75, no. 2 (June 1981): 411–25.

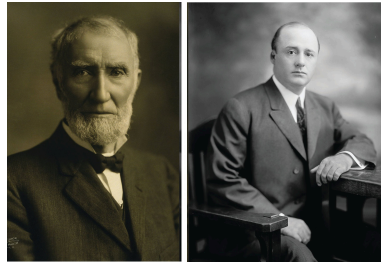
5.⁶

6. Thomas P. Carr, "Party Leaders in the House: Election, Duties, and Responsibilities," *CRS Report for Congress*, October 5, 2001, order code RS20881.

establishing complex time allocations for debate, can influence the contents of a bill and help or hinder its passage.⁷

Speakers' personal styles have influenced the evolution of the position. Speaker Joe Cannon (R-IL) became the most powerful Speaker of the House by using strong-arm tactics to control members of both parties. "Czar" Cannon's style so angered his colleagues that he was forced to step down as chairman of the Rules Committee during the St. Patrick's Day Revolt of 1910, which stripped him of his ability to control appointments and legislation. The position lost prestige and power until Speaker Sam Rayburn (D-TX) took office in 1940. Rayburn was able to use his popularity and political acumen to reestablish the Speakership as a powerful position.⁹

A Speaker's personal style can influence the amount of media coverage the position commands. The Speaker can become the public face of the House by appearing frequently in the press. A charismatic speaker can rival the president in grabbing media attention and setting the nation's issue agenda. On April 7, 1995,



Strong Speakers of the House, such as Joe Cannon (left) and Sam Rayburn (right), were able to exert influence over other members. Strong speakers are no longer prominent in the House.

7.⁸

8. Nicol C. Rae and Colton C. Campbell, eds. *New Majority or Old Minority?* (Lanham, MD: Rowman & Littlefield, 1999).

9.¹⁰

10. Ronald M. Peters, Jr., *The American Speakership* (Baltimore: Johns Hopkins University Press, 1997).

Speaker Newt Gingrich (R-GA) made an unprecedented prime-time television “State of the Congress” address on CBS indicating that the House has passed the Contract With America, a plan that proposed extensive changes to the social welfare system and tax policy. Despite the fact that the Contract with America died in the Senate, Gingrich became a “multimedia Whirling Dervish of books, writings, lectures, tapes, and television, spewing out ideas.”¹¹ He was a constant presence on the television and radio talk show circuit, which kept attention focused on his party’s issue platform. This strategy worked at the outset, as the Republicans were able to push through some of their proposals. Gingrich’s aggressive personal style and media blitz eventually backfired by alienating members of both parties. This experience illustrates that the media can have a boomerang effect—publicity can make a political leader and just as quickly can bring him down.

In contrast, Speaker Dennis Hastert (R-IL), who took office in 1999, exhibited an accommodating leadership style and was considered a “nice guy” by most members. He worked behind the scenes to build coalitions and achieve his policy initiatives. After the election of President George W. Bush, Hastert coordinated a communications strategy with the executive branch to promote a Republican policy agenda. He shared the media spotlight, which other members appreciated. His cooperative approach was effective in getting important budget legislation passed.¹³

11. ¹²

12. Dan Balz and Ronald Brownstein, *Storming the Gates* (Boston: Little Brown, 1996), 143.

13. ¹⁴

Speaker Nancy Pelosi (D-CA) was the first woman Speaker of the House, serving from 2006 to 2010. Media coverage of Pelosi frequently included references to her gender, clothing, emotions, and personal style. Pelosi's choice of Armani suits was much noted in the press following her selection. Syndicated New York Times columnist Maureen



Republican John Boehner of Ohio became Speaker of the House after the Republicans took control following the 2010 elections. He replaced Democrat Nancy Pelosi, the first woman Speaker.

Dowd wrote a piece on November 6, 2006, titled “Squeaker of the House.” Dowd alleged that Pelosi's first act after becoming Speaker was to “throw like a girl” and that she was “making her first move based on relationships and past slights rather than strategy.” “Squeaker of the House” became a moniker that stuck with Pelosi throughout her tenure as Speaker and was the subject of a YouTube parody. Pelosi was replaced by Rep. John Boehner (R-OH) when the Republicans took control of the House following the 2010 midterm elections.

14. Roger H. Davidson and Walter J. Oleszek, *Congress and Its Members*, 8th ed. (Washington, DC: CQ Press, 2002).

Floor Leaders

The Republicans and Democrats elect floor leaders who coordinate legislative initiatives and serve as the chief spokespersons for their parties on the House floor. These positions are held by experienced legislators who have earned the respect of their colleagues. Floor leaders actively work at attracting media coverage to promote their party's agenda. The leadership offices all have their own press secretaries.

The House majority leader is second to the Speaker in the majority party hierarchy. Working with the Speaker, he is responsible for setting the annual legislative agenda, scheduling legislation for consideration, and coordinating committee activity. He operates behind the scenes to ensure that the party gets the votes it needs to pass legislation. He consults with members and urges them to support the majority party and works with congressional leaders and the president, when the two are of the same party, to build coalitions. The majority leader monitors the floor carefully when bills are debated to keep his party members abreast of any key developments.¹⁵

15. ¹⁶

16. Richard C. Sachs, "Leadership in the U.S. House of Representatives," *CRS Report for Congress*, September 19, 1996, order code 96-784GOV.



Rep. Eric Cantor (R-VA) became House Majority Leader following the 2010 midterm elections. Cantor's web page features multiple means of reaching out to citizens, including links to Facebook and a TwitterBuzz feed.

Link: House Majority Leader

See [Eric Cantor's web page](#).

The House minority leader is the party with the fewest members' nominee for Speaker. She is the head of her party in the House and receives significant media coverage. She articulates the minority party's policies and rallies members to court the media and publicly take on the policies of the majority party. She devises tactics that will place the minority party in the best position for influencing legislation by developing alternatives to legislative proposals supported by the majority. During periods of divided government, when the president is a member of the minority party, the minority leader serves as the president's chief spokesperson in the House.¹⁷

17.¹⁸

18. Thomas P. Carr, "Party Leaders in the House: Election, Duties, and Responsibilities," *CRS Report for Congress*, October 5, 2001, order code RS20881.



Rep. Nancy Pelosi (D-CA) became House Minority Leader after she was replaced as Speaker of the House by Republican Rep. John Boehner (R-OH) following the 2010 midterm elections. Pelosi's website does not mention her status as minority leader.

Whips

Members of Congress from the Republican and Democratic parties elect whips who are responsible for encouraging party loyalty and discipline in the House. Aided by extensive networks of deputies and assistants, whips make sure that the lines of communication between leaders and members remain open. In 2002, whip Steny

Hoyer (D-MD) greatly expanded his organization to include forty senior whips and thirty assistant whips to enforce a “strategy of inclusion,” which gives more members the opportunity to work closely with party leaders and become vested in party decisions. This strategy made more party leaders with expertise available to the press in the hopes of increasing coverage of the Democratic Party’s positions. Whips keep track of members’ voting intentions on key bills and try persuade wayward members to toe the party line.¹⁹

Key Takeaways

An extensive leadership structure provides an organizational framework that helps House members work effectively if not efficiently. At the top of the leadership hierarchy is the Speaker of the House, who is the body’s presiding officer. Majority and minority leaders help set their party’s agenda on issues. The whips encourage party unity on House votes.

19. ²⁰

20. Roger H. Davidson and Walter J. Oleszek, *Congress and Its Members*, 8th ed. (Washington, DC: CQ Press, 2002).

76. F. Reading: Senate Leadership

Learning Objectives

After reading this section, you should be able to answer the following questions:

1. Who makes up the Senate leadership?
2. What roles do the presiding officer, floor leaders, and whips play in the Senate?

The Senate leadership structure is similar to that in the House. The smaller chamber lacks the extensive formal rules of the House and thus requires its leaders to use their political and personal relations skills to move legislation through the institution.

Presiding Officer

The presiding officer convenes floor action in the Senate. Unlike the Speaker of the House, the Senate's presiding officer is not the most visible or powerful member. The Senate majority leader has this distinction.

The Constitution designates the vice president as president of the Senate, although he rarely presides and can vote only to break a tie. Republican senators made sure that Vice President Dick Cheney was on hand for close votes during the 107th Congress, when the number of Democrats and Republican Senators was nearly equal.

In the absence of the vice president, the Constitution provides for the president pro tempore to preside. The president pro tempore is the second-highest ranking member of the Senate behind the vice president. By convention, the president pro tempore is the majority party senator with the longest continuous service. The president pro tempore shares presiding officer duties with a handful of junior senators from both parties, who take half-hour shifts in the position.

Floor Leaders

The Senate majority leader, who is elected by the majority party, is the most influential member of the Senate. He is responsible for managing the business of the Senate by setting the schedule

and overseeing floor activity. He is entitled to the right of first recognition, whereby the presiding officer allows him to speak on the floor before other senators. This right gives him a strategic advantage when trying to pass or defeat legislation, as he can seek to limit debate and amendments.



Senator Harry Reid, a Democrat from Nevada, is the Senate majority leader.

The Senate minority leader is the head of the opposing party. He works closely with the majority leader on scheduling. He confers regularly with members of his party to develop tactics for promoting their interests in the Senate.



Senator Mitch McConnell, a Republican from Kentucky, is the Senate minority leader.

Whips

Senate whips (assistant floor leaders) are referred to as assistant floor leaders, as they fill in when the majority and minority leaders are absent from the floor. Like their House counterparts, Senate whips are charged with devising a party strategy for passing legislation, keeping their party unified on votes, and building coalitions. The Senate whip network is not as extensive as its House counterpart. The greater intimacy of relationships in the Senate makes it easier for floor leaders to know how members will vote without relying on whip counts.

Key Takeaways

The Senate leadership consists of the presiding officer, majority leader, minority leader, and whips. Unlike in the House, where the Speaker wields considerable power, the presiding officer is not the most visible member of the Senate and can only vote in case of a tie. The majority and minority leaders work together to schedule and manage Senate business. Whips are less important in the Senate than in the House because the closer personal relationships that develop in the smaller body make it easier to know how members will vote without a formal whip count.

77. G. Reading: Committees

Learning Objectives

After reading this section, you should be able to answer the following questions:

1. What criteria do members use when seeking congressional committee assignments?
2. What are the prestige committees in the House and Senate?
3. What is the function of investigative committees?

In 1885, Woodrow Wilson famously observed, “Congress in session is Congress on public exhibition, whilst Congress in its committee-rooms is Congress at work.”¹ This statement is no less true today. Committees are the lifeblood of Congress. They develop legislation, oversee executive agencies and programs, and conduct investigations.

There are different types of committees that are responsible for particular aspects of congressional work. Standing committees are

1. ²

2. Woodrow Wilson, *Congressional Government* (New York: Houghton Mifflin, 1885), 69.

permanent legislative committees. Select committees are special committees that are formed to deal with a particular issue or policy. Special committees can investigate problems and issue reports. Joint committees are composed of members of the House and Senate and handle matters that require joint jurisdiction, such as the Postal Service and the Government Printing Office. Subcommittees handle specialized aspects of legislation and policy.

Committee Assignments

Members seek assignments to committees considering the overlapping goals of getting reelected, influencing policy, and wielding power and influence. They can promote the interests of their constituencies through committee service and at the same time help their chances at reelection. Members from rural districts desire appointments to the Agriculture Committee where they can best influence farm policy. Those most interested in foreign policy seek appointment to committees such as the House Foreign Relations and Senate International Affairs Committees, where they can become embroiled in the pressing issues of the day. Power or prestige committee assignments in the House include Appropriations, Budget, Commerce, Rules, and Ways and Means. The most powerful committees in the Senate are Appropriations, Armed Services, Commerce, Finance, and Foreign Relations.

Link: House and Senate Committees

A list and description of House and Senate committees can be found [here](#) and [here](#).

Table 1. Congressional Committees

House Committees

- Agriculture
- Appropriations
- Armed Services
- Budget
- Education and the Workforce
- Energy and Commerce
- Financial Services
- Foreign Affairs
- Homeland Security
- Administration
- Judiciary
- Natural Resources
- Oversight and Government Reform
- Rules
- Science, Space, and Technology
- Small Business
- Transportation and Infrastructure
- Veterans' Affairs
- Ways and Means
- Permanent Select Committee on Intelligence
- Permanent Select Committee on Energy Independence and Global Warming

Senate Committees

- Agriculture, Nutrition, and Forestry
- Appropriations
- Armed Services
- Banking, Housing, and Urban Affairs
- Budget
- Commerce, Science, and Transportation
- Energy and Natural Resources
- Environment and Public Works
- Finance
- Foreign Relations
- Health Education, Labor, and Pensions
- Homeland Security and Governmental Affairs
- Indian Affairs
- Judiciary
- Rules and Administration
- Small Business and Entrepreneurship
- Veterans' Affairs
- Select Committee on Ethics
- Select Committee on Intelligence
- Special Committee on Aging
- Caucus on International Narcotics Control

Joint Committees

- Commission on Security and Cooperation in Europe
- Library
- Printing
- Taxation
- Economic Committee

Most House members end up getting assigned to at least one

committee that they request. In the House, committee assignments can be a ticket to visibility and influence. Committees provide House members with a platform for attracting media attention as journalists will seek them out as policy specialists. Senate committee assignments are not as strongly linked to press visibility as virtually every senator is appointed to at least one powerful committee. The average senator serves on eleven committees and subcommittees, while the average House member serves on five.

Service on powerful subcommittees can provide a platform for attracting media attention. In 1955, the Senate Subcommittee on Juvenile Delinquency staged three days of hearings in New York City as part of its investigation into allegations brought by Senator Estes Kefauver (D-TN), a subcommittee member, that violent comic books could turn children into criminals. The press-friendly hearings featured controversial speakers and slides of comic strips depicting a machine gun-toting woman character named “Frisco Mary” blowing away law enforcement officials without remorse that were circulated widely in the media. Kefauver anticipated that the press generated by these hearings would help him gain publicity for a bid to get on the 1956 Democratic presidential ticket. He lost the presidential nomination battle but ended up the vice presidential candidate for the losing side.³

3. ⁴

4. Amy Kiste Nyberg, *Seal of Approval* (Oxford: University of Mississippi Press, 1998).

Committee Work

Committees are powerful gatekeepers. They decide the fate of bills by determining which ones will move forward and be considered by the full House and Senate. Committee members have tremendous influence over the drafting and rewriting of legislation. They have access to experts and information, which gives them an advantage when debating bills on the floor.⁵

Committee chairs are especially influential, as they are able to employ tactics that can make or break bills. Powerful chairs master the committee's subject matter, get to know committee members well, and form coalitions to back their positions. Chairs can reward cooperative members and punish those who oppose them by granting or withholding favors, such as supporting pork barrel legislation that will benefit a member's district.⁷

Most committee work receives limited media coverage. Investigative hearings are the exception, as they can provide opportunities for high drama.

5. ⁶

6. Kenneth A. Shepsle and Barry R. Weingast, "The Institutional Foundations of Committee Power," *American Political Science Review* 81: 85–104.

7. ⁸

8. Richard Fenno, *Congressmen in Committees* (Boston: Little, Brown, 1973).

Committee Investigations

Conducting investigations is one of the most public activities in which congressional committees engage. During the Progressive Era of the 1890s through 1920s, members could gain the attention of muckraking journalists by holding investigative hearings to expose corruption in business and government. The first of these was the 1913 “Pujo hearings,” in which Rep. Arsene Pujo (D-LA) headed a probe of Wall Street financiers. High-profile investigations in the 1920s included an inquiry into the mismanagement of the Teapot Dome oil reserves. During the Great Depression of the 1930s, Congress conducted an investigation of the stock market, targeting Wall Street once again. Newspapers were willing to devote much front-page ink to these hearings, as reports on the hearings increased newspaper readership. In 1950, Senator Kefauver held hearings investigating organized crime that drew 30 million television viewers at a time when the medium was new to American homes.⁹

The Senate convened a special committee to investigate the Watergate burglaries and cover-up in 1973. The burglars had been directed by President Richard Nixon’s reelection committee to break into and wiretap the Democratic National Committee headquarters at the Watergate building complex. The Watergate hearings became a national television event as 319 hours of the hearings were broadcast and watched by 85 percent of American households. Gavel-to-gavel coverage of the hearings was broadcast

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10. David R. Mayhew, *America’s Congress* (New Haven, CT: Yale University Press, 2000).

on National Public Radio. The senators who conducted the investigation, especially Chairman Sam Ervin (D-NC) and Senator Howard Baker (R-TN), became household names. The hearings resulted in the conviction of several of President Nixon's aides for obstruction of justice and ultimately led to Nixon's resignation.¹¹



The Senate Watergate hearings in 1973 were a major television and radio event that brought Congress to the attention of the entire nation.

In 2002, the House Financial Services Committee held thirteen hearings to uncover how Enron Corporation was able to swindle investors and drive up electricity rates in California while its executives lived the high life. Prior to the hearings, which made

11.¹²

12. Ronald Gray, *Congressional Television: A Legislative History* (Westport, CT: Greenwood Press, 1984).

“Enron” a household word, there was little press coverage of Enron’s questionable operating procedures.

Video Clip: Enron’s Skilling Answers Markey at Hearing; Eyes Roll

The following clip of the Enron hearings before the House illustrates how Congress exercises its investigative power.



One or more interactive elements has been excluded from this version of the text. You can view them online

here: <https://library.achievingthedream.org/herkimeramericangovernment/?p=98#oembed-1>

Enduring Image: The House

Un-American Activities Committee and Hollywood

Following World War II, chilly relations existed between the United States and the Communist Soviet Union, a nation that had emerged as a strong power and had exploded an atomic bomb.¹³ The House Un-American Activities Committee (HUAC), which was established in 1939 to investigate subversive activities, decided to look into allegations that Communists were threatening to overthrow American democracy using force and violence. People in government, the labor movement, and the motion picture industry were accused of being communists. Especially sensational were hearings where Hollywood actors, directors, and writers were called before the HUAC. It was not uncommon for people in Hollywood to have joined the Communist Party during the Great Depression of the 1930s, although many were inactive at the time of the hearings. HUAC alleged that film “was the principle medium through which Communists have sought to inject their propaganda.”¹⁵

Those accused of being communists, nicknamed “reds,” were called before the HUAC. They were subject to intense questioning by members of Congress and the committee’s counsel. In 1947,

13.¹⁴

14. Ernest Giglio, *Here’s Looking at You* (New York: Peter Lang, 2000).

15.¹⁶

16. Phillip L. Gianos, *Politics and Politicians in American Film* (Westport, CT: Praeger, 1998), 65.

HUAC held hearings to investigate the influence of Communists in Hollywood. The “Hollywood Ten,” a group of nine screenwriters, including Ring Lardner, Jr. and Dalton Trumbo, and director Edward Dmytryk, were paraded before the committee. Members of Congress shouted to the witnesses, “Are you now or have you ever been a member of the Communist Party?” They were commanded to provide the names of people they knew to be Communists or face incarceration. Some of the Hollywood Ten responded aggressively to the committee, not answering questions and making statements asserting their First Amendment right to free expression. Blinding flashbulbs provided a constant backdrop to the hearings, as photographers documented images of dramatic face-offs between committee members and the witnesses. Images of the hearings were disseminated widely in front-page photos in newspapers and magazines and on television.



The HUAC hearings immortalized the dramatic image of the congressional investigation featuring direct confrontations between committee members and witnesses.

The Hollywood Ten refused to cooperate with HUAC, were cited for contempt of Congress, and sent to prison.¹⁷ They were blacklisted by the leaders of the film industry, along with two hundred other admitted or suspected communists, and were unable to work in the motion picture industry. Pressured by personal and financial ruin, Edward Dmytryk eventually gave in to HUAC's demands.

Commercial films have perpetuated the dramatic image of congressional hearings made popular by the HUAC investigations. Films released around the time of the hearings tended to justify the actions the HUAC, including *Big Jim McClain* (1952) and *On the Waterfront* (1954). The few films made later are more critical. Woody Allen plays a small-time bookie who fronts for blacklisted writers in *The Front* (1976), a film depicting the personal toll exacted by the HUAC and blacklisting. In *Guilty by Suspicion* (1991), Robert DeNiro's character refuses to name names and jeopardizes his career as a director. *One of the Hollywood Ten* (2000), graphically depicts film director Herbert Biberman's experience in front of the HUAC before he is jailed for not cooperating.

17.¹⁸

18. Larry Ceplair, "The Hollywood Blacklist," in *The Political Companion to American Film*, ed. Gary Crowdus (Chicago: Lakeview Press, 1994), 193–99.

Key Takeaways

Much of the important work in Congress is accomplished through committees. The fate of legislation—which bills will make it to the floor of the House and Senate—is determined in committees. Members seek committee assignments considering their desire to influence policy, exert influence, and get reelected. Most committee work receives little, if any, media coverage. Investigative committees are the exception when they are covering hearings on high-profile matters.

78. The Legislative Process

Explain the process of passing laws and budgets

Learning Activities

The learning activities for this section include:

- Reading: The Legislative Process
- Reading: Vox Cards: 7 Myths About the Filibuster
- Video: The Decline of American Democracy in One Graph
- Video: How a Bill Really Becomes a Law

Take time to review and reflect on each of these activities in order to improve your performance on the assessment for this section.

79. H. Reading: The Legislative Process

Learning Objectives

After reading this section, you should be able to answer the following questions:

1. How does a bill become law?
2. How do members of Congress develop and draft legislation?
3. How does the congressional budget process work?

The primary responsibility of Congress is making laws. Lawmaking is no easy task. Political scientists have characterized Congress as “a procedural obstacle course that favors opponents of legislation and hinders proponents.”¹ It often takes years before a bill is passed. Only a small number of bills that are introduced, formally proposed by members of the House and Senate, become law. On average,

1. ²

2. “Structure and Powers of Congress,” in *Congress A to Z*, ed. David R. Tarr and Ann O’Connor, 4th ed. (Washington, DC: CQ Press), 428.

close to eleven thousand bills are introduced in the House and Senate during a two-year legislative session and fewer than four hundred become laws.³

The process of making laws involves complex written rules and procedures, some of which date back to 1797, when Vice President Thomas Jefferson prepared a rule book to help him carry out his responsibilities as president of the Senate. Jefferson's Manual was adopted by the House and remains the authoritative statement of rules except where it has been superseded by provisions passed by members. In addition, there are fifteen volumes of parliamentary procedures and supplementary manuals of notes specifying current rules that pertain to lawmaking in the House. Similar reams of codes exist in the Senate.⁵

3.⁴

4. John V. Sullivan, [*How Our Laws Are Made*](#), research report (Washington, DC: Thomas Online, 2008), accessed May 21, 2011.

5.⁶

6. Charles W. Johnson, *How Our Laws Are Made* (Washington, DC: US Government Printing Office, January 31, 2000).

Making Laws

The textbook legislative process begins when a member of the House or Senate introduces a bill, which then is referred to appropriate committees within each body. Committees decide whether or not a bill is recommended for floor action, where it will be debated and voted on. The House and Senate must pass identical versions of a bill before it can be sent to the president to be signed into law.

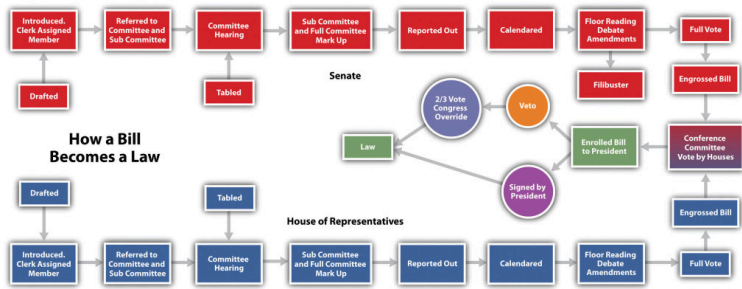
Video Clip: Schoolhouse Rock—How a Bill Becomes a Law



One or more interactive elements has been excluded from this version of the text. You can view them online

here: <https://library.achievingthedream.org/herkimeramericangovernment/?p=100#oembed-1>

Figure 1. How a Bill Becomes a Law



Source: Adapted from <http://www.cybertelecom.org/images/howlaw.gif>.

Few bills are passed via the organized, step-by-step, textbook process. Since the 1970s, “unorthodox lawmaking” has become the norm. Most bills wend their way through a circuitous path filled with political and procedural roadblocks.⁷⁸ Individual members, especially those seeking reelection, weigh in on bills, resulting in an often contentious atmosphere for lawmaking.

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8.⁹

9. Barbara Sinclair, *Unorthodox Lawmaking* (Washington, DC: Congressional Quarterly Press, 1997).

Developing Legislation

Members develop ideas for legislation from myriad sources. Most often, proposals stem from campaign promises and issues germane to members' districts brought to their attention by constituents and lobbying groups.¹⁰ Senator Warren Magnuson (D-WA) initiated a spate of legislation that led to the establishment of the Consumer Product Safety Commission in the 1970s after being shown an X ray of shrapnel embedded in a constituent's skull resulting from an accident involving a power lawn mower.¹² Political parties may encourage members to develop legislative initiatives that support their agendas. Members may see a need to revise or repeal an existing law. They also can be motivated by personal experiences. The late Senator Strom Thurmond (R-SC), in an action that contradicted his fierce opposition to government regulation, sponsored a bill requiring warnings about the dangers of alcohol in all advertising after his daughter was killed by a drunk driver.¹⁴

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11. John V. Sullivan, [How Our Laws Are Made](#), research report (Washington, DC: Thomas Online, 2008), accessed May 21, 2011.

12.¹³

13. Eric Redman, *The Dance of Legislation* (Seattle, WA: University of Washington Press, 2001).

14.¹⁵

National emergencies can prompt members to take action. Congress enacted the Homeland Security Act of 2002 in the aftermath of the 9/11 terrorist attacks on America. This act created the Department of Homeland Security, a new government agency for emergency preparedness.

Legislation can originate as a result of executive communication, a message or letter from the president, a cabinet member, or an agency head to the Speaker of the House or president of the Senate recommending that Congress address a policy or budgetary issue. These requests often follow the president's State of the Union address. Presidents also can make their agendas known to Congress by making speeches that are publicized through the media. Executive communications are referred to appropriate congressional committees, which decide whether or not to act on them. The president uses an executive communication to submit his proposed budget to the House Committee on Appropriations, which uses it as a basis for drafting federal funding legislation.¹⁶

Every year, the docket—the schedule outlining Congress's workload—accommodates a significant amount of legislation that is required to keep existing programs and services going. Most required legislation takes the form of authorization bills, which establish a suggested level of funding for a program, and

15. Roger H. Davidson and Walter J. Oleszek, *Congress and Its Members*, 8th ed. (Washington, DC: CQ Press, 2002).

16.¹⁷

17. Charles W. Johnson, *How Our Laws Are Made* (Washington, DC: US Government Printing Office, January 31, 2000).

appropriations bills, which actually provide the money for a department or agency to run the program.¹⁸

Drafting Legislation

If it is to have much chance of becoming law, a bill must be drafted into a proposal that will generate support in Congress as well as among the public, interest groups, and the executive branch. Bills are drafted by members with the assistance of their staffs and experts in the House and Senate legislative counsel offices.

A bill's language can be instrumental in generating media publicity and subsequently support for or opposition to it. The title can position the bill in the public debate, as it captures the ideas and images proponents wish to convey. Megan's Law, which requires communities to publicize the whereabouts of convicted sex offenders, is named after Megan Kanka, a New Jersey girl who was murdered by a sex offender after his release from prison. Politically charged shorthand often is used to characterize bills. The health-care reform legislation passed by Congress and signed into law by President Barack Obama in 2010 has been labeled "Obamacare" by opponents seeking to repeal the legislation.

18.¹⁹

19. Lawrence D. Longley and Walter J. Oleszek, *Bicameral Politics* (New Haven, CT: Yale University Press, 1989).

Introducing Legislation

Members from either the House or Senate can introduce legislation. The member who introduces a bill is its sponsor. Other members can sign on as cosponsors, or supporters, of the bill. Having a large number of cosponsors or having congressional leaders sign onto a bill can boost its chances of success.

Bills are the most typical form of legislation. They can originate in either the House or Senate, with the exception of bills for raising revenue, which must be initiated in the House.²⁰ The same bill must pass through all the formal procedural hurdles in the House and Senate before it can be sent to the president to be signed into law.

20.²¹

21. John V. Sullivan, [How Our Laws Are Made](#), research report (Washington, DC: Thomas Online, 2008), accessed May 21, 2011.



Members of the House or Senate introduce bills and open the floor to debate.

Committee Consideration

After a bill is introduced, it is referred to the standing committee having jurisdiction over its subject matter, such as energy or homeland security, by the presiding officers in each chamber. Having a bill referred to a friendly committee is a key to its potential for success. In the House, but not the Senate, a bill may be

considered by more than one committee.²² Committees in both chambers frequently pass a bill on to a subcommittee that deals with a specialized area of policy contained in the legislation. As more people work on a bill, the less likely it is they will reach consensus and that the bill will move beyond the committee stage.²⁴

Committees sometimes request input about a bill from government departments and agencies and hold public hearings where expert witnesses testify. When members seek media coverage of committee hearings, they sometimes will bring in celebrities as witnesses. In 2010, comedian Stephen Colbert testified in front of the House Judiciary Committee in order to bring attention to immigration reform and treatment of farm workers. The performance received mixed reviews from both members of Congress and political commentators.

The full committee votes to determine if the bill will be reported, meaning it will be sent to the floor for debate. If the vote is successful, the committee holds a mark-up session to revise the bill. The committee prepares a report documenting why it supports the bill. The report is sent to the whole chamber, and the bill is placed on the calendar to await floor debate.

In the House, bills must go the Rules Committee before reaching the floor. The Rules Committee assigns a bill a rule that sets the

22. ²³

23. John V. Sullivan, [How Our Laws Are Made](#), research report (Washington, DC: Thomas Online, 2008), accessed May 21, 2011.

24. ²⁵

25. Barbara Sinclair, *Unorthodox Lawmaking* (Washington, DC: Congressional Quarterly Press, 1997).

procedures under which the bill will be considered on the floor. The rule establishes the parameters of debate and specifies if amendments, proposed changes to the bill, will be permitted or not. A bill can become stalled if the Rules Committee does not assign it a rule at all or in a timely manner. Rules must be approved by a majority of the members of the House before floor action can begin. There is no Rules Committee in the Senate, where the process of bringing a bill to the floor is simpler and less formal. The Senate majority leader makes a motion to proceed with floor debate.

Floor Action

Once a bill reaches the House or Senate floor, it is debated, amended, and voted on. Many of the bills that make it to the floor are minor bills—noncontroversial measures that have symbolic value, such as naming a post office.²⁶ Floor consideration of most minor bills is brief, and they are approved by voice vote. Major bills focusing on divisive issues, such as budgetary proposals, health care, and national security, will prompt lengthy debate and amendment proposals before coming to a vote. A bill dies if either chamber fails to pass it.

26.²⁷

27. Brent Kendall, “Capitol Hill’s Odd Bills,” *The American Observer*, April 17, 2002.

In the House, bills are considered by the full House meeting in the chamber, which is referred to as the Committee of the Whole. The Speaker of the House chooses a chairperson to oversee floor action. Speakers for and against the bill have an equal amount of time. A general debate of the bill is followed by debate of amendments. A quorum of 218 members is required for a vote on the bill. Yeas and nays are recorded using a computerized system.

Senate floor action is less structured and more unpredictable than the House procedure. Senators are free to speak as long as they like. The filibuster can be used by skillful senators to defeat a bill by “talking it to death.” To avoid lengthy and unproductive floor sessions, the Senate can employ unanimous consent agreements, negotiated agreements that set time limitations on debate.²⁸ Debate also can be restricted if three-fifths of the senators vote to invoke cloture, a motion to limit consideration of a bill. Getting sixty senators to agree to close debate is not easy, especially on controversial issues. Senators vote on the bill using a traditional call of the roll, with each voice vote recorded manually.

28.²⁹

29. Roger H. Davidson and Walter J. Oleszek, *Congress and Its Members*, 8th ed. (Washington, DC: CQ Press, 2002).

Conference Committee

If House and Senate versions of a bill are not the same, a conference committee is formed to work out the differences. Conference committees consist of members of both houses. In 1934, Senator George Norris (R-NE) characterized conference committees as the “third house of Congress” because of the power they wield in the legislative process.³⁰ They are the last places in which big changes in legislation can be made. Major changes in the provisions and language of bills are negotiated in conference committees. Up to 80 percent of important bills during a session of Congress end up in conference committees.³²

During conference committee negotiations, conferees meet informally with party leaders and members who have an interest in the bill. Representatives of the executive branch work with conferees to devise a final bill that the president will be likely to sign. Once an agreement has been reached, the conference committee issues a report that must be passed by the House and Senate before the bill moves forward to be signed into law by the president.³⁴

30.³¹

31. David J. Vogler, *The Third House* (Evanston, IL: Northwestern University Press, 1971).

32.³³

33. Stephen D. Van Beek, *Post-Passage Politics* (Pittsburgh, PA: University of Pittsburgh Press, 1995).

34.³⁵

Presidential Approval



After passing through both houses of Congress, a bill does not become a law until it is signed by the president.

A bill becomes law when it is signed by the president. A president can veto, or reject, a bill by sending it back to Congress with a memorandum indicating his objections. Congress can override a veto with a two-thirds vote in each chamber, enabling the bill to become a law over the president's objections.³⁶

35. Lawrence D. Longley and Walter J. Oleszek, *Bicameral Politics* (New Haven, CT: Yale University Press, 1989), 6.

36.³⁷

The Budget Process

One of the most arduous tasks faced by Congress is passing legislation authorizing the nation's annual budget. House and Senate members, their staffs, and congressional committees in conjunction with the president and the executive branch are responsible for preparing the budget. The president submits a detailed budget proposal to Congress, which serves as a starting point. The House and Senate Budget Committees hold hearings on the budget to get advice about how funds should be spent.

The nonpartisan Congressional Budget Office (CBO) with a staff of over 230 economists and policy analysts, provides expert budgetary advice to Congress. It reviews the president's budget plan, projects the actual costs of budget items, and develops options for changes in taxing and spending. CBO staffers prepare detailed reports on the budget and testify before Congress.³⁸

A two-step authorization and appropriations process is required to establish and fund specific programs within the guidelines set by the annual budget. Congress must first pass laws authorizing or recommending that federal programs receive funding at a particular level. The appropriations process, where funds are actually allocated to programs for spending, is the second step. The House

37. Roger H. Davidson and Walter J. Oleszek, *Congress and Its Members*, 8th ed. (Washington, DC: CQ Press, 2002).

38.³⁹

39. "[CBO's Role in the Budget Office](#)" (Washington, DC: Congressional Budget Office, 2005), accessed February 16.

Appropriations Committee initiates all bills to fund programs, and its counterpart in the Senate must approve funding bills. The budget resolution that ultimately passes the House and Senate Budget Committees is usually markedly different from the president's budget proposal.

The budget process rarely goes smoothly. The process can stall, as was the case in 2011 when the inability of Congress to reach an agreement on the budget threatened to result in a government shutdown. Media coverage highlighting partisan bickering over what to fund and what to cut from the budget added to the drama surrounding the budget process.

C-SPAN

Members of the public can follow congressional action live on television. After much debate, televised coverage of floor proceedings via the Cable Satellite Public Affairs Network (C-SPAN) was established in the House in 1979 and in the Senate in 1986. C-SPAN transmits gavel-to-gavel coverage of floor action. It covers committee hearings and broadcasts educational panels and events.

C-SPAN affirmed Congress as a media-conscious institution.⁴⁰ A

40. ⁴¹

41. Timothy E. Cook, *Making Laws & Making News* (Washington, DC: Brookings, 1989).

top Rules Committee staffer explained that Congress had tired of losing the battle with the president for media attention: “President Richard Nixon was dominating the airwaves with defenses of his Vietnam War policies, while Congressional opponents were not being given equal access by the networks.”⁴²

C-SPAN’s cameras show Congress at its best and worst, at its most dramatic and most mundane. They showcase members’ elegant floor speeches and capture them joking and looking bored during hearings. C-SPAN is monitored continuously in most congressional offices and is a source of information and images for other mass media.

C-SPAN has expanded its operation beyond cable television and provides extensive radio and online coverage of Congress, the White House, and national politics. In addition to live streams of television and radio feeds from Capitol Hill, the [C-SPAN website](#) includes news stories, opinion pieces, history, educational materials, and event coverage.

42. ⁴³

43. Walter J. Oleszek, “The Internet and Congressional Decisionmaking,” report prepared for the Chairman of the House Rules Committee, September 19, 2001.

Link: C-SPAN's Channel on YouTube

People can follow C-SPAN via Twitter, Facebook, and Foursquare. C-SPAN has its own YouTube channel [here](#) that hosts an extensive political video library.

Link: C-SPAN Bus

The [C-SPAN bus](#) travels the country, providing information about public affairs to communities and gathering local stories that they publicize online.



C-SPAN has expanded beyond its original television coverage of Congress to provide information about government and politics through a range of media.

Key Takeaways

Making laws is a complex process guided by volumes of rules and influenced by politics. While many bills are proposed each congressional session, few make it all the way through the process to be signed by the president and made law. Congress is responsible for passing legislation enacting the nation's annual budget, which is frequently a difficult task. The activities of Congress are reported by C-SPAN, which began as a cable network providing gavel-to-gavel coverage of floor proceedings and has expanded to become an extensive resource for information about government and politics.

80. I. Reading: Vox Cards: 7 Myths About the Filibuster

How does a filibuster really work and when is it most often used? Investigate these and other questions by reading through the Vox “cards” [here](#).

8I. Video: The Decline of American Democracy in One Graph

This one terrifying graph should make Americans question whether they really live in a democracy after all.



One or more interactive elements has been excluded from this version of the text. You can view them online

here: <https://library.achievingthedream.org/herkimeramericangovernment/?p=102#oembed-1>

82. Video: How a Bill Really Becomes a Law

As Congressional gridlock and dysfunction worsen, Schoolhouse Rock's "I'm Just a Bill" seems to be missing a few key steps.



One or more interactive elements has been excluded from this version of the text. You can view them online

here: <https://library.achievingthedream.org/herkimeramericangovernment/?p=103#oembed-1>

83. Profiling Congress

Explain who gets elected to Congress and activities related to re-election

Learning Activities

The learning activities for this section include:

- Reading: Members of Congress
- Reading: Congress in the Information Age

Take time to review and reflect on each of these activities in order to improve your performance on the assessment for this section.

84. J. Reading: Members of Congress

Learning Objectives

After reading this section, you should be able to answer the following questions:

1. What kinds of people are elected to Congress?
2. How do members make news and generate publicity for themselves?
3. What jobs are performed by congressional staff members?

Members of Congress are local politicians serving in a national institution. They spend their days moving between two worlds—their home districts and Washington. While many come from the ranks of the social and economic elite, to be successful they must be true to their local roots.

Members tailor the job to their personalities, interests, objectives, and constituent needs.¹ They engage in activities that better their chances for reelection. This strategy works, as the reelection rate for incumbents is over 90 percent.³ They promote themselves and reach out to constituents by participating in events and public forums in their home districts. More recently, outreach has come to include using social media to connect with the public. Members of Congress take positions on issues that will be received favorably. They claim success for legislative activity that helps the district—and voters believe them.⁵ Successful



Congresswoman Gabrielle Giffords (D-AZ) was shot outside a grocery store where she was holding a “Congress on Your Corner” event to meet personally with constituents in her district in 2011. Six people were killed, including a nine-year-old girl, in the incident, which raised issues about the safety of members of Congress.

1. ²

2. Richard Fenno, *Home Style* (New York: Longman Classics, 2003).

3. ⁴

4. Gary Jacobson, *The Politics of Congressional Elections*, 5th ed. (Boston: Allyn and Bacon, 2002).

5. ⁶

6. Alan I. Abramowitz, “Name Familiarity, Reputation, and the Incumbency Effect in a Congressional Election,” *Western Political Quarterly* 28 (September 1975): 668–84;

members excel at constituent service, helping people in the district deal with problems and negotiate the government bureaucracy.

Profile of Members

The vast majority of members of Congress are white males from middle- to upper-income groups. A majority are baby boomers, born between 1946 and 1964. The 111th Congress—which coincided with the administration of President Barack Obama, one of the nation's youngest presidents, who took office at age forty-seven—was the oldest in history. In the 112th Congress, the average age of House members is fifty-seven and the average of senators is sixty-two. Most have a college education, and many have advanced degrees.⁷

Morris P. Fiorina, *Congress: Keystone of the Washington Establishment* (New Haven, CT: Yale, 1977); David R. Mayhew, *Congress: The Electoral Connection* (New Haven, CT: Yale University Press, 1974).

7.⁸

8. Jennifer E. Manning, "Membership of the 112th Congress: A Profile," CRS Report for Congress (Washington, DC: Congressional Research Service, March 1, 2011).

Gender and Race

Since the 1980s, more women and members of diverse ethnic and racial groups have been elected, but they still are massively underrepresented. Ninety-one of the seats in the 112th Congress, or 16 percent, were held by women. These included seventy-four women in the House and seventeen in the Senate. A record number of forty-four African Americans served in the House, but there were none in the Senate. There were twenty-eight Hispanics in Congress—twenty-six in the House and two in the Senate. Thirteen Asian Americans and Pacific Islanders and a single Native American were members of Congress.

Women and minority group representation in Congress can make a difference in the types of policy issues that are debated. Women members are more likely to focus on issues related to health care, poverty, and education. They have brought media attention to domestic violence and child custody. Members of minority groups raise issues pertinent to their constituents, such as special cancer risks experienced by Hispanics. The small number of women and minorities serving can hinder their ability to get legislation passed.⁹

9.¹⁰

10. Michele L. Swers, *The Difference Women Make* (Chicago: University of Chicago Press, 2002).

Wealth

Members of Congress are a wealthy group. More than half of all members in 2009 were millionaires. More than fifty had net worths of over \$10 million.¹¹ Members earn a salary of \$174,000; leaders are compensated slightly more.¹³ While this may seem like a lot of money, most members must maintain residences in Washington, DC, and their districts and must pay for trips back home. Some members take tremendous pay cuts to serve in Congress. Senator Maria Cantwell (D-WA) amassed a fortune of over \$40 million as an executive for a Seattle software company before being elected in 2000.¹⁵

11.¹²

12. Albert Bozzo, "[Members of U.S. Congress Get Richer Despite Sour Economy](#)," CNBC, November 17, 2010, accessed December 12, 2010.

13.¹⁴

14. Ida Brudnick and Eric Peterson, *Congressional Pay and Perks* (Alexandria, VA: TheCapitolNet.com), 2010.

15.¹⁶

16. Amy Keller, "The Roll Call 50 Richest," *Roll Call*, September 8, 2003.

Occupations

For many members, serving in Congress is a career. Members of the House serve an average of nine years, or almost five terms. Senators average nearly eleven years, or almost two terms. Almost 75 percent of members seek reelection each cycle.¹⁷ Members leave office because they seek more lucrative careers, such as in lobbying offices, or because they are ready to retire or are defeated.

Many members come from backgrounds other than politics, such as medicine, and bring experience from these fields to the lawmaking process. Business, law, and public service have been the dominant professions of members of Congress for decades.¹⁹ Members who have come from nontraditional occupations include an astronaut, a magician, a musician, a professional baseball player, and a major league football player. Members also come from media backgrounds, including television reporters and an occasional sportscaster. Previous legislative experience is a useful qualification for members. Many were congressional staffers or state legislators in earlier careers.²¹

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18. Gary Jacobson, *The Politics of Congressional Elections*, 5th ed. (Boston: Allyn and Bacon, 2002).

19.²⁰

20. David T. Canon, *Actors, Athletes, and Astronauts* (Chicago: University of Chicago Press, 1990).

21.²²

Members Making News

Because disseminating information and generating publicity are keys to governing, gaining reelection, and moving careers forward, many members of Congress hungrily seek media attention. They use publicity to rally public opinion behind their legislative proposals and to keep constituents abreast of their accomplishments. Media attention is especially important when constituents are deciding whether to retain or replace their member during elections or scandals.²³

Members of Congress toe a thin line in their relations with the media. While garnering press attention and staying in the public eye may be a useful strategy, grabbing too much of the media spotlight can backfire, earning members a reputation for being more “show horse” than “work horse” and raising the ire of their colleagues.

Attracting national media attention is easier said than done for most members.²⁵ Members engage a variety of promotional tactics

22. Mildred L. Amer, “Membership of the 108th Congress: A Profile,” *CRS Report for Congress*, May, 2003.

23.²⁴

24. R. Douglas Arnold, *Congress, the Press, and Political Accountability* (Princeton, NJ: Princeton University Press, 2004).

25.²⁶

26. Timothy E. Cook, *Making Laws & Making News* (Washington, DC: Brookings, 1989).

to court the press. They distribute press releases and hold press conferences. They use the Capitol's studio facilities to tape television and radio clips that are distributed to journalists via the Internet. Rank-and-file members can increase their visibility by participating in events with prominent leaders. They can stage events or hold joint press conferences and photo ops.

Testimony: Senator Chuck Schumer Meets the Press

One member of Congress who continually flirts with being overexposed in the media is Senator [Charles “Chuck” Schumer](#) (D-NY). Known as the consummate “show horse,” Schumer has been in public life and the media spotlight since being elected to the New York State Assembly at the age of twenty-three and then to the House of Representatives at twenty-nine. He became a US Senator in 1998 and has declared himself to be a “senator for life,” who does not have presidential aspirations. This claim gives him greater liberty to speak his mind in a manner that appeals to his New York constituency without worrying about pleasing a national audience. Schumer comes from modest means—his family owned a small pest extermination business—and has relied heavily on unpaid publicity to ensure his Senate seat. Over the years, the prolifically outspoken Schumer has earned a reputation for being one of the most notorious media hounds on Capitol Hill as well as one of the hardest working senators.

Schumer hails from Brooklyn, to which he attributes his affinity for speaking his mind. “That’s one of the benefits of being a Brooklynite. You’re a straight shooter with people, and people are back with you. And sometimes you offend people.”²⁷ While his Brooklynese may offend some, it generates headlines and plays well in New York, where he easily wins reelection campaigns.

Schumer’s communications staff is one of the busiest on Capitol Hill. Numerous press releases on a variety of issues affecting his home state and national policy might be issued in a single day. On the same day he announced legislation that would reverse plans to require passports at the Canadian border, called for the suspension of President Bush’s advisor Karl Rove’s security clearance for allegedly revealing the identity of CIA operative Valerie Plame, and publicized a list of twenty-five questions that should be asked of a Supreme Court nominee. This aggressive press strategy prompted his opponent in the 2004 election to pledge that he would “plant 25 trees to replace the trees killed last year to print Chuck Schumer’s press releases.”²⁹

Schumer’s penchant for the media has made him the punch line for numerous jokes by fellow members of Congress. Former senator Bob Dole coined one of Capitol Hill’s favorite quips, “The most dangerous place in Washington is between Chuck Schumer and a microphone.”³¹

27. ²⁸

28. Mark Leibovich, “The Senator Has the Floor,” *Washington Post*, August 15, 2005: C01.

29. ³⁰

30. Mark Leibovich, “The Senator Has the Floor,” *Washington Post*, August 15, 2005: C01.

31. ³²

Members of Congress use new media strategies to inform the public, court the media, and gain publicity. All members have websites that publicize their activities and achievements. Some members make their views known through blog posts, including in online publications like TheHill.com and the [Huffington Post](http://HuffingtonPost.com). More than 300 members of Congress use [Twitter](https://twitter.com) to post brief announcements ranging from alerts about pending legislation to shout-outs to constituents who are celebrating anniversaries to Bible verses.



Senator Chuck Schumer is a high-profile member of Congress who regularly courts the media.

Congressional Staff

Members have personal staffs to help them manage their work load.

32. Miranda, Manuel, "Behind Schumer's Ill Humor," *The Wall Street Journal*, August 3, 2005, Editorial Page.

They also work with committee staff who specialize in particular policy areas. Most Hill staffers are young, white, male, and ambitious. Most members maintain a staff in their home districts to handle constituent service.

Congressional staff has grown substantially since the 1970s as the number of policy issues and bills considered by Congress increased. Today, House personal staffs consist of an average of fourteen people. Senate staffs range in size from thirteen to seventy-one and average about thirty-four people.³³ As a result of staff expansion, each member has become the head of an enterprise—an organization of subordinates who form their own community that reflects the personality and strengths of the member.³⁵

Congressional staffers have specialized responsibilities. Some staffers have administrative responsibilities, such as running the office and handling the member's schedule. Others are responsible for assisting members with policy matters. Personal staffers work in conjunction with committee staffers to research and prepare legislation. They write speeches and position papers. Some act as brokers for members, negotiating support for bills and dealing with lobbyists. Staff influence over the legislative process can be significant, as staffers become experts on policies and take the lead on issues behind the scenes.³⁷

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34. Roger H. Davidson and Walter J. Oleszek, *Congress and Its Members*, 8th ed. (Washington, DC: CQ Press, 2002).

35.³⁶

36. Robert H. Salisbury and Kenneth A. Shepsle, "U.S. Congressman as Enterprise," *Legislative Studies Quarterly* 6, no. 4 (November 1981): 559–76.

37.³⁸

Some staff members focus on constituent service. They spend a tremendous amount of time carefully crafting answers to the mountains of correspondence from constituents that arrives every day via snail mail, e-mail, fax, and phone. People write to express their views on legislation, to seek information about policies, and to express their pleasure or dissatisfaction about a member's actions. They also contact members to ask for help with personal matters, such as immigration issues, or to alert members of potential public health menaces, such as faulty wiring in a large apartment building in the district.

Members of Congress resisted using e-mail to communicate until recent years. Members were not assigned e-mail addresses until 1995. Despite the daunting flood of messages, e-mail has helped congressional offices communicate with constituents efficiently. While the franking privilege, members' ability to post mail without cost, is still important, e-mail has reduced the significance of this perk.

All members of Congress have press secretaries to coordinate their interactions with the media. They bring a journalistic perspective to congressional offices, acting as consultants in devising media strategies. In recent years, the press secretary's job has expanded to include using social media to publicize the member's actions and positions. A press secretary for a publicity-seeking member who faces tough reelection bids constantly courts the media, making personal contacts, writing press releases, staging photo ops and events, and helping the member prepare video and audio interviews. The press secretary constantly updates the member's Facebook and Twitter messages and YouTube videos. A press secretary for a member in a secure seat who prefers a low-

38. Susan Webb Hammond, "Recent Research on Legislative Staffs," *Legislative Studies Quarterly* 21, no. 4 (November 1996): 543-76.

key media presence concentrates on maintaining contact with constituents through newsletters and the member's website.

Key Takeaways

In recent years, the membership of Congress has become increasingly diverse, as more women and minority group members have been elected. Still, the dominant profile of the member of Congress is an older, white male. In addition to their constitutional duties, members of Congress engage in a host of other activities, many of which are related to getting reelected. Members strive to maintain close connections with their constituents while serving in Washington. They seek to publicize their activities through the mainstream press as well as social media. Congressional staffers aid members in keeping abreast of policy issues, performing constituent service, and dealing with the press.

85. Reading: Congress in the Information Age

Learning Objectives

After reading this section, you should be able to answer the following questions:

1. How has Congress's relationship to the media differed from that of the president?
2. How do members communicate with their constituents and the press?
3. How are members depicted by news media and popular media?
4. What are the effects of media coverage of Congress on public perceptions of the institution?

Congressional media relations in the information age are as complex as the 535 members of the House and Senate are unique. The size, convoluted organization, and many rules governing Congress do not make for a media-friendly institution. The media environment has become more complicated to negotiate, as members must contend with both traditional news media and new media, which provide a two-way flow of information between legislators and their constituents.

Media Interactions

When asked by a *Time* magazine reporter to identify the most underplayed story of our times, former news anchor Walter Cronkite replied, “Congress. This is where our laws are made, where our laws are debated, and we don’t cover Congress the way it ought to be.”¹

Cronkite’s observation speaks to the changing relations between the national press and Congress over time. For the first century of the republic, Congress and its members were far more visible in newspapers than presidents, who felt it was beneath the dignity of the office to speak on public issues. Debates on Capitol Hill were widely reprinted in partisan papers. The profit-minded penny press of the 1830s found Washington news attractive but often focused on members’ personal escapades, which raised the ire and suspicion of congressmen. Congress adopted the practice of reviewing reporters’ credentials, granting them permission to sit in the drafty public gallery on a case-by-case basis. When the Capitol was rebuilt in the 1850s, the construction included press galleries, separate areas to which reporters were automatically admitted on the recommendation of their editors.

By the 1920s, the president made most of the news; Congress was relegated to a distant second place, and the Supreme Court received the least press.³ The modern relationship between the

1. ²

2. “10 Questions for Walter Cronkite,” *Time*, November 3, 2003, 8.

3. ⁴

media and Congress took shape in the 1970s, when *Washington Post* reporters Bob Woodward and Carl Bernstein broke the story about the break-in at the Democratic National Committee headquarters at the behest of the Nixon White House to uncover Democrats' campaign strategies. Hundreds of reporters were sent to Washington to cover the Watergate scandal, and many stayed after discovering that the town was ripe with stories. The Watergate scandal prompted Congress to pass sunshine laws, which opened most hearings to the public and the press. Many members welcomed the opportunity offered by the invigorated Washington press corps to promote themselves to their constituents.

Congress vs. the President

There are a number of reasons why the president is the newsmaker-in-chief while Congress remains in his shadow. The president is a media magnet because he is a single individual at the hub of the executive branch. It is more difficult for reporters to cover Capitol Hill. Congress has many potential newsmakers and story lines that take journalists time and energy to track down. Congress also has been resistant to new communications technologies that might elevate its profile but at the same time subject members

4. Timothy E. Cook, *Making Laws & Making News*(Washington, DC: Brookings, 1989).

to greater public criticism. Radio journalists were not admitted to the press gallery until 1939. Television cameras filmed the opening session of the House in 1947; they would not be allowed back for almost thirty-five years. The institution did not begin to embrace the Internet until 1995, when websites for the House and Senate were established but used by only a handful of members. Only recently have members begun to embrace social media.

Congress Online

The tradition-bound Congress embraced the Internet slowly. Political scientist Stephen Frantzich describes the situation:

One can almost hear the crunch of metal as one ancient institution and one new technology collide. For all the promises of cyberdemocracy and enhanced political linkages, in some ways the interface of Congress and the Internet is a match made in Hell. Divorce is not possible, but tensions are inevitable.⁵

5.⁶

6. Stephen E. Frantzich, "RepresNETation: Congress and the Internet," paper presented at the American University Center on Congress and the Presidency conference on

Members were reluctant to change the way they conducted business and were wary of receiving a barrage of e-mail messages that would create more work for their overtaxed staffs. This attitude changed as members used the Internet to get elected, staff members became tech savvy, and constituents became Internet users. Today, all members communicate through online media, although some members are more sophisticated in their digital communication strategies than others.

Websites are an important resource for members' public relations efforts. They provide a platform for publicizing members' views and accomplishments that can be readily accessed by reporters. Members use websites to present their image to the public without journalistic filters. Websites can promote grassroots support for members through tools, such as printable brochures and buttons. Websites have improved constituent service. They are "virtual offices" open twenty-four hours a day, providing information and opportunities for interaction. Members can solicit opinions from constituents quickly through online polls, message boards, and social media.⁷

The websites for the [House](#), [Senate](#), and [committees](#) provide the public with a wealth of information about hearings and legislative action. The complete text of bills, the *Congressional Record*, which provides transcripts of floor debate, committee action, and institutional history, is available through the [THOMAS website](#).

"Congress, the Internet, and Deliberative Democracy,"
May 4, 2001.

7.⁸

8. Congress Online Project, *Nine Benefits of a Good Website*, research report (Washington, DC: George Washington University, 2003).

Media Depictions

Media depictions of Congress are a mixed bag. National news coverage focuses on the institution of Congress and tends to highlight conflict and partisan bickering. Local news covers individual members and is more positive. Depictions of Congress in television and film often exaggerate stereotypes, such as the corrupt senator or the crusading House representative.

News Coverage

The distinction between the institution of Congress and individual members is evident in media coverage. There are distinct differences in the tone, content, and scope of news reports on Congress in the national compared to local press. National news reports focus more on the institution than individual members. Stories emphasize the investigative side of reporting in that they seek the “smoking gun,” a problem, or a scandal. Reports convey the impression that Congress is populated by power brokers who are in the pocket of political insiders such as interest groups; reports often portray members of Congress as being ignorant of public concerns.

Local media coverage focuses on members more than the institution. Journalists value the access they have to members when they come home to their districts. Few local media organizations have Washington bureaus, so they rely heavily on press releases,

wire feeds, canned video, members' websites, blogs, and social media. Members spend much more time courting the local press than national media. The local press serves as an intermediary between members and their constituents by focusing on the congressional stories most relevant to the district.

Local stories generally are more positive than national news reports. Journalists even may become unofficial cheerleaders for members. This does not mean that members never receive bad press from local news sources. During reelection bids, especially, local journalists emphasize their watchdog role, and reporting can become more critical of members.⁹

When the media uncover evidence of a member of Congress misbehaving, the result is frenzied scandal coverage. In 2001, the press revealed that Rep. Gary Condit (D-CA) had been having an affair with Chandra Levy, an intern who had disappeared and whose remains were later found in Washington, DC. Representative Condit was dogged by journalists from both respectable and tabloid organizations, whose stories implied that he had something to do with Levy's fate. Representative Condit lost his reelection bid. The story was headline news for months until the 9/11 terrorist attacks put it on the back burner. In 2011, a jury convicted another man in Levy's murder.

9.¹⁰

10. Danielle Vinson, *Local Media Coverage of Congress and Its Members* (Cresskill, NJ: Hampton Press, 2002).

Congress on Television and in Film

Congress has been the subject of numerous television programs and movies. Like media coverage in general, television and film treatment of Congress pales in comparison to that of the presidency.

There has been a stream of television sitcoms and dramas set in Congress, most of which have been short-lived. Programs exaggerate images of the institution that are predicated in reality. Others reinforce unflattering stereotypes of members as criminals or buffoons.¹¹ The television version of Congress is even more of a male bastion than the institution itself. Women primarily serve as support staff or love interests of male members. *Mister Sterling*, the congressional counterpart to *The West Wing* that survived one season, is typical. It featured an idealistic but all-too-serious young congressman who uses his intelligence to outsmart his older, white, male colleagues. Women members on the show were few, and none held leadership positions. *Sterling* used talk radio, which is dominated by male hosts and listeners, as his primary means of communicating to the public.¹³ Another quickly cancelled program

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12. Tracey L. Gladstone-Sovell, "Criminals and Buffoons: The Portrayal of Elected Officials on Entertainment Television," in *It's Show Time!*, ed. David A. Schultz (New York: Peter Lang, 2000), 119–32.

13.¹⁴

was *Women of the House*, in which a scatterbrained Southern belle inherits the Senate seat of her deceased fifth husband and schemes her way through her congressional duties.

Congress has been depicted in more than a dozen feature films since the 1930s, far fewer than the more than one hundred films that have focused on the presidency. Many of them overdramatize legislative processes and committee actions and oversimplify the workings of the institution. Floor action and committee hearings are ridden with conflict and full of surprises. In reality, floor action almost invariably proceeds by the rules with great decorum. The work of congressional committees is deliberate and complicated. On film, members of Congress are often pitted against one another. In fact, members rarely engage in direct confrontation.¹⁵

In *Legally Blonde 2: Red, White & Blonde* (2003), pink-clad Harvard Law School graduate Elle Woods goes to Washington with the aim of passing an animal rights bill to save the mother of her pet Chihuahua, Bruiser. To promote “Bruiser’s Bill,” Elle barges into a congressional hearing, interrupting the proceedings in a way that, in real life, would have guaranteed her an escort out by security. Instead, she gains enough support to get the bill passed. A clip of *Mr. Smith Goes to Washington* (1939) is cleverly inserted into the film to position it in the tradition of films in which the young, idealistic underdog takes on the corrupt lifelong politician.

14. Garrett Epps, “Sterling Character,” *The American Prospect*, January 17, 2003.

15.¹⁶

16. David L. Paletz and Daniel Lapinski, “Movies on Congress,” in *The Encyclopedia of the United States Congress*, ed. Donald C. Bacon, Roger H. Davidson, and Morton Keller (New York: Simon and Schuster, 1995).

Films depict members of Congress as politically and morally flawed. Blinded by ambition, they compromise their beliefs and values to achieve position and power.¹⁷ In *The Seduction of Joe Tynan* (1979), a well-intentioned senator has an extramarital affair, even as he considers but ultimately resists caving in to powerful members to advance his career.

Media Consequences

The media can influence the behavior of members of Congress, the public's perception of the institution, and constituents' feelings about their members.

17.¹⁸

18. Gary Crowdus, "Politicians in the American Cinema," *The Political Companion to American Film* (Chicago: Lakeview Press, 1994), 322–30.

Legislative Behavior

Perspectives on the influence on the news media on Congress' legislative activities differ. Some scholars contend that because the media do not cover much of what goes on in Congress, members are largely able to do their jobs without interference. Members with high public visibility can get into trouble as they are subject to scrutiny and criticism. Therefore, members who pursue insider strategies—working behind the scenes to forge coalitions—can avoid press interference.¹⁹

Another perspective argues that the media have dramatically changed Congress by promoting outsider strategies for governing. To be successful, members must court media publicity rather than forge congressional relationships that are essential for building consensus. The result is that legislative actions can be held up as members seek to influence public opinion.²¹

A third, more realistic perspective posits that both the insider and outsider strategies are essential for lawmaking. It is important for members to publicize their views via the media in order to rally

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20. Stephen Hess, *The Ultimate Insiders* (Washington, DC: Brookings, 1986).

21. ²²

22. Todd Gitlin, *Media Unlimited* (New York: Metropolitan Books, 2002).

public opinion and at the same time work to build cooperation within the institution.²³

Public Trust

Public confidence in Congress has declined over the past three decades. Congress has the lowest approval ratings of the three national institutions. In 2010, Congress received its lowest approval rating in the history of the Gallup poll, with 83 percent of the public disapproving of the way the institution is handling its job.

23.²⁴

24. Timothy E. Cook, *Governing with the News* (Chicago: University of Chicago Press, 1998).

Link: Congressional Approval over Time

A graph and explanation of congressional approval over time is available on the [Gallup website](#).

Scholars offer competing views about whether or not the media contribute to this trend of declining approval of Congress. Some suggest that the image of an institution characterized by conflict and deal making that pervades media coverage has a negative impact on public perceptions. Most Americans abhor the squabbling between members and acrimonious interactions between Congress and the presidency that they see in the media. They feel that congressional leaders have lost touch with average people and that the institution is dominated by special interests.²⁵ Other researchers disagree and believe that evidence of a direct connection between media coverage and declining public opinion about Congress is lacking. People's low opinion of Congress is based on the public's holding the institution accountable for negative societal conditions, such as a bad economy.²⁷

25.²⁶

26. John Hibbing and Elizabeth Theiss-Morse, *Congress as Public Enemy* (New York: Cambridge, 1995).

27.²⁸

28. Pippa Norris, "The News Media and Democracy," in *Political Communication Transformed*, ed. John Bartle

National vs. Local Coverage

The more critical national coverage of the institution compared to the more favorable local press accorded to members may account for differences in public opinion. People dislike the institution even as they hold favorable views of their own congressmen. Citizens claim to be unhappy with the “pork barrel” politics of the institution but are pleased when the media report that their own member has brought home the bacon.²⁹

There may be a connection between positive local coverage of members and the large number of incumbents who win reelection. The public does not think that most members of the House should be reelected but are more supportive of returning their own member to Congress.³¹



The close connection that many members of Congress have with constituents in their home districts is reflected in positive media coverage.

and Dylan Griffiths (Basingstoke: Palgrave Macmillan, 2001), 163–80.

29.³⁰

30. John Hibbing and Elizabeth Theiss-Morse, *Congress as Public Enemy* (New York: Cambridge, 1995).

31.³²

32. [CNN/USA Today/Gallup Poll](#), October 10–12, 2003.

Internet Effects

Online communication has influenced how citizens view Congress. On the one hand, Congress's online presence fosters positive attitudes toward the institution and its members. Congressional websites have been successful in facilitating the flow of information to the public. People feel that members' websites convey a sense of accountability and transparency when they report voting records, rationales for policy decisions, schedules, and issue information. Websites create trust, as people feel that members are not "hiding something."³³

At the same time, blogs, discussion boards, and video-sharing sites have placed Congress and its members under a microscope. While mainstream media coverage of Congress is less prevalent than it is for the presidency, bloggers generate a continual barrage of commentary and criticism of congressional action, often taking aim at particular members. Citizens armed with cell phones and flip cameras can capture a member at her or his worst moment, post an embarrassing photo or video online, and have it go viral within a short period of time. These negative depictions can play into the unpopular view of Congress that citizens frequently hold and contribute to declining trust in the institution.

33. ³⁴

34. Congress Online Project, *Nine Benefits of a Good Website*, research report (Washington, DC: George Washington University, 2003).

Key Takeaways

Congress historically has been slow to adapt to new media technologies such as radio, television, and the Internet. More recently, members have integrated new media into their communications strategies. Members use websites, social media, and e-mail to communicate efficiently with constituents.

Media reports may have a negative influence on the public's perceptions of the institution and a favorable impact on feelings about individual members. Online media, including blogs and video-sharing sites, place the institution and its members under increased scrutiny.

86. Putting It Together

Summary

Article I of the Constitution establishes Congress as the legislative branch of government with broad powers to provide for the “common defense and general welfare of the United States,” along with specific powers in important areas of domestic and foreign affairs.

The framers provided for a bicameral legislative branch with equal representation in the Senate and proportional representation based on state population in the House. The two bodies differ in a number of important ways that influence the way that they operate. The House is a more formal institution, where hierarchy and seniority are important factors. The Senate, as a smaller, more intimate body, is less bound by formal rules than the House. Senators typically garner more media attention than House members because they serve statewide constituencies and serve longer terms of office.

Political parties are central to the organizational structure of Congress. Parties provide a measure of discipline that helps the House and Senate to function more efficiently. Members who switch parties often lose the benefits of seniority, such as committee chair positions, and face an uncertain future when they seek reelection.

An extensive leadership structure provides an organizational framework that helps House members work effectively if not efficiently. At the top of the leadership hierarchy is the Speaker of the House, who is the body’s presiding officer. Majority and minority leaders help set their party’s agenda on issues. The whips encourage party unity on House votes.

The Senate leadership consists of the presiding officer, majority leader, minority leader, and whips. Unlike in the House, where the

Speaker wields considerable power, the presiding officer is not the most visible member of the Senate and can only vote in case of a tie. The majority and minority leaders work together to schedule and manage Senate business. Whips are less important in the Senate than in the House because the closer personal relationships that develop in the smaller body make it easier to know how members will vote without a formal whip count.

Much of the important work in Congress is accomplished through committees. The fate of legislation—which bills will make it to the floor of the House and Senate—is determined in committees. Members seek committee assignments based on their desire to influence policy, exert influence, and get reelected. Most committee work receives little, if any, media coverage. Investigative committees are the exception when they are covering hearings on high-profile matters.

Making laws is a complex process guided by volumes of rules and influenced by politics. While many bills are proposed each congressional session, few make it all the way through the process to be signed by the president and become law. Congress is responsible for passing legislation enacting the nation's annual budget, which is frequently a difficult task.

In recent years, the membership of Congress has become increasingly diverse, as more women and minority group members have been elected. Still, the dominant profile of the member of Congress is an older, white male. In addition to their constitutional duties, members of Congress engage in a host of other activities, many of which are related to getting reelected. Members strive to maintain close connections with their constituents while serving in Washington. They seek to publicize their activities through the mainstream press as well as social media. Congressional staffers aid members in keeping abreast of policy issues, performing constituent service, and dealing with the press.

PART VII

CH. 4 - THE EXECUTIVE BRANCH

87. Why It Matters

Explain the evolving role of the executive branch in our constitutional system



Introduction

While the framers of the Constitution expected Congress to be the first among equal branches in the American system, the presidency has ascended to that role over the course of the last century, partly as a result of war and America's rise to global power, but also because of economic crises, such as the Great Depression of the 1930s.

For some time now the American presidency, for better and worse, has stood as the most powerful office on earth. Does it

possess too much power? Or even now, not enough? How would you evaluate and answer such questions?

As you work through this module, think about the growth of executive power during the last century, and consider the reasons why it has occurred. Are there areas of policy that the president is particularly well positioned to address? Which areas are better left to other branches or to states and localities to decide?

Which presidents have been most effective and important, and why? What factors lead to success and failure, as far as presidents go?

88. Executive Power

Summarize the scope of presidential power relative to the other branches

Learning Activities

The learning activities for this section include:

- Video: Eric Foner on the American Presidency
- Reading: The Powers of the Presidency
- Video: The Roosevelts History

Take time to review and reflect on each of these activities in order to improve your performance on the assessment for this section.

89. A. Video: Inventing the American presidency - Kenneth C. Davis

Inventing the American presidency – Kenneth C. Davis

<https://www.youtube.com/watch?v=k3kcl2HDlww>



One or more interactive elements has been excluded from this version of the text. You can view them online

here: <https://library.achievingthedream.org/herkimeramericangovernment/?p=111#oembed-1>

90. A. Reading: The Powers of the Presidency

Learning Objectives

After reading this section, you should be able to answer the following questions:

1. How is the presidency personalized?
2. What powers does the Constitution grant to the president?
3. How can Congress and the judiciary limit the president's powers?
4. How is the presidency organized?
5. What is the bureaucratizing of the presidency?

The presidency is seen as the heart of the political system. It is personalized in the president as advocate of the national interest, chief agenda-setter, and chief legislator.¹ Scholars evaluate presidents according to such abilities as “public communication,”

1. ²

2. Jeffrey K. Tulis, *The Rhetorical Presidency* (Princeton, NJ: Princeton University Press, 1988).

“organizational capacity,” “political skill,” “policy vision,” and “cognitive skill.”³ The media too personalize the office and push the ideal of the bold, decisive, active, public-minded president who altruistically governs the country.⁵

Two big summer movie hits, [*Independence Day*](#) (1996) and [*Air Force One*](#) (1997) are typical: ex-soldier presidents use physical rather than legal powers against (respectively) aliens and Russian terrorists. The president’s tie comes off and heroism comes out, aided by fighter planes and machine guns. The television hit series *The West Wing* recycled, with a bit more realism, the image of a patriarchal president boldly putting principle ahead of expedience.⁷

3. ⁴

4. Fred I. Greenstein, *The Presidential Difference: Leadership Style from FDR to Barack Obama*, 3rd ed. (Princeton, NJ: Princeton University Press, 2009).

5. ⁶

6. For presidential depictions in the media, see Jeff Smith, *The Presidents We Imagine* (Madison: University of Wisconsin Press, 2009).

7. ⁸

8. Trevor Parry-Giles and Shawn J. Parry-Giles, *The Prime-Time Presidency: The West Wing and U.S. Nationalism* (Champaign: University of Illinois Press, 2006).

Presidents are even presented as redeemers.⁹ There are exceptions: presidents depicted as “sleaze balls” or “simpletons.”¹¹



*Whether swaggering protagonists of hit movies *Independence Day* and *Air Force One* in the 1990s or more down-to-earth heroes of the hit television series *The West Wing*, presidents are commonly portrayed in the media as bold, decisive, and principled.*

9.¹⁰

10. Mark Sachleben and Kevan M. Yenerall, *Seeing the Bigger Picture: Understanding Politics through Film and Television* (New York: Peter Lang, 2004), chap. 4; and for a detailed survey, see Jeff Smith, *The Presidents We Imagine* (Madison: University of Wisconsin Press, 2009).

11.¹²

12. Stephanie Greco Larson, “Political Cynicism and Its Contradictions in the Public, News, and Entertainment,”

Enduring Image: Mount Rushmore

Carved into the granite rock of South Dakota's [Mount Rushmore](#), seven thousand feet above sea level, are the faces of Presidents George Washington, Thomas Jefferson, Abraham Lincoln, and Theodore Roosevelt. Sculpted between 1927 and 1941, this awe-inspiring monument achieved even greater worldwide celebrity as the setting for the hero and heroine to overcome the bad guys at the climax of Alfred Hitchcock's classic and ever-popular film [North by Northwest](#) (1959).

This national monument did not start out devoted to American presidents. It was initially proposed to acknowledge regional heroes: General Custer, Buffalo Bill, the explorers Lewis and Clark. The sculptor, Gutzon Borglum, successfully argued that "a nation's memorial should . . . have a serenity, a nobility, a power that reflects the gods who inspired them and suggests the gods they have become."¹³

The Mount Rushmore monument is an enduring image of the American presidency by celebrating the greatness of four American presidents. The successors to Washington, Jefferson, Lincoln, and Roosevelt do their part by trying to associate themselves with the

in *It's Show Time! Media, Politics, and Popular Culture*, ed. David A. Schultz (New York: Peter Lang, 2000), 101–116.

13. ¹⁴

14. Cited in Robert J. Dean, *Living Granite* (New York: Viking Press, 1949), 18.

office's magnificence and project an image of consensus rather than conflict, sometimes by giving speeches at the monument itself. A George W. Bush event placed the presidential podium at such an angle that the television camera could not help but put the incumbent in the same frame as his glorious predecessors.

The enduring image of Mount Rushmore highlights and exaggerates the importance of presidents as the decision makers in the American political system. It elevates the president over the presidency, the occupant over the office. All depends on the greatness of the individual president—which



George W. Bush speaking in front of Mt. Rushmore

means that the enduring image often contrasts the divinity of past presidents against the fallibility of the current incumbent.

News depictions of the White House also focus on the person of the president. They portray a “single executive image” with visibility no other political participant can boast. Presidents usually get positive coverage during crises foreign or domestic. The news media depict them speaking for and symbolically embodying the nation: giving a State of the Union address, welcoming foreign leaders, traveling abroad, representing the United States at an international conference. Ceremonial events produce laudatory coverage even during intense political controversy.

The media are fascinated with the personality and style of individual presidents. They attempt to pin them down. Sometimes, the analyses are contradictory. In one best-selling book, Bob Woodward depicted President George W. Bush as, in the words of reviewer Michiko Kakutani, “a judicious, resolute leader . . . firmly in control of the ship of state.” In a subsequent book, Woodward described Bush as “passive, impatient, sophomoric, and intellectual

incurious . . . given to an almost religious certainty that makes him disinclined to rethink or re-evaluate decisions.”¹⁵

This media focus tells only part of the story.¹⁷ The president’s independence and ability to act are constrained in several ways, most notably by the Constitution.

The Presidency in the Constitution

Article II of the Constitution outlines the office of president.

15. ¹⁶

16. Michiko Kakutani, “A Portrait of the President as the Victim of His Own Certitude,” review of *State of Denial: Bush at War, Part III*, by Bob Woodward, *New York Times*, September 30, 2006, A15; the earlier book is *Bush at War* (New York: Simon & Schuster, 2002).

17. ¹⁸

18. On the contrast of “single executive image” and the “plural executive reality,” see Lyn Ragsdale, *Presidential Politics* (Boston: Houghton Mifflin Harcourt, 1993).

Specific powers are few; almost all are exercised in conjunction with other branches of the federal government.

Table 1. Bases for Presidential Powers in the Constitution

Article I, Section 7, Paragraph 2	Veto Pocket veto
Article II, Section 1, Paragraph 1	“The Executive Power shall be vested in a President...”
Article II, Section 1, Paragraph 7	Specific presidential oath of office stated explicitly (as is not the case with other offices)
Article II, Section 2, Paragraph 1	Commander in chief of armed forces and state militias
Article II, Section 2, Paragraph 1	Can require opinions of departmental secretaries
Article II, Section 2, Paragraph 1	Reprieves and pardons for offences against the United States
Article II, Section 2, Paragraph 2	Make treaties appoint ambassadors, executive officers, judges
Article II, Section 2, Paragraph 3	Recess appointments State of the Union message and recommendation of legislative measures to Congress
Article II, Section 3	Convene special sessions of Congress Receive ambassadors and other ministers “He shall take Care that the Laws be faithfully executed”

Presidents exercise only one power that cannot be limited by other branches: the pardon. So controversial decisions like President Gerald Ford's pardon of his predecessor Richard Nixon for "crimes he committed or may have committed" or President Jimmy Carter's blanket amnesty to all who avoided the draft during the Vietnam War could not have been overturned.

Presidents have more powers and responsibilities in foreign and defense policy than in domestic affairs. They are the commanders in chief of the armed forces; they decide how (and increasingly when) to wage war. Presidents have the power to make treaties to be approved by the Senate; the president is America's chief diplomat. As head of state, the president speaks for the nation to other world leaders and receives ambassadors.

Link: The Constitution

Read the entire Constitution [here](#).

The Constitution directs presidents to be part of the legislative process. In the annual State of the Union address, presidents point out problems and recommend legislation to Congress. Presidents can convene special sessions of Congress, possibly to "jump-start" discussion of their proposals. Presidents can veto a bill passed by Congress, returning it with written objections. Congress can then override the veto. Finally, the Constitution instructs presidents to be in charge of the executive branch. Along with naming judges, presidents appoint ambassadors and executive officers. These appointments require Senate confirmation. If Congress is not in session, presidents can make temporary appointments known as

recess appointments without Senate confirmation, good until the end of the next session of Congress.

The Constitution's phrase "he shall take Care that the Laws be faithfully executed" gives the president the job to oversee the implementation of laws. Thus presidents are empowered to issue executive orders to interpret and carry out legislation. They supervise other officers of the executive branch and can require them to justify their actions.

Congressional Limitations on Presidential Power

Almost all presidential powers rely on what Congress does (or does not do). Presidential executive orders implement the law but Congress can overrule such orders by changing the law. And many presidential powers are delegated powers that Congress has accorded presidents to exercise on its behalf—and that it can cut back or rescind.

Congress can challenge presidential powers single-handedly. One way is to amend the Constitution. The [Twenty-Second Amendment](#) was enacted in the wake of the only president to serve more than two terms, the powerful Franklin D. Roosevelt (FDR). Presidents now may serve no more than two terms. The last presidents to serve eight years, Ronald Reagan, Bill Clinton, and George W. Bush, quickly became "lame ducks" after their reelection and lost momentum

toward the ends of their second terms, when attention switched to contests over their successors.

Impeachment gives Congress “sole power” to remove presidents (among others) from office.¹⁹ It works in two stages. The House decides whether or not to accuse the president of wrongdoing. If a simple majority in the House votes to impeach the president, the Senate acts as jury, House members are prosecutors, and the chief justice presides. A two-thirds vote by the Senate is necessary for conviction, the punishment for which is removal and disqualification from office.

Prior to the 1970s, presidential impeachment was deemed the founders’ “rusty blunderbuss that will probably never be taken in hand again.”²¹ Only one president (Andrew Johnson in 1868) had

19.²⁰

20. The language in the Constitution comes from Article I, Section 2, Clause 5, and Article I, Section 3, Clause 7. This section draws from Michael Les Benedict, *The Impeachment and Trial of Andrew Johnson* (New York: Norton, 1973); John R. Labowitz, *Presidential Impeachment* (New Haven, CT: Yale University Press, 1978); and Michael J. Gerhardt, *The Federal Impeachment Process: A Constitutional and Historical Analysis*, 2nd ed. (Chicago: University of Chicago Press, 2000).

21.²²

22. The early twentieth-century political scientist Henry Jones Ford quoted in John R. Labowitz, *Presidential Impeachment* (New Haven, CT: Yale University Press, 1978), 91.

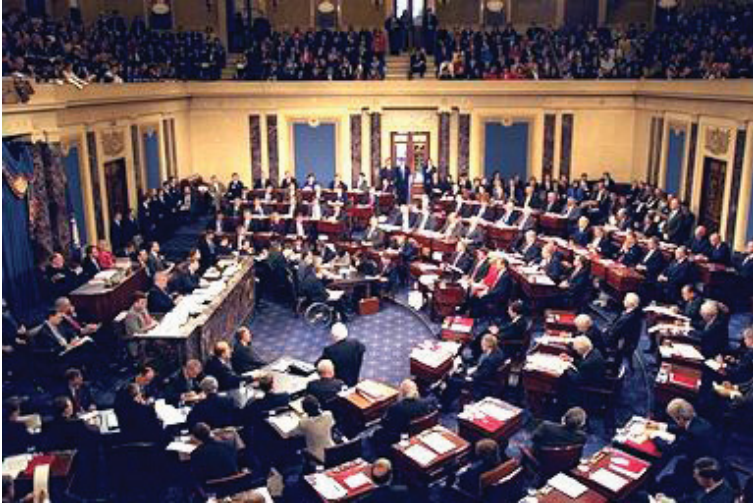
been impeached—over policy disagreements with Congress on the Reconstruction of the South after the Civil War. Johnson avoided removal by a single senator's vote.

Links: Presidential Impeachment

Read about the impeachment trial of President Johnson [here](#).

Read about the impeachment trial of President Clinton [here](#).

Since the 1970s, the blunderbuss has been dusted off. A bipartisan majority of the House Judiciary Committee recommended the impeachment of President Nixon in 1974. Nixon surely would have been impeached and convicted had he not resigned first. President Clinton was impeached by the House in 1998, though acquitted by the Senate in 1999, for perjury and obstruction of justice in the Monica Lewinsky scandal.



Bill Clinton was only the second US president to be impeached for “high crimes and misdemeanors” and stand trial in the Senate. Not surprisingly, in this day of huge media attention to court proceedings, the presidential impeachment trial was covered live by television and became endless fodder for twenty-four-hour-news channels. Chief Justice William Rehnquist presided over the trial. The House “managers” (i.e., prosecutors) of the case are on the left, the president’s lawyers on the right.

Much of the public finds impeachment a standard part of the political system. For example, a June 2005 Zogby poll found that 42 percent of the public agreed with the statement “If President Bush did not tell the truth about his reasons for going to war with Iraq, Congress should consider holding him accountable through impeachment.”²³

Impeachment can be a threat to presidents who chafe at

23. ²⁴

24. [Polling Report](#), accessed July 7, 2005.

congressional opposition or restrictions. All three impeached presidents had been accused by members of Congress of abuse of power well before allegations of law-breaking. Impeachment is handy because it refers only vaguely to official misconduct: “treason, bribery, or other high crimes and misdemeanors.”

From Congress’s perspective, impeachment can work. Nixon resigned because he knew he would be removed from office. Even presidential acquittals help Congress out. Impeachment forced Johnson to pledge good behavior and thus “succeeded in its primary goal: to safeguard Reconstruction from presidential obstruction.”²⁵ Clinton had to go out of his way to assuage congressional Democrats, who had been far from content with a number of his initiatives; by the time the impeachment trial was concluded, the president was an all-but-lame duck.

Judicial Limitations on Presidential Power

Presidents claim inherent powers not explicitly stated but that are intrinsic to the office or implied by the language of the Constitution.

25. ²⁶

26. Michael Les Benedict, *The Impeachment and Trial of Andrew Johnson* (New York: Norton, 1973), 139.

They rely on three key phrases. First, in contrast to Article I's detailed powers of Congress, Article II states that "The Executive Power shall be vested in a President." Second, the presidential oath of office is spelled out, implying a special guardianship of the Constitution. Third, the job of ensuring that "the Laws be faithfully executed" can denote a duty to protect the country and political system as a whole.

Ultimately, the Supreme Court can and does rule on whether presidents have inherent powers. Its rulings have both expanded and limited presidential power. For instance, the justices concluded in 1936 that the president, the embodiment of the United States outside its borders, can act on its behalf in foreign policy.

But the court usually looks to congressional action (or inaction) to define when a president can invoke inherent powers. In 1952, President Harry Truman claimed inherent emergency powers during the Korean War. Facing a steel strike he said would interrupt defense production, Truman ordered his secretary of commerce to seize the major steel mills and keep production going. The Supreme Court rejected this move: "the President's power, if any, to issue the order must stem either from an act of Congress or from the Constitution itself."²⁷

27.²⁸

28. Respectively, *United States v. Curtiss-Wright Export Corp.*, 299 US 304 (1936); *Youngstown Sheet & Tube Company v. Sawyer*, 343 US 579 (1952).

The Vice Presidency

Only two positions in the presidency are elected: the president and vice president. With ratification of the Twenty-Fifth Amendment in 1967, a vacancy in the latter office may be filled by the president, who appoints a vice president subject to majority votes in both the House and the Senate. This process was used twice in the 1970s. Vice President Spiro Agnew resigned amid allegations of corruption; President Nixon named House Minority Leader Gerald Ford to the post. When Nixon resigned during the Watergate scandal, Ford became president—the only person to hold the office without an election—and named former New York Governor Nelson Rockefeller vice president.

The vice president's sole duties in the Constitution are to preside over the Senate and cast tie-breaking votes, and to be ready to assume the presidency in the event of a vacancy or disability. Eight of the forty-three presidents had been vice presidents who succeeded a dead president (four times from assassinations). Otherwise, vice presidents have few official tasks. The first vice president, John Adams, told the Senate, "I am Vice President. In this I am nothing, but I may be everything." More earthily, FDR's first vice president, John Nance Garner, called the office "not worth a bucket of warm piss."

In recent years, vice presidents are more publicly visible and have taken on more tasks and responsibilities. Ford and Rockefeller began this trend in the 1970s, demanding enhanced day-to-day responsibilities and staff as conditions for taking the job. Vice presidents now have a West Wing office, are given prominent

assignments, and receive distinct funds for a staff under their control parallel to the president's staff.²⁹

Arguably the most powerful occupant of the office ever was Dick Cheney. This former doctoral candidate in political science (at the University of Wisconsin) had been a White House chief of staff, member of Congress, and cabinet secretary. He possessed an unrivaled knowledge of the power relations within government and of how to accumulate and exercise power. As George W. Bush's vice president, he had access to every cabinet and subcabinet meeting he wanted to attend, chaired the board charged with reviewing the budget, took on important issues (security, energy, economy), ran task forces, was involved in nominations and appointments, and lobbied Congress.³¹

29.³⁰

30. Paul C. Light, *Vice-Presidential Power: Advice and Influence in the White House* (Baltimore: Johns Hopkins University Press, 1984).

31.³²

32. Barton Gellman and Jo Becker, "Angler: The Cheney Vice Presidency," *Washington Post*, June 24, 2007, A1.

Organizing the Presidency

The presidency is organized around two offices. They enhance but also constrain the president's power.

The Executive Office of the President

The Executive Office of the President (EOP) is an umbrella organization encompassing all presidential staff agencies. Most offices in the EOP, such as the Office of the Vice President, the National Security Council, and the Office of Management and Budget, are established by law; some positions require Senate confirmation.

Link: The EOP

Learn about the EOP [here](#).

Inside the EOP is the White House Office (WHO). It contains the president's personal staff of assistants and advisors; most are exempt from Congress's purview. Though presidents have a free hand with the personnel and structure of the WHO, its organization has been the same for decades. Starting with Nixon in 1969, each president has named a chief of staff to head and supervise the White House staff, a press secretary to interact with the news media, and a director of communication to oversee the White House message. The national security advisor is well placed to become the most powerful architect of foreign policy, rivaling or surpassing the secretary of state. New offices, such as President Bush's creation of an office for faith-based initiatives, are rare; such positions get placed on top of or alongside old arrangements.

Even activities of a highly informal role such as the [first lady](#), the president's spouse, are standardized. It is no longer enough for them to host White House social events. They are brought out to travel and campaign. They are presidents' intimate confidantes, have staffers of their own, and advocate popular policies (e.g., Lady Bird Johnson's highway beautification, Nancy Reagan's antidrug crusade, and Barbara Bush's literacy programs). Hillary Rodham Clinton faced controversy as first lady by defying expectations of being above the policy fray; she was appointed by her husband to head the task force to draft a legislative bill for a national health-care system. Clinton's successor, Laura Bush, returned the first ladyship to a more social, less policy-minded role. Michelle Obama's cause is healthy eating. She has gone beyond advocacy to having Walmart lower prices on the fruit and vegetables it sells and reducing the amount of fat, sugar, and salt in its foods.

Bureaucratizing the Presidency

The media and the public expect presidents to put their marks on the office and on history. But “the institution makes presidents as much if not more than presidents make the institution.”³³

The presidency became a complex institution starting with FDR, who was elected to four terms during the Great Depression and World War II. Prior to FDR, presidents’ staffs were small. As presidents took on responsibilities and jobs, often at Congress’s initiative, the presidency grew and expanded.

Not only is the presidency bigger since FDR, but the division of labor within an administration is far more complex. Fiction and nonfiction media depict generalist staffers reporting to the president, who makes the real decisions. But the WHO is now a miniature bureaucracy. The WHO’s first staff in 1939 consisted of eight generalists: three secretaries to the president, three administrative assistants, a personal secretary, an executive clerk. Since the 1980s, the WHO has consisted of around eighty staffers; almost all either have a substantive specialty (e.g., national security,

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34. Lyn Ragsdale and John J. Theis III, “The Institutionalization of the American Presidency, 1924–92,” *American Journal of Political Science* 41, no. 4 (October 1997): 1280–1318 at 1316. See also John P. Burke, *The Institutional Presidency*, 2nd ed. (Baltimore: Johns Hopkins University Press, 2000).

women's initiatives, environment, health policy) or emphasize specific activities (e.g., White House legal counsel, director of press advance, public liaison, legislative liaison, chief speechwriter, director of scheduling). The White House Office adds another organization for presidents to direct—or lose track of.

The large staff in the White House, and the Old Executive Office Building next door, is no guarantee of a president's power. These staffers “make a great many decisions themselves, acting in the name of the president. In fact, the majority of White House decisions—all but the most crucial—are made by presidential assistants.”³⁵

Most of these labor in anonymity unless they make impolitic remarks. For example, two of President Bush's otherwise obscure chief economic advisors got into hot water, one for (accurately) predicting that the cost of war in Iraq might top \$200 billion, another for praising the outsourcing of jobs.³⁷ Relatively few White House staffers—the chief of staff, the national security advisor, the press secretary—become household names in the news, and even they are quick to be quoted saying, “as the president has said” or “the president decided.” But often what presidents say or do is what staffers told or wrote for them to say or do.

35. ³⁶

36. John H. Kessel, *Presidents, the Presidency, and the Political Environment* (Washington, DC: CQ Press, 2001), 2.

37. ³⁸

38. Edmund L. Andrews, “Economics Adviser Learns the Principles of Politics,” *New York Times*, February 26, 2004, C4.

Comparing Content: Days in the Life of the White House

On April 25, 2001, President George W. Bush was celebrating his first one hundred days in office. He sought to avoid the misstep of his father who ignored the media frame of the first one hundred days as the make-or-break period for a presidency and who thus seemed confused and aimless.

As part of this campaign, Bush invited Stephen Crowley, a *New York Times* photographer, to follow him and present, as Crowley wrote in his accompanying text, “an unusual behind-the-scenes view of how he conducts business.”³⁹ Naturally, the photos implied that the White House revolves completely around the president. At 6:45 a.m., “the White House came to life”—when a light came on in the president’s upstairs residence. The sole task shown for Bush’s personal assistant was peering through a peephole to monitor the president’s national security briefing. Crowley wrote “the workday ended 15 hours after it began,” after meetings, interviews, a stadium speech, and a fundraiser.

We get a different understanding of how the White House works from following not the president but some other denizen of the West Wing around for a day or so. That is what filmmaker Theodore Bogosian did: he shadowed Clinton’s then press secretary Joe Lockhart for a few days in mid-2000 with a high-definition television camera. In the revealing one-hour video, *The Press*

39. ⁴⁰

40. Stephen Crowley, “And on the 96th Day...,” *New York Times*, April 29, 2001, Week in Review, 3.

Secretary, activities of the White House are shown to revolve around Lockhart as much as Crowley's photographic essay showed they did around Bush. Even with the hands-on Bill Clinton, the video raises questions about who works for whom. Lockhart is shown devising tag lines, even policy with his associates in the press office. He instructs the president what to say as much as the other way around. He confides to the camera he is nervous about letting Clinton speak off-the-cuff.

Of course, the White House does not revolve around the person of the press secretary. Neither does it revolve entirely around the person of the president. Both are lone individuals out of many who collectively make up the institution known as the presidency.

Key Takeaways

The entertainment and news media personalize the presidency, depicting the president as the dynamic center of the political system. The Constitution foresaw the presidency as an energetic office with one person in charge. Yet the Constitution gave the office and its incumbent few powers, most of which can be countered by other branches of government. The presidency is bureaucratically organized and includes agencies, offices, and staff. They are often beyond a president's direct control.

91. Video: The Roosevelts History

Franklin Delano Roosevelt's 1933 presidential inauguration comes during the nation's worst economic crisis—the Great Depression. Banks have failed and savings accounts have been wiped out, so to explain the banking system and how it works, Franklin Roosevelt gives his first “fireside chat” to the American people.

<https://youtu.be/Xf33ow66I9Q>

92. Presidential Leadership

Summarize how presidents lead

Learning Activities

The learning activities for this section include:

- Reading: How Presidents Get Things Done

Take time to review and reflect on this activity in order to improve your performance on the assessment for this section.

93. B. Reading: How Presidents Get Things Done

Learning Objectives

After reading this section, you should be able to answer the following questions:

1. How does the president try to set the agenda for the political system, especially Congress?
2. What challenges does the president face in achieving his agenda?
3. What are the strengths and weaknesses of the presidential veto?
4. Can and do presidents lead Congress?
5. What are the president's powers as chief executive?
6. Why do presidents give so many speeches?
7. How do presidents seek public approval?

The political system was designed by the framers to be infrequently innovative, to act with neither efficiency nor dispatch. Authority is

decentralized. Political parties are usually in conflict. Interests are diverse.¹

Yet, as we have explained, presidents face high expectations for action. Adding to these expectations is the soaring rhetoric of their election campaigns. For example, candidate Obama promised to deal with the problems of the economy, unemployment, housing, health care, Iraq, Afghanistan, and much more.

As we have also explained, presidents do not invariably or even often have the power to meet these expectations. Consider the economy. Because the government and media report the inflation and unemployment rates and the number of new jobs created (or not created), the public is consistently reminded of these measures when judging the president's handling of the economy. And certainly the president does claim credit when the economy is doing well. Yet the president has far less control over the economy and these economic indicators than the media convey and many people believe.

A president's opportunities to influence public policies depend in part on the preceding administration and the political circumstances under which the new president takes office.³ Presidents often face intractable issues, encounter unpredictable events, have to make complex policy decisions, and are beset by scandals (policy, financial, sexual).

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2. George C. Edwards III, *The Strategic President: Persuasion and Opportunity in Presidential Leadership* (Princeton, NJ: Princeton University Press, 2009).

3. ⁴

4. Stephen Skowronek, *Presidential Leadership in Political Time* (Lawrence: University Press of Kansas, 2008).

Once in office, reality sinks in. Interviewing [President Obama on *The Daily Show*](#), Jon Stewart wondered whether the president's campaign slogan of "Yes we can" should be changed to "Yes we can, given certain conditions." President Obama replied, "I think I would say 'yes we can, but . . . it's not going to happen overnight.'"⁵

So how do presidents get things done? Presidential powers and prerogatives do offer opportunities for leadership.

Link: Presidential Recordings

Between 1940 and 1973, six American presidents from both political parties secretly recorded just less than five thousand hours of their meetings and telephone conversations. Listen to some of them [here](#).

Presidents indicate what issues should garner most attention and action; they help set the policy agenda. They lobby Congress to pass their programs, often by campaign-like swings around the country. Their position as head of their political party enables them to keep or gain allies (and win reelection). Inside the executive branch, presidents make policies by well-publicized appointments and executive orders. They use their ceremonial position as head of

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6. Sheryl Gay Stolberg, "Hope and Change as Promised, Just Not Overnight," *New York Times*, October 28, 2010, A18.

state to get into the news and gain public approval, making it easier to persuade others to follow their lead.

Agenda-Setter for the Political System

Presidents try to set the political agenda. They call attention to issues and solutions, using constitutional powers such as calling Congress into session, recommending bills, and informing its members about the state of the union, as well as giving speeches and making news.⁷

7.⁸

8. Donna R. Hoffman and Alison D. Howard, *Addressing the State of the Union* (Boulder, CO: Lynne Rienner Publishers, 2006).

Congress does not always defer to and sometimes spurns the president's agenda. Its members serve smaller, more distinct constituencies for different terms. When presidents hail from the same party as the majority of Congress members, they have more influence to ensure that their ideas receive serious attention on Capitol Hill. So presidents work hard to keep or increase the number of



The president's constitutional responsibility to inform Congress on "the state of the union" has been elevated into a performance, nationally broadcast on all major networks and before a joint session on Capitol Hill, that summarizes the key items on his policy agenda.

members of their party in Congress: raising funds for the party (and their own campaign), campaigning for candidates, and throwing weight (and money) in a primary election behind the strongest or their preferred candidate. Presidential coattails—where members of Congress are carried to victory by the winning presidential candidates—are increasingly short. Most legislators win by larger margins in their district than does the president. In the elections midway through the president's term, the president's party generally loses seats in Congress. In 2010, despite President Obama's efforts, the Republicans gained a whopping sixty-three seats and took control of the House of Representatives.

Since presidents usually have less party support in Congress in the second halves of their terms, they most often expect that Congress will be more amenable to their initiatives in their first two years. But even then, divided government, where one party controls the presidency and another party controls one or both chambers of Congress, has been common over the last fifty years. For presidents, the prospect of both a friendly House and Senate has become the exception.

Even when the White House and Congress are controlled by the

same party, as with President Obama and the 2009 and 2010 Congress, presidents do not monopolize the legislative agenda. Congressional leaders, especially of the opposing party, push other issues—if only to pressure or embarrass the president. Members of Congress have made campaign promises they want to keep despite the president’s policy preferences. Interest groups with pet projects crowd in.

Nonetheless, presidents are better placed than any other individual to influence the legislative process. In particular, their high prominence in the news means that they have a powerful impact on what issues will—and will not—be considered in the political system as a whole.

What about the contents of “the president’s agenda”? The president is but one player among many shaping it. The transition from election to inauguration is just over two months (Bush had less time because of the disputed 2000 Florida vote). Presidents are preoccupied first with naming a cabinet and White House staff. To build an agenda, presidents “borrow, steal, co-opt, redraft, rename, and modify any proposal that fits their policy goals.”⁹ Ideas largely come from fellow partisans outside the White House. Bills already introduced in Congress or programs proposed by the bureaucracy are handy. They have received discussion, study, and compromise that have built support. And presidents have more success getting borrowed legislation through Congress than policy proposals devised inside the White House.¹¹

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10. Paul C. Light, *The President’s Agenda: Domestic Policy Choice from Kennedy to Clinton*, 3rd ed. (Baltimore: Johns Hopkins University Press, 1999), 89.

11.¹²

Crises and unexpected events affect presidents' agenda choices. Issues pursue presidents, especially through questions and stories of White House reporters, as much as presidents pursue issues. A hugely destructive hurricane on the Gulf Coast propels issues of emergency management, poverty, and reconstruction onto the policy agenda whether a president wants them there or not.

Finally, many agenda items cannot be avoided. Presidents are charged by Congress with proposing an annual budget. Raw budget numbers represent serious policy choices. And there are ever more agenda items that never seem to get solved (e.g., energy, among many others).

Chief Lobbyist in Congress

After suggesting what Congress should do, presidents try to persuade legislators to follow through. But without a formal role, presidents are outsiders to the legislative process. They cannot introduce bills in Congress and must rely on members to do so.

12. Andrew Rudalevige, *Managing the President's Program: Presidential Leadership and Legislative Policy Formulation* (Princeton, NJ: Princeton University Press, 2002).

Legislative Liaison

Presidents aim at legislative accomplishments by negotiating with legislators directly or through their legislative liaison officers: White House staffers assigned to deal with Congress who provide a conduit from president to Congress and back again. These staffers convey presidential preferences and pressure members of Congress; they also pass along members' concerns to the White House. They count votes, line up coalitions, and suggest times for presidents to rally fellow party members. And they try to cut deals.

Legislative liaison focuses less on twisting arms than on maintaining “an era of good feelings” with Congress. Some favors are large: supporting an appropriation that benefits members' constituencies; traveling to members' home turf to help them raise funds for reelection; and appointing members' cronies to high office. Others are small: inviting them up to the White House, where they can talk with reporters; sending them autographed photos or extra tickets for White House tours; and allowing them to announce grants. Presidents hope the cordiality will encourage legislators to return the favor when necessary.¹³

Such good feelings are tough to maintain when presidents and the opposition party espouse conflicting policies, especially when that party has a majority in one or both chambers of Congress or both sides adopt take-it-or-leave-it stances.

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14. This section relies on Kenneth Collier, *Between the Branches: The White House Office of Legislative Affairs* (Pittsburgh: University of Pittsburgh Press, 1997).

The Veto

When Congress sends a bill to the White House, a president can return it with objections.¹⁵ This veto—Latin for “I forbid”—heightens the stakes. Congress can get its way only if it overrides the veto with two-thirds majorities in each chamber. Presidents who use the veto can block almost any bill they dislike; only around 4 percent of all vetoes have ever been successfully overridden.¹⁷ The threat of a veto can be enough to get Congress to enact legislation that presidents prefer.

The veto does have drawbacks for presidents. Consider the following:

- Vetoes alienate members of Congress who worked hard crafting a bill. So vetoes are most used as a last resort. After the 1974 elections, Republican President Ford faced an

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16. This section relies most on Charles M. Cameron, *Veto Bargaining: Presidents and the Politics of Negative Power* (New York: Cambridge University Press, 2000); see also Robert J. Spitzer, *The Presidential Veto: Touchstone of the American Presidency* (Albany: State University of New York Press, 1988).

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18. See Harold W. Stanley and Richard G. Niemi, *Vital Statistics on American Politics, 1999–2000* (Washington, DC: CQ Press, 1998), table 6–9.

overwhelmingly Democratic Congress. A Ford legislative liaison officer recalled, “We never deliberately sat down and made the decision that we would veto sixty bills in two years. . . . It was the only alternative.”¹⁹

- The veto is a blunt instrument. It is useless if Congress does not act on legislation in the first place. In his 1993 speech proposing health-care reform, President Clinton waved a pen and vowed to veto any bill that did not provide universal coverage. Such a threat meant nothing when Congress did not pass any reform. And unlike governors of most states, presidents lack a line-item veto, which allows a chief executive to reject parts of a bill. Congress sought to give the president this power in the late 1990s, but the Supreme Court declared the law unconstitutional.²¹ Presidents must take or leave bills in their totality.
- Congress can turn the veto against presidents. For example, it can pass a popular bill—especially in an election year—and dare the president to reject it. President Clinton faced such “veto bait” from the Republican Congress when he was up for reelection in 1996. The [Defense of Marriage Act](#), which would have restricted federal recognition of marriage to opposite-sex couples, was deeply distasteful to lesbians and gay men (a key Democratic constituency) but strongly backed in public opinion polls. A Clinton veto could bring blame for killing the

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20. Quoted in Paul C. Light, *The President’s Agenda: Domestic Policy Choice from Kennedy to Clinton*, 3rd ed. (Baltimore: Johns Hopkins University Press, 1999), 112.

21. ²²

22. *Clinton v. City of New York*, 524 US 427 (1998).

bill or provoke a humiliating override. Signing it ran the risk of infuriating lesbian and gay voters. Clinton ultimately signed the legislation—in the middle of the night with no cameras present.

- Veto threats can backfire. After the Democrats took over the Senate in mid-2001, they moved the “patients’ bill of rights” authorizing lawsuits against health maintenance organizations to the top of the Senate agenda. President Bush said he would veto the bill unless it incorporated strict limits on rights to sue and low caps on damages won in lawsuits. Such a visible threat encouraged a public perception that Bush was opposed to any patients’ bill of rights, or even to patients’ rights at all.²³ Veto threats thus can be ineffective or create political damage (or, as in this case, both).

Savvy presidents use “vetoes not only to block legislation but to shape it. . . . Vetoes are not fatal bullets but bargaining ploys.”²⁵ Veto threats and vetoing ceremonies become key to presidential communications in the news, which welcomes the story of Capitol Hill-versus-White House disputes, particularly under divided government. In 1996, President Clinton faced a tough welfare reform bill from a Republican Congress whose leaders dared him to veto the bill so they could claim he broke his 1992 promise to

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24. Frank Bruni, “Bush Strikes a Positive Tone on a Patients’ Bill of Rights,” *New York Times*, July 10, 2001, A12.

25.²⁶

26. Charles M. Cameron, *Veto Bargaining: Presidents and the Politics of Negative Power* (New York: Cambridge University Press, 2000), 171.

“end welfare as we know it.” Clinton vetoed the first bill; Republicans reduced the cuts but kept tough provisions denying benefits to children born to welfare recipients. Clinton vetoed this second version; Republicans shrank the cuts again and reduced the impact on children. Finally, Clinton signed the bill—and ran ads during his reelection campaign proclaiming how *he* had “ended welfare as we know it.”

Signing Statements

In a signing statement, the president claims the right to ignore or refuse to enforce laws, parts of laws, or provisions of appropriations bills even though Congress has enacted them and he has signed them into law. This practice was uncommon until developed during President Ronald Reagan’s second term. It escalated under President George W. Bush, who rarely exercised the veto but instead issued almost 1,200 signing statements in eight years—about twice as many as all his predecessors combined. As one example, he rejected the requirement that he report to Congress on how he had provided safeguards against political interference in federally funded research. He justified his statements on the “inherent” power of the commander in chief and on a hitherto obscure doctrine called the unitary executive, which holds that the executive branch can overrule Congress and the courts on the basis of the president’s interpretation of the Constitution.

President Obama ordered executive officials to consult with the attorney general before relying on any of President Bush’s signing statements to bypass a law. Yet he initially issued some signing

statements himself. Then, to avoid clashing with Congress, he refrained from doing so. He did claim that the executive branch could bypass what he deemed to be unconstitutional restraints on executive power. But he did not invoke the unitary executive theory.²⁷

Presidential Scorecards in Congress

How often do presidents get their way on Capitol Hill? On congressional roll call votes, Congress goes along with about three-fourths of presidential recommendations; the success rate is highest earlier in the term.²⁹ Even on controversial, important

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28. Charlie Savage, “Obama’s Embrace of a Bush Tactic Riles Congress,” *New York Times*, August 9, 2009, A1; and Charlie Savage, “Obama Takes a New Route to Opposing Parts of Laws,” *New York Times*, January 9, 2010, A9.

29.³⁰

30. George C. Edwards III, *At the Margins: Presidential Leadership of Congress* (New Haven, CT: Yale University

legislation for which they expressed a preference well in advance of congressional action, presidents still do well. Congress seldom ignores presidential agenda items entirely. One study estimates that over half of presidential recommendations are substantially reflected in legislative action.³¹

Can and do presidents lead Congress, then? Not quite. Most presidential success is determined by Congress's partisan and ideological makeup. Divided government and party polarization on Capitol Hill have made Congress more willing to disagree with the president. So recent presidents are less successful even while being choosier about bills to endorse. Eisenhower, Kennedy, and Johnson

Press, 1989); Jon R. Bond and Richard Fleisher, *The President in the Legislative Arena* (Chicago: University of Chicago Press, 1990); and Mark A. Peterson, *Legislating Together: The White House and Capitol Hill from Eisenhower to Reagan* (Cambridge, MA: Harvard University Press, 1990). For overall legislative productivity, the classic starting point is David R. Mayhew's *Divided We Govern: Party Control, Lawmaking, and Investigations, 1946–1990* (New Haven, CT: Yale University Press, 1991).

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32. Mark A. Peterson, *Legislating Together: The White House and Capitol Hill from Eisenhower to Reagan* (Cambridge, MA: Harvard University Press, 1990); and Andrew Rudalevige, *Managing the President's Program: Presidential Leadership and Legislative Policy Formulation* (Princeton, NJ: Princeton University Press, 2002), 136.

staked out positions on well over half of congressional roll call votes. Their successors have taken positions on fewer than one-fourth of them—especially when their party did not control Congress. “Presidents, wary of an increasingly independent-minded congressional membership, have come to actively support legislation only when it is of particular importance to them, in an attempt to minimize defeat.”³³

Chief Executive

As chief executive, the president can move first and quickly, daring others to respond. Presidents like both the feeling of power and favorable news stories of them acting decisively. Though Congress and courts can respond, they often react slowly; many if not most presidential actions are never challenged.³⁵ Such direct presidential

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34. Lyn Ragsdale, *Vital Statistics on the Presidency*, 3rd ed. (Washington, DC: CQ Press, 2008), 360. See also Steven A. Shull and Thomas C. Shaw, *Explaining Congressional-Presidential Relations: A Multiple Perspective Approach* (Albany: State University of New York Press, 1999), chap.

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35. ³⁶

action is based in several powers: to appoint officials, to issue executive orders, to “take care that the laws be faithfully executed,” and to wage war.

Appointment Powers

Presidents both hire and (with the exception of regulatory commissions) fire executive officers. They also appoint ambassadors, the members of independent agencies, and the judiciary.³⁷

36. Terry M. Moe, “The Presidency and the Bureaucracy: The Presidential Advantage,” in *The Presidency and the Political System*, 6th ed., ed. Michael Nelson (Washington, DC: CQ Press, 2000), 443–74; and William G. Howell, *Power without Persuasion: The Politics of Direct Presidential Action* (Princeton, NJ: Princeton University Press, 2003).

37.³⁸

38. See David E. Lewis, *The Politics of Presidential Appointments: Political Control and Bureaucratic Performance* (Princeton, NJ: Princeton University Press,

The months between election and inauguration are consumed by the need to rapidly assemble a cabinet, a group that reports to and advises the president, made up of the heads of the fourteen executive departments and whatever other positions the president accords cabinet-level rank. Finding “the right person for the job” is but one criterion. Cabinet appointees overwhelmingly hail from the president’s party; choosing fellow partisans rewards the winning coalition and helps achieve policy.³⁹ Presidents also try to create a team that, in Clinton’s phrase, “looks like America.” In 1953, President Dwight Eisenhower was stung by the news media’s joke that his first cabinet—all male, all white—consisted of “nine millionaires and a plumber” (the latter was a union official, a short-lived labor secretary). By contrast, George W. Bush’s and Barack Obama’s cabinets had a generous complement of persons of color and women—and at least one member of the other party.

These presidential appointees must be confirmed by the Senate. If the Senate rarely votes down a nominee on the floor, it no longer rubber-stamps scandal-free nominees. A nominee may be stopped in a committee. About one out of every twenty key nominations is never confirmed, usually when a committee does not schedule it for a vote.⁴¹

2008); and G. Calvin Mackenzie, ed., *Innocent until Nominated: The Breakdown of the Presidential Appointments Process*, ed. G. Calvin Mackenzie (Washington, DC: Brookings Institution Press, 2001).

39.⁴⁰

40. Jeffrey E. Cohen, *The Politics of the U.S. Cabinet: Representation in the Executive Branch, 1789–1984* (Pittsburgh, PA: University of Pittsburgh Press, 1988).

41.⁴²

Confirmation hearings are opportunities for senators to quiz nominees about pet projects of interest to their states, to elicit pledges to testify or provide information, and to extract promises of policy actions.⁴³ To win confirmation, cabinet officers pledge to be responsive and accountable to Congress. Subcabinet officials and federal judges, lacking the prominence of cabinet and Supreme Court nominees, are even more belatedly nominated and more slowly confirmed. Even senators in the president's party routinely block nominees to protest poor treatment or win concessions.

As a result, presidents have to wait a long time before their appointees take office. Five months into President George W. Bush's first term, one study showed that of the 494 cabinet and subcabinet positions to fill, under half had received nominations; under one-fourth had been confirmed.⁴⁵ One scholar observed, "In America today, you can get a master's degree, build a house, bicycle across

42. Glen S. Kurtz, Richard Fleisher, and Jon R. Bond, "From Abe Fortas to Zoë Baird: Why Some Presidential Nominations Fail in the Senate," *American Political Science Review* 92 (December 1998): 871–81.

43.⁴⁴

44. G. Calvin Mackenzie, *The Politics of Presidential Appointments* (New York: Free Press, 1981), especially chap. 7.

45.⁴⁶

46. James Dao, "In Protest, Republican Senators Hold Up Defense Confirmations," *New York Times*, May 10, 2001, A20; and Crystal Nix Hines, "Lag in Appointments Strains the Cabinet," *New York Times*, June 14, 2001, A20.

country, or make a baby in less time than it takes to put the average appointee on the job.”⁴⁷ With presidential appointments unfilled, initiatives are delayed and day-to-day running of the departments is left by default to career civil servants.

No wonder presidents can, and increasingly do, install an acting appointee or use their power to make recess appointments.⁴⁹ But such unilateral action can produce a backlash. In 2004, two nominees for federal court had been held up by Democratic senators; when Congress was out of session for a week, President Bush named them to judgeships in recess appointments. Furious Democrats threatened to filibuster or otherwise block all Bush’s judicial nominees. Bush had no choice but to make a deal that he would not make any more judicial recess appointments for the rest of the year.⁵¹

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48. G. Calvin Mackenzie, “The State of the Presidential Appointments Process,” in *Innocent Until Nominated: The Breakdown of the Presidential Appointments Process*, ed. G. Calvin Mackenzie (Washington, DC: Brookings Institution Press, 2001), 1–49 at 40–41.

49. ⁵⁰

50. G. Calvin Mackenzie, “The State of the Presidential Appointments Process,” in *Innocent Until Nominated: The Breakdown of the Presidential Appointments Process* (Washington, DC: Brookings Institution Press, 2001), 35.

51. ⁵²

52. Neil A. Lewis, “Deal Ends Impasse over Judicial Nominees,” *New York Times*, May 19, 2004, A1.

Executive Orders

Presidents make policies by executive orders.⁵³ This power comes from the constitutional mandate that they “take care that the laws be faithfully executed.”

Executive orders are directives to administrators in the executive branch on how to implement legislation. Courts treat them as equivalent to laws. Dramatic events have resulted from executive orders. Some famous executive orders include Lincoln’s Emancipation Proclamation, Franklin D. Roosevelt’s closing the banks to avoid runs on deposits and his authorizing internment of Japanese Americans during World War II, Truman’s desegregation of the armed forces, Kennedy’s establishment of the Peace Corps, and Nixon’s creation of the Environmental Protection Agency. More typically, executive orders reorganize the executive branch and impose restrictions or directives on what bureaucrats may or may not do. The attraction of executive orders was captured by one aide to President Clinton: “Stroke of the pen. Law of the land. Kind of cool.”⁵⁵ Related ways for presidents to try to get things done

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54. Kenneth R. Mayer, *With the Stroke of a Pen: Executive Orders and Presidential Power* (Princeton, NJ: Princeton University Press, 2001).

55.⁵⁶

56. Paul Begala, quoted in James Bennet, “True to Form, Clinton Shifts Energies Back to U.S. Focus,” *New York Times*, July 5, 1998, 10.

are by memoranda to cabinet officers, proclamations authorized by legislation, and (usually secret) national security directives.⁵⁷

Executive orders are imperfect for presidents; they can be easily overturned. One president can do something “with the stroke of a pen”; the next can easily undo it. President Reagan’s executive order withholding American aid to international population control agencies that provide abortion counseling was rescinded by an executive order by President Clinton in 1993, then reinstated by another executive order by President Bush in 2001—and rescinded once more by President Obama in 2009. Moreover, since executive orders are supposed to be a mere execution of what Congress has already decided, they can be superseded by congressional action.

War Powers

Opportunities to act on behalf of the entire nation in international affairs are irresistible to presidents. Presidents almost always gravitate toward foreign policy as their terms progress. Domestic policy wonk Bill Clinton metamorphosed into a foreign policy enthusiast from 1993 to 2001. Even prior to 9/11 the notoriously

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58. Phillip J. Cooper, *By Order of the President: The Use and Abuse of Executive Direct Action* (Lawrence: University Press of Kansas, 2002).

untraveled George W. Bush was undergoing the same transformation. President Obama has been just as if not more involved in foreign policy than his predecessors.

Congress—as long as it is consulted—is less inclined to challenge presidential initiatives in foreign policy than in domestic policy. This idea that the president has greater autonomy in foreign than domestic policy is known as the “Two Presidencies Thesis.”⁵⁹

War powers provide another key avenue for presidents to act unilaterally. After the 9/11 attacks, President Bush’s Office of Legal Counsel to the US Department of Justice argued that as commander in chief President Bush could do what was necessary to protect the American people.⁶²

59. ⁶⁰ Such deference seems largely limited to presidents’ own initiatives.⁶¹

60. See Barbara Hinckley, *Less than Meets the Eye: Foreign Policy Making and the Myth of the Assertive Congress* (Chicago: University of Chicago Press, 1994).

61. See Richard Fleisher, Jon R. Bond, Glen S. Krutz, and Stephen Hanna, “The Demise of the Two Presidencies,” *American Politics Quarterly* 28 (2000): 3–25; and Andrew Rudalevige, *Managing the President’s Program: Presidential Leadership and Legislative Policy Formulation* (Princeton, NJ: Princeton University Press, 2002), 148–49.

62. ⁶³

63. John Yoo, *The Powers of War and Peace: The Constitution*

Since World War II, presidents have never asked Congress for (or received) a declaration of war. Instead, they rely on open-ended congressional authorizations to use force (such as for wars in Vietnam and “against terrorism”), United Nations resolutions (wars in Korea and the Persian Gulf), North American Treaty Organization (NATO) actions (peacekeeping operations and war in the former Yugoslavia), and orchestrated requests from tiny international organizations like the Organization of Eastern Caribbean States (invasion of Grenada). Sometimes, presidents amass all these: in his last press conference before the start of the invasion of Iraq in 2003, President Bush invoked the congressional authorization of force, UN resolutions, *and* the inherent power of the president to protect the United States derived from his oath of office.

Congress can react against undeclared wars by cutting funds for military interventions. Such efforts are time consuming and not in place until long after the initial incursion. But congressional action, or its threat, did prevent military intervention in Southeast Asia during the collapse of South Vietnam in 1975 and sped up the withdrawal of American troops from Lebanon in the mid-1980s and Somalia in 1993.⁶⁴

Congress’s most concerted effort to restrict presidential war powers, the [War Powers Act](#), which passed over President Nixon’s veto in 1973, may have backfired. It established that presidents must consult with Congress prior to a foreign commitment of troops,

and Foreign Affairs after 9/11 (Chicago: University of Chicago Press, 2005).

64.⁶⁵

65. William G. Howell and Jon C. Pevehouse, *While Dangers Gather: Congressional Checks on Presidential War Powers* (Princeton, NJ: Princeton University Press, 2007).

must report to Congress within forty-eight hours of the introduction of armed forces, and must withdraw such troops after sixty days if Congress does not approve. All presidents denounce this legislation. But it gives them the right to commit troops for sixty days with little more than requirements to consult and report—conditions presidents often feel free to ignore. And the presidential prerogative under the War Powers Act to commit troops on a short-term basis means that Congress often reacts after the fact. Since Vietnam, the act has done little to prevent presidents from unilaterally launching invasions.⁶⁶

President Obama did not seek Congressional authorization before ordering the US military to join attacks on the Libyan air defenses and government forces in March 2011. After the bombing campaign started, Obama sent Congress a letter contending that as commander in chief he had constitutional authority for the attacks. The White House lawyers distinguished between this limited military operation and a war.

66.⁶⁷

67. Louis Fisher, *Presidential War Power* (Lawrence: University of Kansas Press, 1995); Barbara Hinckley, *Less than Meets the Eye: Foreign Policy Making and the Myth of the Assertive Congress* (Chicago: University of Chicago Press, 1994), chap. 4.

Presidents and the People

Public approval helps the president assure agreement, attract support, and discourage opposition. Presidents with high popularity win more victories in Congress on high-priority bills.⁶⁸ But obtaining public approval can be complicated. Presidents face contradictory expectations, even demands, from the public: to be an ordinary person yet display heroic qualities, to be nonpolitical yet excel (unobtrusively) at the politics required to get things done, to be a visionary leader yet respond to public opinion.⁷⁰

68.⁶⁹

69. Brandice Canes-Wrone, *Who Leads Whom? Presidents, Policy, and the Public* (Chicago: University of Chicago Press, 2006).

70.⁷¹

71. Thomas E. Cronin and Michael A. Genovese, *The Paradoxes of the American Presidency*, 3rd ed. (New York: Oxford University Press, 2009).

Public Approval

For over fifty years, pollsters have asked survey respondents, “Do you approve or disapprove of the way that the president is handling his job?” Over time there has been variation from one president to the next, but the general pattern is unmistakable.⁷² Approval starts out fairly high (near the percentage of the popular vote), increases slightly during the honeymoon, fades over the term, and then levels off. Presidents differ largely in the *rate* at which their approval rating declines. President Kennedy’s support eroded only slightly, as opposed to the devastating drops experienced by Ford and Carter. Presidents in their first terms are well aware that, if they fall below 50 percent, they are in danger of losing reelection or of losing allies in Congress in the midterm elections.

Events during a president’s term—and how the news media frame them—drive approval ratings up or down. Depictions of economic hard times, drawn-out military engagements (e.g., Korea, Vietnam, and Iraq), unpopular decisions (e.g., Ford’s pardon of Nixon), and other bad news drag approval ratings lower. The main upward push comes from quick international interventions, as for President

72.⁷³

73. James A. Stimson, “Public Support for American Presidents: A Cyclical Model,” *Public Opinion Quarterly* 40 (1976): 1–21; Samuel Kernell, “Explaining Presidential Popularity,” *American Political Science Review* 72 (1978): 506–22; and Richard A. Brody, *Assessing the President: The Media, Elite Opinion, and Public Support* (Stanford, CA: Stanford University Press, 1991).

Obama after the killing of Osama bin Laden in 2011, or successfully addressing national emergencies, which boost a president's approval for several months. Under such conditions, official Washington speaks more in one voice than usual, the media drop their criticism as a result, and presidents depict themselves as embodiments of a united America. The successful war against Iraq in 1991 pushed approval ratings for the elder Bush to 90 percent, exceeded only by the ratings of his son after 9/11. It may be beside the point whether the president's decision was smart or a blunder. Kennedy's press secretary, Pierre Salinger, later recalled how the president's approval ratings actually climbed after Kennedy backed a failed invasion by Cuban exiles at the Bay of Pigs: "He called me into his office and he said, 'Did you see that Gallup poll today?' I said, 'Yes.' He said, 'Do you think I have to continue doing stupid things like that to remain popular with the American people?'"⁷⁴

But as a crisis subsides, so too do official unity, tributes in the press, and the president's lofty approval ratings. Short-term effects wane over the course of time. Bush's huge boost from 9/11 lasted well into early 2003; he got a smaller, shorter lift from the invasion of Iraq in April 2003 and another from the capture of Saddam Hussein in December before dropping to levels perilously near, then below, 50 percent. Narrowly reelected in 2008, Bush saw his approval sink to new lows (around 30 percent) over the course of his second term.

74. ⁷⁵

75. Quoted in Daniel C. Hallin, ed., *The Presidency, the Press and the People* (La Jolla: University of California, San Diego, 1992), 21.

Polls

Naturally and inevitably, presidents employ pollsters to measure public opinion. Poll data can influence presidents' behavior, the calculation and presentation of their decisions and policies, and their rhetoric.⁷⁶

After the devastating loss of Congress to the Republicans midway through his first term, President Clinton hired public relations consultant Dick Morris to find widely popular issues on which he could take a stand. Morris used a "60 percent rule": if six out of ten Americans were in favor of something, Clinton had to be too. Thus the Clinton White House crafted and adopted some policies knowing that they had broad popular support, such as balancing the budget and "reforming" welfare.

Even when public opinion data have no effects on a presidential decision, they can still be used to ascertain the best way to justify the policy or to find out how to present (i.e., spin) unpopular policies so that they become more acceptable to the public. Polls can identify the words and phrases that best sell policies to people. President George W. Bush referred to "school choice" instead of "school voucher programs," to the "death tax" instead of "inheritance taxes," and to "wealth-generating private accounts" rather than "the privatization of Social Security." He presented reducing taxes for wealthy Americans as a "jobs" package.⁷⁸

76.⁷⁷

77. Lawrence Jacobs and Robert Shapiro, *Politicians Don't Pander* (Chicago: University of Chicago Press, 2000).

78.⁷⁹

Polls can even be used to adjust a president's personal behavior. After a poll showed that some people did not believe that President Obama was a Christian, he attended services, with photographers in tow, at a prominent church in Washington, DC.

Speechmaker-in-Chief

Presidents speak for various reasons: to represent the country, address issues, promote policies, and seek legislative accomplishments; to raise funds for their campaign, their party, and its candidates; and to berate the opposition. They also speak to control the executive branch by publicizing their thematic focus, ushering along appointments, and issuing executive orders.⁸⁰ They

79. Joshua Green, "The Other War Room," *Washington Monthly* 34, no. 4 (April 2002): 11–16; and Ben Fritz, Bryan Keefer, and Brendan Nyhan, *All the President's Spin: George W. Bush, the Media, and the Truth* (New York: Touchstone, 2004).

80.⁸¹

81. See Michael Baruch Grossman and Martha Joynt Kumar, *Portraying the President: The White House and the News Media* (Baltimore: Johns Hopkins University Press, 1980);

aim their speeches at those physically present and, often, at the far larger audience reached through the media.

In their speeches, presidents celebrate, express national emotion, educate, advocate, persuade, and attack. Their speeches vary in importance, subject, and venue. They give major ones, such as the inauguration and State of the Union. They memorialize events such as 9/11 and speak at the site of tragedies (as President Obama did on January 12, 2011, in Tucson, Arizona, after the shootings of Rep. Gabrielle Giffords and bystanders by a crazed gunman). They give commencement addresses. They speak at party rallies. And they make numerous routine remarks and brief statements.

and John Anthony Maltese, *Spin Control: The White House Office of Communications and the Management of Presidential News* (Chapel Hill: University of North Carolina Press, 1992).

Video Clip: President Obama's Speech

President Obama traveled to Tucson on January 12, 2011, to help memorialize those who died in the shooting rampage there. Watch the entire speech below:



One or more interactive elements has been excluded from this version of the text. You can view them online

here: <https://library.achievingthedream.org/herkimeramericangovernment/?p=115#oembed-1>

Presidents are more or less engaged in composing and editing their speeches. For speeches that articulate policies, the contents will usually be considered in advance by the people in the relevant executive branch departments and agencies who make suggestions

and try to resolve or meld conflicting views, for example, on foreign policy by the State and Defense departments, the CIA, and National Security Council. It will be up to the president, to buy in on, modify, or reject themes, arguments, and language.

The president's speechwriters are involved in the organization and contents of the speech.⁸² They contribute memorable phrases, jokes, applause lines, transitions, repetition, rhythm, emphases, and places to pause. They write for ease of delivery, the cadence of the president's voice, mannerisms of expression, idioms, pace, and timing.

In search of friendly audiences, congenial news media and vivid backdrops, presidents often travel outside Washington to give their speeches.⁸⁴ In his first one hundred days in office in 2001, George W. Bush visited twenty-six states to give speeches; this was a new record even though he refused to spend a night anywhere other

82.⁸³

83. This discussion is based on Robert Schlesinger, *White House Ghosts: Presidents and Their Speechwriters* (New York: Simon & Schuster, 2008).

84.⁸⁵

85. Roderick Hart, *The Sound of Leadership: Presidential Communication in the Modern Age* (Chicago: University of Chicago Press, 1986); Barbara Hinckley, *The Symbolic Presidency* (New York: Routledge, 1991); and Gregory L. Hager and Terry Sullivan, "President-Centered and Presidency-Centered Explanations of Presidential Public Activity," *American Journal of Political Science* 38 (November 1994): 1079–1103.

than in his own beds at the White House, at Camp David (the presidential retreat), or on his Texas ranch.⁸⁶

Memorable settings may be chosen as backdrops for speeches, but they can backfire. On May 1, 2003, President Bush emerged in a flight suit from a plane just landed on the aircraft carrier USS *Abraham Lincoln* and spoke in front of a huge banner that proclaimed “Mission Accomplished,” implying the end of major combat operations in Iraq. The banner was positioned for the television cameras to ensure that the open sea, not San Diego, appeared in the background. The slogan may have originated with the ship’s commander or sailors, but the Bush people designed and placed it perfectly for the cameras and choreographed the scene.

86.⁸⁷

87. David E. Sanger and Marc Lacey, “In Early Battles, Bush Learns Need for Compromises,” *New York Times*, April 29, 2001, A1.



As violence in Iraq continued and worsened, the banner would be framed by critics of the war as a publicity stunt, a symbol of the administration's arrogance and failure.

Speechmaking can entail going public: presidents give a major address to promote public approval of their decisions, to advance their policy objectives and solutions in Congress and the bureaucracy, or to defend themselves against accusations of illegality and immorality. Going public is “a strategic adaptation to the information age.”⁸⁸

88.⁸⁹

89. Samuel Kernell, *Going Public: New Strategies of Presidential Leadership*, 4th ed. (Washington, DC: CQ Press, 2007), 2; and Stephen J. Farnsworth, *Spinner in*

According to a study of presidents' television addresses, they fail to increase public approval of the president and rarely increase public support for the policy action the president advocates.⁹⁰ There can, however, be a rally phenomenon. The president's approval rating rises during periods of international tension and likely use of American force. Even at a time of policy failure, the president can frame the issue and lead public opinion. Crisis news coverage likely supports the president.

Moreover, nowadays, presidents, while still going public—that is, appealing to national audiences—increasingly go local: they take a targeted approach to influencing public opinion. They go for audiences who might be persuadable, such as their party base and interest groups, and to strategically chosen locations.⁹²

Chief: How Presidents Sell Their Policies and Themselves
(Boulder, CO: Paradigm Publishers, 2009).

90.⁹¹

91. George C. Edwards III, *On Deaf Ears: The Limits of the Bully Pulpit* (New Haven, CT: Yale University Press, 2003), 241.

92.⁹³

93. Jeffrey E. Cohen, *Going Local: Presidential Leadership in the Post-Broadcast Age* (New York: Cambridge University Press, 2010).

Key Takeaways

The president gets things done as an agenda-setter and the chief lobbyist and via his veto power and signing statements. To what extent he can lead Congress depends on its party composition and ideological makeup. As the chief executive, the president gets things done through the appointment powers, executive orders, and war powers. The president seeks power and public approval through speeches and by heeding public response to polls.

94. Presidents in the Information Age

Describe the impact of media (new and old) on the presidency

Learning Activities

The learning activities for this section include:

- Reading: The Presidency in the Information Age
- Video: Gore Vidal—American Presidency

Take time to review and reflect on each of these activities in order to improve your performance on the assessment for this section.

95. C. Reading: The Presidency in the Information Age

Learning Objectives

After reading this section, you should be able to answer the following questions:

1. What are the basic purposes of the White House communications operation?
2. How do presidents interact with the media?
3. How does the White House press corps interact with the president?
4. What challenges did President Obama face from the media, and how did he deal with them?
5. What are the consequences of media coverage for the presidency?

The White House communications operation has four basic purposes.

- **Advocating.** Promoting the president's policies and goals.
- **Explaining.** Providing information, details, answering questions.

- **Defending.** Responding to criticism, unanticipated events, cleaning up after mistakes, and challenging unfair news stories.
- **Coordinating.** Bringing together White House units, governmental agencies (bureaucracies), allies in Congress, and outside supporters (interest groups) to publicize and promote presidential actions.¹

How is the White House organized to go about achieving these purposes?

Media Interactions: White House Press Operations

Presidents decide whether, when, where, at what length, and under what conditions they will talk to reporters. Most presidential interactions with the media are highly restricted and stage-managed.

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2. These are taken from Martha Joynt Kumar, *Managing the President's Message: The White House Communications Operation* (Baltimore: Johns Hopkins University Press, 2007), xx–xxi and chap. 1.

Press Conferences

In the best-known form of press conference, the president appears alone, usually before television cameras, to answer questions on the record from the assembled reporters who can ask anything on their minds for a given period of time (usually up to an hour). Presidents generally hold such press conferences when they need to respond to important issues or mounting criticism—or if they have been accused of avoiding direct questions from the press.

Press conferences allow presidents to dominate the news, pay obeisance to or at least acknowledge the importance of a free press, galvanize supporters, and try to placate opponents. Presidents, as much as reporters, control press conferences. They make opening statements. They choose who asks questions—at his first press conference President Obama recognized the presence of the new media by taking a question from a writer for the influential online-only news outlet the [Huffington Post](#). They can recover from a tough question by finding someone to toss them a softball. Follow-up questions are not guaranteed. Presidents can run out the clock, blather on in evasive or convoluted language, and refuse to take or answer questions on a subject.³

Nonetheless, press conferences have risks for presidents. Since reporters' questions have become more challenging over time,

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4. Jarol B. Manheim, "The Honeymoon's Over: The News Conference and the Development of Presidential Style," *Journal of Politics* 41 (1979): 55–74.

presidents shy away from press conferences more and more.⁵ Increasingly, they rely on joint press conferences, most often with foreign leaders. Such press conferences add questioners from another press corps, limit the number of questions to a handful, and reduce the amount of time for the president to answer questions.

Presidents favor ever more controlled interactions with reporters. Most typically, they make a brief statement or give a speech without answering questions, or pose in a photo opportunity, where they are seen but not heard. Controversial announcements may be made in writing so that television news has no damaging footage to air.

It is a rare day when the president is not seen by reporters. But it is also a rare day when his appearance is not a scripted one. The White House goal is to have the president publicly available, but to do so with his having as little vulnerability to error as the staff can fashion.⁷

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6. Steven Clayman and John Heritage, "Questioning Presidents: Deference and Adversarialness in the Press Conferences of Eisenhower and Reagan," *Journal of Communication* 52 (2002): 749–75.

7.⁸

8. Martha Joynt Kumar, "The Daily White House Press Briefings: A Reflection of the Enduring Elements of a Relationship," unpublished paper, April 1999, 9.

Press Secretary

The most visible member of a White House publicity apparatus—and the key person for reporters—is the presidential press secretary.⁹ The press secretary is “responsible for creating and disseminating the official record of the president’s statements, announcements, reactions, and explanations.”¹¹ The press secretary has three constituencies with different expectations of him: “the president, White House staff, reporters and their news organizations.”¹³

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10. Woody Klein, *All the President’s Spokesmen* (Westport, CT: Praeger, 2008).

11.¹²

12. Martha Joynt Kumar, *Managing the President’s Message: The White House Communications Operation* (Baltimore: Johns Hopkins University Press, 2007), 179.

13.¹⁴

14. Martha Joynt Kumar, *Managing the President’s Message: The White House Communications Operation* (Baltimore: Johns Hopkins University Press, 2007), 180.

Link: White House Press Briefings

Search the archives of [press briefings](#).

In every presidency starting with Ronald Reagan's, press secretaries begin their day with meetings with the central coordinator of policy and message, the White House chief of staff, and other senior staffers to study overnight news developments (a news summary is circulated each day to senior staff), forecast where stories are going, and review the president's schedule. Press secretaries next prepare for their first interaction with reporters, the morning's daily, less formal discussion known as the gaggle.¹⁵ Cameras are not allowed into the gaggle. Reporters use tape recorders only to gather information, not for sound bites.

The press secretary begins the gaggle by reviewing the president's schedule before entering into a fast-moving question-and-answer session. The gaggle benefits reporters: it provides responses to overnight news, gives guidance for the workday ahead, reveals the line the White House is pushing and allows them to lobby for access to the president. The gaggle helps press secretaries

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16. See Howard Kurtz, *Spin Cycle: Inside the Clinton Propaganda Machine* (New York: Free Press, 1998), and Kumar, "Daily White House Press Briefings: A Reflection of the Enduring Elements of a Relationship," unpublished paper, April 1999.

too by enabling them to float ideas and slogans and, by hearing what's on reporters' minds, prepare for the afternoon briefing.

The press secretary leads this more official 12:30 p.m. briefing, which is as close as anything to a daily enunciation of White House policy. Here, cameras are allowed; the briefing is broadcast live on cable television if news is brewing. The session is transcribed and disseminated (electronically and on paper) to reporters at the White House and beyond. The press secretary spends the hours between the gaggle and the briefing looking for answers to questions raised (or anticipated) and checking with other spokespersons elsewhere in the administration, such as at the Departments of State and Defense.

Briefings do not always benefit the White House. The presence of television cameras sometimes pushes reporters to be—or act—tough and combative for viewers. Reporters try to throw the press secretary off balance or to elicit a juicy or embarrassing admission. Briefings offer reporters a rare chance to quiz officials on matters the White House would prefer not to discuss. Press secretaries are often unresponsive to reporters' questions, stonewall, and repeat set phrases. During a single briefing when he was peppered by questions about President George W. Bush's National Guard service, press secretary Scott McClellan dutifully uttered the phrase “The president met all his responsibilities” some thirty-eight times.

Office of Communications

The press secretary on the front line is not always the key public relations strategist. Richard Nixon was the first president to craft long-range communication strategies. A bevy of public relations veterans defined a White House priority or storyline, coordinated who said what, and planned public schedules of administration officials. They brought local reporters from outside Washington to the capital. The aim was to emphasize a single White House position, woo softer local news, and silence contrary messages in the administration.

Such tasks were given to the newly established Office of Communications—retained by all subsequent presidents. Directors of communications rarely interact with reporters on a regular basis; their job is to stress the big picture. Even when Nixon's first successors, Gerald Ford and Jimmy Carter, pledged open and free interactions with reporters, they found they had to reopen the Office of Communications for central control of the all-important message.

Another lasting innovation of the Nixon presidency is the line of the day. Specific topics and storylines are repeated throughout the administration as the focus for all discussion on that day. Presidents use the Office of Communications to centralize a marketing strategy on issues. They are often open about this. In 2002, White House Chief of Staff Andrew Card said the Bush administration waited until after Labor Day to lobby Congress to authorize war against Iraq because, in his words, "From a marketing point of view . . . you don't introduce new products in August."¹⁷

“Manipulation by Inundation”

The public must be reached *through* the news media. Reagan’s election took such efforts to new heights. Like Nixon, Reagan downgraded the news conference in favor of stage-managed appearances. A press officer who worked for both presidents noted a crucial distinction. The Nixon administration was restrictive, but he said:

The Reagan White House came to the totally opposite conclusion that the media will take what we feed them. They’ve got to write their story every day. . . . Hand them a well-packaged, premasticated story in the format they want, they’ll go away. The phrase is ‘manipulation by inundation.’¹⁹

Reagan’s lesson has been learned by subsequent presidents and media advisors. Presidents rarely have to “freeze out” given reporters (when officials do not return their calls). Staff do

18. Quoted in Elisabeth Bumiller, “Bush Aides Set Strategy to Sell Policy on Iraq,” *New York Times*, September 7, 2002,

A1.

19. ²⁰

20. Les Janka, quoted in Mark Hertsgaard, *On Bended Knee: The Press and the Reagan Presidency* (Boston: Houghton Mifflin Harcourt, 1988), 52.

sometimes cajole and berate reporters, but frontal assaults against the press usually only occur in clear cases of journalistic bungling.

More typically, presidents and their staffs try to manage the news. Presidents cultivate reporters, columnists, and pundits: they host lunches, dine with them, and hold off-the-record sessions. The staff members anticipate what reporters will ask in briefings and prepare the president accordingly. They design events to meet news values of drama, color, and terseness. And they provide a wealth of daily, even hourly, information and images.

The End Run around White House Reporters

Inundation is not sufficient. George W. Bush was typical of all presidents when he grouched in 2003 to a regional reporter:

There's a sense that people in America aren't getting the truth. I'm mindful of the filter through which some news travels, and sometimes you have to go over the heads of the filter and speak directly to the people.²¹

21.²²

22. Quoted in Elisabeth Bumiller, "Trying to Bypass the

All new presidents try novel strategies to do an end run around what they always perceive to be a biased press. President Franklin D. Roosevelt relished behind-the-scenes Oval Office conferences to woo Democratic-leaning reporters (and bypass Republican-leaning editorial pages).

President Richard Nixon shunned press conferences and sought other ways to get his messages out, such as through star-struck local news. President Bill Clinton instituted cozy miniconferences with other world leaders and brought in local television weather reporters for a confab on global warming. Nowadays, the White House deals directly with the regional and local press, special-interest media, and ethnic news organizations.

Media Interactions: The White House Press Corps

Presidents head the state, government, and their political party. So almost anything they do or that happens to them is newsworthy.²³

Good-News Filter,"*New York Times*, October 20, 2003, A12.

23.²⁴

24. Stephen J. Farnsworth and S. Robert Lichter, *The*

They are the sole political figures whose activities are followed around the clock. Presidents fit news values perfectly. The ongoing saga of a familiar hero engaged in myriad controversies and conflicts, international and domestic, is far simpler to explain and present than complex scenarios of coalition-building in Congress.

About seventeen hundred reporters are granted White House press passes. But the key members of the White House press corps are the few dozen regulars assigned to go there day in and day out and who spend their work days there.

A White House press pass provides merely the privilege to wait—wait for a briefing; wait to see the president; wait until a press conference is called; wait to see the press secretary; wait to see senior officials; wait to have phone calls returned. There may be propinquity to power, but there is little control over when and how the news is gathered.²⁵

The regulars make up an intimate society with its own culture, norms, manners, friendship networks, and modes of interaction. The White House layout reinforces this in-group mentality. The briefing room, where press secretaries and reporters meet daily, is a claustrophobic, cluttered space with forty-eight scuffed and battered seats. Beyond the dais at one end, reporters can wander

Mediated Presidency: Television News and Presidential Governance (Lanham, MD: Rowman & Littlefield, 2006).

25.²⁶

26. Martha Joynt Kumar, “The President and the News Media,” in *The Presidency and the Political System*, 6th ed., ed. Michael Nelson (Washington, DC: CQ Press, 2000) 835–80 at 867.

down the hall to buttonhole press officers, though they cannot go much farther (the Oval Office, just fifty feet away, is inaccessible). Hallways leading to two floors of press rooms are in the back; the rooms are crammed with desks and broadcasting equipment for the use of reporters. Along the corridor are bins that contain press releases, official statements, and daily schedules (which are also available electronically). Outside, on a once graveled-over and now paved section of the lawn named “Pebble Beach,” rows of television cameras await television reporters.

Rather than foster enterprise, the White House herds reporters together, gives them all the same information, and breeds anxiety by leading them to believe they may be missing the big story everyone else is chasing.



The White House accommodates television reporters to allow them to do their “stand-ups” with the august background of the White House portico. This area can become packed with reporters when big stories are developing.

Media Interactions: Negotiating News at the White House

Reporters submit to the conditions established by presidents and their staffers in receiving information. But they are less docile when they actually assemble that information in White House news.

Cooperation and Conflict

The relationship between the White House and its press corps is ongoing. The “village” feel to the newsbeat includes presidents and their staffers. But while this day-to-day continuity favors cooperation, the divergent interests and notions of the White House and reporters makes for a constant tension. Reporters do not like appearing as “mouthpieces” for presidents. They embrace the notion of acting as watchdogs and seek ways to present an independent and critical account whenever possible in their White House stories.

What reporters consider news and what presidents consider news are often at odds. Presidents love to speak at length, be alone at center stage, favor nuance if not ambiguity, and focus on questions of policy. Reporters like terse sound bites, dramatic conflict, clear-cut comments, and a new installment on how the president is doing politically.

Assembling the Story

Reagan’s first White House spokesperson, Larry Speakes, had a plaque on his desk that read: “You don’t tell us how to stage the news, and we won’t tell you how to cover it.” Though he was being playful, Speakes revealed how the White House and the press corps each control one part of the news.

The White House controls whether, when, how, and where White House officials will meet reporters and what information to release. Pictures and video of the president are packaged along with slogans that make a visual case regardless of the angle the reporter advances. Clinton's aides affixed captions to the presidential podium during ceremonies to underscore the theme they wished to communicate. George W. Bush's assistants went one better, crafting twenty different canvasses that could be placed behind him, each emblazoned with a motto of the day, such as "Protecting the Homeland" or "Corporate Responsibility." Dan Bartlett, then Bush's director of communication, defended such branding: "The message should be seen and read and understood on TV. It's a good reinforcement."²⁷

But reporters take the raw material provided by presidential news operations and craft it into a coherent and dramatic story. In a typical television news story, the president's words and images make up a tiny fraction of the allotted time. Television reporters add old video, interview critics in Congress, cite poll numbers, and give their own interpretations. Even on cable television news, which often airs presidential remarks live during the day, reporters and commentators will hash over and contest the White House "angle." Presidential statements have a different effect once placed into the news media's sometimes dramatically divergent context.

The dilemma for presidents, as Clinton's press secretary Mike McCurry noted, is that "ninety percent of what happens at the White House is pure boredom."²⁹ Reporters need drama. If

27.²⁸

28. Quoted in Anne E. Kornblut, "President Is Keeping His Messages Front and Center," *Boston Globe*, July 23, 2002, A4.

29.³⁰

presidents do not fit the heroic roles of “decisive problem solver” and “representative of the nation,” they can be slotted into a less positive frame. Politics will displace policy; criticism and conflict overwhelm praise and unity. Even in presidents’ supposed “honeymoon” periods, critical coverage is not unknown. Presidents are, then, in the unenviable position of needing the news and being routinely in its spotlight without being able consistently to control the images of themselves and their policies in that news.

President Obama and the Media

During his first term in office, President Obama could claim several significant accomplishments. They included health-care reform, an economic stimulus program, financial regulation, educational innovations, consumer protections, the withdrawal of combat troops from Iraq, banning torture of prisoners in US custody, ratification of a new strategic arms reduction treaty with Russia, and repeal of the “Don’t ask, don’t tell” law.

These accomplishments, except for the killing of Osama bin

30. Quoted in Andrew Miga, “White House Drama More Colorful than the Real White House,” *Boston Herald*, September 23, 1999, 3.

Laden, were not as widely recognized as they could have been. One reason was, as the president told a reporter,

we probably spent much more time trying to get the policy right than trying to get the politics right. . . . And I think anybody who's occupied this office has to remember that success is determined by an intersection in policy and politics and that you can't be neglecting of marketing and P.R. and public opinion.³¹

His media operation was accused of being reactive instead of proactive in responding to reporters and of lacking the skill to promote and the language to sell the president, his policies, and his party.

Compounding this neglect, the media environment imposed four challenges to any attempts by President Obama to communicate effectively with the American public.

First, presidents' prime-time addresses, even when carried by all networks, reach a smaller portion of the audience than they did in years past.³³ The profit-minded media discourage presidents

31. ³²

32. Peter Baker, "What Does He Do Now?," *New York Times Magazine*, October 17, 2010, 42.

33. ³⁴

34. Joe S. Foote, *Television Access and Political Power: The Networks, the Presidency, and the "Loyal Opposition"* (New York: Praeger, 1990); and Matthew A. Baum and Samuel Kernell, "Has Cable Ended the Golden Age of Presidential Television?" *American Political Science Review* 93 (March 1999): 99–114.

from taking too often to the airwaves. When presidents request air time, broadcast television networks can conclude the subject is not adequately newsworthy and turn them down.

Second, the news media are more than ever obsessed with conflict. As President Obama observed to Bob Schieffer, “the twenty-four-hour news cycle and cable television and blogs and all this, they focus on the most extreme elements on both sides. They can’t get enough of conflict.”³⁵

Third, the media are more and more partisan—intensely so. For President Obama, this means virulent attacks and relentless denunciations by [Fox News](#), America’s most watched cable news channel; the editorial page of the [Wall Street Journal](#), America’s most widely circulated newspaper; and a conservative chorus led by [Rush Limbaugh](#) on talk radio. In addition, a bevy of more or less partisan commentators and pundits subject presidential speeches, press conferences, and statements to constant analysis and dissection.

Fourth, the media audience is increasingly dispersed, fragmented, and sometimes separated into mutually exclusive segments. People are divided by whether they read newspapers (and which ones), the kinds of movies and television programs they watch, their level of involvement with social media, the websites they follow, and much more.

Given this media environment, President Obama faced two daunting problems: (1) to reach as many of the various audiences as possible and (2) to do so with messages in support of his personal, political, and policy objectives.³⁷

35. ³⁶

36. CBS, *Face the Nation*, September 20, 2009.

37. ³⁸

One approach was to take advantage of new technologies through an Office of New Media. The president's inauguration was the first to be put on YouTube, as are his weekly radio addresses. The [White House website](#) contains the president's activities and agenda and features videos. Text messages and Twitter alerts are sent out to the president's followers under his name. He also conducted the first Internet video news conference by an American president.

Video Clip: President Barack Obama's Inaugural Address



One or more interactive elements has been excluded from this version of the text. You can view them online

here: <https://library.achievingthedream.org/herkimeramericanagovernment/?p=117#oembed-1>

A second approach is to appear in many media venues. On September 20, 2009, President Obama gave separate back-to-back interviews advocating his health-care proposal to each of the hosts of the Sunday morning talk shows. (The interviews had been taped the previous Friday in the Roosevelt Room in the White House).

Video Clip: Sunday with Obama—September 20,

38. This discussion is based on Ken Auletta, “Non-Stop News,” *New Yorker*, January 25, 2010, 38–47.



One or more interactive elements has been excluded from this version of the text. You can view them online

here: <https://library.achievingthedream.org/herkimeramericangovernment/?p=117#oembed-2>

In seeking and finding audiences, the president has ranged far beyond Sunday morning interview programs. He has appeared on the late-night television talk shows of [Jay Leno](#) and [David Letterman](#), [The Daily Show with Jon Stewart](#), Oprah, and the morning talk show [The View](#), and gave an interview on [America's Most Wanted](#).

The president reached new audiences, appeared in comfortable settings, and was usually treated with deference and respect. Conversation took place in a relaxed atmosphere. He discussed his accomplishments and displayed mastery of policies yet at the same time was humanized as a family man with a sense of humor.

There are risks. Appearances on entertainment shows and casual familiarity with hosts can undermine the majesty of the office. Commercial interruptions can diminish presidential dignity. Some interviewers may question the president's policies and competence, as Jon Stewart has done. Others may even challenge the president's authority, as Bill O'Reilly did in a fifteen-



President Obama has ventured far and wide in the media landscape to find audiences—including to *The Daily Show* and *The View*.

minute interview conducted just before Fox televised the 2011 Super Bowl.

Media Consequences

The president's visibility in the news is a double-edged sword. The news personalizes the presidency and presents the office through the individual president. There is high pressure for dramatic action and quick results. The constant presence of the White House press corps means that reporters clamor for presidential reaction to and action about any breaking news—which can easily overwhelm the president's agenda.

The media encourage presidents to find policy areas that enable them to play the role of bold, public-minded leader. But because reporters seek conflict and drama at the White House news beat, stories are subject to what columnist Jonathan Alter has termed “the manic-depressive media.”³⁹ In the way the media frame stories, each event is a make-or-break moment for the president, suitable for triumph or humiliation. Highs are higher; lows are lower. New issues that emerge can change the president's depiction in the news.

39.⁴⁰

40. Jonathan Alter, “The Manic-Depressive Media,” *Newsweek*, February 8, 1993, 29.

Success in news coverage should not be equated with policy success. Consider the news image of the elder George Bush in the fall of 1990. The news contrasted his glory in the Gulf War against his bungle on the budget. From the start, Bush laid out a straightforward line in the 1990 crisis leading up to the war—push Iraq out of Kuwait—with such clarity and intransigence that it perfectly fit the media frame of decisive action. But when Bush engaged in complex budget negotiations with key members of Congress, the news media found him looking confused and waffling. The war was a media success; the budget was a media failure. But was the war a policy success and the budget a policy failure? Not necessarily. The war solved few of the problems that provoked Iraq's invasion of Kuwait and almost led to civil war in Iraq. The budget agreement stanching the growth of the budget deficit and led to its later erasure.

It is hard for presidents to resist the temptation to appear in the news constantly, even though chasing after the readily available publicity might push them in policy directions that are far from desirable. If they want media attention, they must either opt for charged, straightforward issues and clear-cut commitments or make complex issues seem simpler than they are. They and their staffers try to package actions to balance the complexity of policies against the simplicity of news (and commentary), the need to keep options open as long as possible against the news media's desire for drama, conflict, and closure.

Key Takeaways

Presidents interact with the media through press conferences, the press secretary, the Office of Communications, manipulation by inundation, and end runs around White House reporters. The White House press corps, in search of dramatic stories, is engaged in ongoing conflict and cooperation with the White House. President Obama encountered several problems with the media that he tried to resolve through new technologies and appearing in many media venues. It can be difficult for presidents to balance their policy interests with the media's criteria of news and expectations of dramatic action and quick results.

96. Video: Gore Vidal—American Presidency

The growth of presidential power over time has inspired a considerable amount of critical analysis. The documentary below, by renowned political commentator and essayist Gore Vidal, is an excellent example. Which of the criticisms and perspectives offered by Vidal seem particularly persuasive to you? Which ones are less convincing, and how did you decide?



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97. Putting It Together

Summary

The president is the dynamic center of the political system, yet to perhaps a surprising degree, the executive branch is dependent on the other two branches, the federal bureaucracy, as well as state and local governments for its success.

Aside from formal powers listed in the Constitution, the president is an agenda setter, the nation's chief lobbyist. His ability to lead Congress depends on its party composition and ideological makeup. As the chief executive, the president gets things done through the appointment powers, executive orders, and war powers. The president seeks power and public approval through speeches and by heeding public response to polls.

Presidents interact with the media through press conferences, the press secretary, the Office of Communications, manipulation by inundation, and end runs around White House reporters. The White House press corps, in search of dramatic stories, is engaged in ongoing conflict and cooperation with the White House.

President Obama encountered several problems with the media that he tried to resolve through new technologies and appearing in many media venues. It can be difficult for presidents to balance their policy interests with the media's criteria of news and expectations of dramatic action and quick results.

PART VIII

CH. 5 - THE JUDICIAL BRANCH

98. Why It Matters

Contrast the role and function of the federal judiciary with that of the other two branches



Introduction

Courts interpret laws and constitutions, and determine whether other officers of the government have acted in keeping with them. Unlike the political branches, courts are supposed to act differently; judges are expected to check their own political views at the door while applying the law as objectively and reasonably as they can, regardless of whether they like the outcome in particular cases.

Of course, keeping politics out of the courts is impossible in an

imperfect world. Nevertheless, there is reason to believe that judges do try to live up to their mandate.

Take the two recent “Obamacare” decisions handed down by the Supreme Court of the United States. In both cases, Chief Justice John Roberts—a conservative judge appointed by George W. Bush—voted and wrote to sustain the law. If Roberts had acted like a member of Congress, he would have simply imposed his political preferences, most likely killing off the Affordable Care Act. But that is not what he did, and in the process, Roberts demonstrated a key difference between what we demand of courts versus what we expect from the other branches.

That said, most of the judges did vote pretty much in line with their political preferences in the “Obamacare” case, suggesting that politics does indeed influence judicial decision-making.

As you work through this module, consider the ways in which courts act differently from the other branches and where there may be similarities.

Also, consider the role of courts versus the other branches. Why do we want courts to reject politics? How do federal courts differ from state courts, and what are the consequences for judicial independence from politics?

What sorts of issues should courts decide and which should they leave to the more political branches? What sort of rationale should you employ to answer such a question?

99. The U.S. Legal System

Identify major aspects of the legal system

Learning Activities

The learning activities for this section include:

- Video: Supreme Court of the United States
- Video: SCOTUS (Part 1)
- Video: SCOTUS (Part 2)
- Video: SCOTUS (Part 3)
- Reading: The U.S. Legal System

Take time to review and reflect on each of these activities in order to improve your performance on the assessment for this section.

100. A. Video: Supreme Court of the United States

The following video covers the history of the Supreme Court from the its earliest ruling until the end of the twentieth century. The court has changed over time and this video tells that story:



One or more interactive elements has been excluded from this version of the text. You can view them online

here: <https://library.achievingthedream.org/herkimeramericangovernment/?p=123#oembed-1>

101. B. Video: SCOTUS (Part 1)

The following video provides an excellent overview of the U.S. Supreme Court. Be sure to watch parts 2 and 3.



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here: <https://library.achievingthedream.org/herkimeramericangovernment/?p=124#oembed-1>

102. C. Video: SCOTUS (Part 2)



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here: <https://library.achievingthedream.org/herkimeramericangovernment/?p=125#oembed-1>

103. D. Video: SCOTUS (Part 3)



One or more interactive elements has been excluded from this version of the text. You can view them online

here: <https://library.achievingthedream.org/herkimeramericangovernment/?p=126#oembed-1>

104. E. Reading: The U.S. Legal System

Learning Objectives

After reading this section, you should be able to answer the following questions:

1. What are the differences between civil and criminal cases, and how are these cases usually resolved?
2. How do the news and entertainment media depict trials?
3. How are the federal courts organized?
4. How does the Supreme Court work?

The American legal system handles a vast number of disputes and controversies. Our concern in this text is with civil and criminal cases, the main ways by which courts wield power and influence and make policy.¹

1. ²

2. Patricia Ewick and Susan S. Silbey, *The Common Place of Law* (Chicago: University of Chicago Press, 1998), 18–19.

Civil Cases

In civil cases, plaintiffs (people or organizations) initiate lawsuits against defendants; courts resolve disputes by deciding or mediating between the two sides. Civil cases can involve money, contracts, property, personal injury, divorce, or child custody. “I’ll sue you” is a threat to instigate a civil action.

The vast majority of civil cases, some seventeen million annually, are filed in state courts, compared to around four hundred thousand in federal courts. State and federal laws establish the type of civil cases their courts can hear. For example, because there is no federal divorce law, all divorce cases are heard in state courts; because Social Security is a federal program, all civil disputes involving it are heard in federal courts.

Because of their costs and the often lengthy delays until they are heard in court, only about 1.3 percent of civil suits filed go to trial. Most civil cases are resolved by other means, such as settlements, plea deals, mediation, or arbitration.

Criminal Cases

Criminal cases are initiated by the government. They run the gamut from misdemeanors, such as trespassing and disorderly conduct, to felonies, such as armed robbery, rape, and murder. Unlike civil cases, criminal cases can result in the loss of liberty: a jail sentence.

Around seven million people in the United States are either in prison, on probation, or on parole for crimes committed.

Most criminal laws are passed by states, and the vast majority of criminal cases originate in state courts: roughly twenty-one million criminal cases annually, compared to about seventy-six thousand in federal courts.

Around 27 percent of the criminal cases heard in federal courts involve alleged violations of federal drug laws. Often requiring mandatory sentences without parole, these federal laws are much tougher than state laws, so it makes an enormous difference whether a drug offense case is tried in a federal or state court.

Only about 4 percent of criminal cases are decided by trial. Prosecutors drop, or do not continue with charges, on another 25 percent. Most of the rest are resolved by guilty pleas without going to trial. Even for murder or manslaughter, a majority of defendants plead guilty. This often entails a plea bargain, in which defendants plead guilty in exchange for a reduced charge. The judge must approve the plea bargain.

Except for affluent defendants with high-powered and well-paid attorneys, people involved in criminal cases have an incentive to plea bargain. Defendants who insist on going to trial face sentences that can be far longer than those received by defendants who plead guilty and cooperate with the government. For lawyers and judges, plea bargains save both time and trial costs and also lighten their workloads. Because so many plead guilty, forty-seven million Americans have criminal records.³

3. ⁴

4. Amy Beach, *Ordinary Injustice: How America Holds Court* (New York: Metropolitan, 2009).

Media Depictions of Trials

Dubbed “tabloid justice,” news depictions of the criminal justice system, especially on cable television, focus on dramatic, sensational, and lurid cases.⁵ A notorious instance was the Duke University lacrosse team rape story, which provoked a prodigious amount of often erroneous news coverage as well as outrageous opinions and judgments (notoriously from television commentator Nancy Grace) from March 2006 until April 2007, when all charges against the students were dropped and the case dismissed.

The types of cases receiving excessive and inflammatory coverage include those of a basketball star (Kobe Bryant) charged with rape; an actor (Robert Blake) accused of killing his wife; a decorating diva (Martha Stewart) charged with lying to the FBI; a pop star (Michael Jackson) accused of molesting children; and a mother (Casey Anthony) accused of killing her daughter. The media want, as the chief executive of truTV (formerly Court TV) put it, “the type of trials that have all the melodrama of a soap opera.”⁷

5.⁶

6. Richard L. Fox, Robert W. Van Sickel, and Thomas L. Steiger, *Tabloid Justice: Criminal Justice in an Age of Media Frenzy*, 2nd ed. (Boulder, CO: Lynne Rienner Publishers, 2007).

7.⁸

8. Quoted in Lola Ogunnaike, “As Court TV Gets Even Bolder, So Does Its Star,” *New York Times*, December 2, 2004, B1.

Even trials covered live on television may be unrealistic examples of how the U.S. criminal justice system operates. The trial of O. J. Simpson, accused of the murder of his ex-wife and a friend of hers, attracted huge attention from the news media



Judge Judy and Judge Joe Brown. Many people's understanding of and opinions about courts are based on watching television's fictional judges

and the public during the mid-1990s. Simpson was a celebrity defendant with sufficient wealth to hire a cast of attorneys and undergo a lengthy trial. In reality, most criminal trials take little time. The Los Angeles Superior Court disposed of nearly fifty-two thousand cases between the time of Simpson's arrest and his acquittal.⁹

Trials are a staple of entertainment drama.¹¹ Many television series and their spin-offs involve trials. These shows differ drastically from the reality of courts and trials through the addition of drama and emotion: the highlights of cross-examination, attorneys browbeating witnesses and making speeches, and the guilty confessing. They rarely contain procedural elements, and the issues of "jurisdiction, notices to defendants, pleadings, discovery,

9.¹⁰

10. "Simpson Trial and Trivia," *US News & World Report*, October 15, 1995, 43.

11.¹²

12. See Timothy O. Lenz, *Changing Images of Law in Film & Television Crime Stories* (New York: Peter Lang, 2003); and Anthony Chase, *Movies on Trial: The Legal System on the Silver Screen* (New York: New Press, 2002).

and choice of a judge or jury trial, all of which can be argued, replied to, and motioned against.”¹³ As David E. Kelley, creator of *The Practice* and a former lawyer said, “I am writing the world of law in the way I would like it to be. It’s all a conceit, because most trials are boring.”¹⁵

Relatedly, trial judges are usually portrayed on television as legitimate and judicious, and their decisions almost always as correct. Consider the pseudorealistic television courtroom shows represented by *Judge Judy* and *Judge Joe Brown*.

The prevalence of courtroom shows is a testament to their appeal and to television’s need for cheap and relatively easy-to-produce programming. Frequent viewers believe that judges should—as these “judges” do—ask questions, be aggressive with litigants, express views about their testimony, and make known their opinions about the outcome of the cases.¹⁷ This is, in fact, the opposite of how most real judges behave.

13. ¹⁴

14. Wende Vyborney Dumble, “And Justice for All,” in *Television Studies*, ed. Gary Burns and Robert J. Thompson (Westport, CT: Praeger, 1989), 106.

15. ¹⁶

16. Thane Rosenbaum, “Where Lawyers with a Conscience Get to Win Cases,” *New York Times*, May 12, 2002, AR 23.

17. ¹⁸

18. Kimberlianne Podlas, “Should We Blame Judge Judy? The Messages TV Courtrooms send Viewers,” *Judicature* 86, no. 1 (July–August 2002): 38–43.

Organization of the Federal Courts

The first sentence of Article III of the U.S. Constitution created the U.S. Supreme Court—a major innovation. The Articles of Confederation made no provision for a federal judiciary, only for courts created and controlled by the states.

Article III also gave Congress the authority to create lower federal courts. After the Constitution was ratified in 1789, Congress quickly did so through the Judiciary Act of 1789.

Link: The Judiciary Act

Learn more about the [Judiciary Act of 1789](#).

The Federal District and Appeals Courts

There are 94 federal district courts staffed by 667 permanent and several temporary judges. Every state has at least one district with a district court in it responsible for hearing cases that arise within that geographic area.

Above the district courts are the federal courts of appeal. They decide whether or not district courts have made an error in conducting a trial. Judges on appeal courts base their rulings on written and oral legal arguments presented by lawyers for each side. There are no witnesses, no testimony, and no jury. Appellate courts answer questions of law rather than questions of fact.

There are currently thirteen courts of appeals, twelve of them based on geographic districts called “circuits.” There are eleven numbered circuits, each of which has jurisdiction over several states. No state straddles more than one circuit.

There is a twelfth circuit for the District of Columbia (known as the “DC Circuit”). The thirteenth circuit is the court of appeals for the “Federal Circuit,” which hears appeals from U.S. Courts of Federal Claims, International Trade, the Patent and Trademark Office, and others. There are approximately 179 judges on the courts of appeals.

A case in district court is usually presided over by one judge, whereas an appeal before a court of appeals is typically heard by a panel of three judges. A majority vote of the panel is necessary to overturn a lower-court ruling. The court of appeals issues a written ruling explaining its decision.

Every litigant in federal court has the right to appeal an unfavorable ruling from the district court. However, because it is expensive to appeal, only about 17 percent of eligible litigants do so.

Moreover, higher courts hear few of the cases appealed and rarely reverse lower-court decisions.¹⁹

The Supreme Court

The [Supreme Court](#), the nation's highest tribunal, hears cases arising under the Constitution or the laws of the United States. The Constitution gives Congress the authority to set the number of Supreme Court justices, and it has changed the number several times. The Court started with five justices; it now has nine.

The Constitution does not stipulate any specific qualifications, not even a minimum age or legal training, for Supreme Court justices and other federal judges. Of the over one hundred individuals who have served on the Supreme Court, all except four women and two African American males have been white men.

19.²⁰

20. Donald R. Songer, Reginald S. Sheehan, and Susan B. Haire, *Continuity and Change on the United States Courts of Appeals* (Ann Arbor: University of Michigan Press, 2000).

How the U.S. Supreme Court Works

Article III and the Eleventh Amendment of the Constitution require that the Supreme Court be the first court to hear certain types of cases. This original jurisdiction is limited to cases

- between the United States and one of the states,
- between two or more states,
- involving foreign ambassadors or other ministers,
- brought by one state against citizens of another state or against a foreign country.

Only about 1 percent of the Supreme Court's cases fall under its original jurisdiction. The rest reach it as appeals from civil and criminal cases that have been decided by lower federal and by state courts. As the highest appellate court in the nation, the Supreme Court is the ultimate arbiter in many areas of the law.

If the case involves a federal question, an appeal can be made from the state's appellate court of last resort to the U.S. Supreme Court. A federal question exists if a state law is alleged to violate federal law (an act of Congress), a treaty ratified by the U.S. Senate, or the U.S. Constitution; or because something that state officials do is claimed to violate the Constitution or federal law. Grounds for appeal include evidence gathered from an unreasonable search and seizure, a coerced confession, and infringement of a constitutional right to a fair trial.

With rare exceptions, the Supreme Court has absolute control over the appeals it chooses to hear. Of the roughly eight thousand cases appealed to the Court every year, the justices typically agree to review a few hundred.

The justices normally decide around seventy of these with

comprehensive written opinions during the Court's annual term from October through late June to early July. The Court occasionally issues per curiam decisions: brief unsigned opinions, usually for cases it decides without oral argument.

The justices do not have to give any reasons for accepting or rejecting a case. Even after deciding to hear a case, they can change their minds and “DIG” (dismiss as improvidently granted) it: in other words, they say that they won't decide the case after all, again without giving any reason.

Writ of Certiorari

Most cases reach the Court by way of a writ of certiorari. *Certiorari* is Latin for “to make more certain.” Litigants who receive an adverse ruling in the federal appeals courts or, in cases involving a federal question, from a state's highest appellate court can submit a petition for a writ of certiorari to the Supreme Court, asking it to review the case.

It takes four of the nine justices to “grant cert.” This is called the Rule of Four. If the Supreme Court does not grant cert, the lower court ruling is left standing. This does *not* mean that the Supreme Court agrees with that ruling, only that the Court has chosen not to review it.

When the Supreme Court grants cert, it is usually because four or more of the justices believe the case represents an important issue, such as an unresolved constitutional or statutory question on which they are interested in ruling. Sometimes disputes between different courts need to be resolved, or Congress and lower courts need the

Court's guidance on the Constitution. However, it is not unknown for justices to avoid granting cert to important cases because they do not want to rule on them.²¹

The Solicitor General

The case for cert is strengthened if it is backed by the solicitor general, the presidential appointee in the justice department responsible for presenting the position of the U.S. government to the courts. The solicitor general screens cases before most agencies of the federal government can appeal them to the Court. Consequently, more than half of the Supreme Court's workload comes from cases under the solicitor general. The justices pay special attention to the recommendations of the solicitor general, nicknamed "the 10th Justice" in the news.

21. ²²

22. Lisa A. Kloppenberg, *Playing It Safe: How the Supreme Court Sidesteps Hard Cases and Stunts the Development of Law* (New York: New York University Press, 2001).

Link: The Solicitor General's Office

Visit the [solicitor general's office online](#).

Briefs

When cert is granted, the lawyers for each side file a brief making their arguments. Others with a stake in the outcome of the case may, with the permission of the Court, each file an amicus curiae brief on behalf of one or the other parties to the case. (They may also persuade the Court to take a case.) These “friend of the court” briefs expose the justices to additional arguments and enable them, should they be so inclined, to gauge interest-group attention to a case and the amount of support from the different sides.²³

23.²⁴

24. Paul M. Collins Jr., *Friends of the Court: Interest Groups and Judicial Decision Making* (New York: Oxford University Press, 2008).

Oral Arguments

After reviewing the briefs, the justices hear oral arguments, usually limited to an hour split equally between the sides. The justices often interrupt the attorneys with questions, probe arguments made in the briefs, and raise new issues; they may indicate their thinking about the case and possible decision. The arguments can be used by the justices to reach the legal and policy decisions that they prefer²⁵—unless, that is, one side’s lawyer makes a more convincing argument than the other.²⁷ Oral arguments are the only public part of the Supreme Court’s work.

25.²⁶

26. Timothy R. Johnson, *Oral Arguments and Decision Making on the United States Supreme Court* (Albany: State University of New York Press, 2004).

27.²⁸

28. Timothy R. Johnson, Paul J. Wahlbeck, James F. Spriggs II, “The Influence of Oral Arguments on the U.S. Supreme Court,” *American Political Science Review* 100 (February 2006): 99–113.

Link: Oral Arguments Heard by the Supreme Court

Find and listen to [archived oral arguments online](#).

Law Clerks

Each justice selects a few law clerks (usually four) to assist in researching cases, deciding which ones to accept, and drafting opinions. These clerks are usually honors graduates from the most prestigious law schools.

A clerkship betokens a promising future in the legal profession. Because the clerks' work is confidential and rarely revealed, the extent of justices' reliance on their clerks is uncertain. One former clerk writing about the Court charged that the justices granted "great and excessive power to immature, ideologically driven clerks, who in turn use that power to manipulate their bosses."²⁹ Yet, most

29.³⁰

30. Edward Lazarus, *Closed Chambers: The First Eyewitness*

justices are so self-confident and versed in the law that it is hard to imagine them being led to make decisions against their will.

Opinions

Some time after oral arguments, the justices meet in a conference and vote in order of seniority, starting with the chief justice, on how the case should be decided.

Link: Supreme Court Decisions

Read [archived Supreme Court decisions online](#).

Account of the Epic Struggles Inside the Supreme Court
(New York: Times Books, 1998), 6.

The Supreme Court decides cases by majority rule: at least five of the nine justices need to agree for a majority opinion. They do not, however, have to agree on the reasons for their decision. It is possible for a majority to be composed of justices who agree on their rationale for the decision plus justices who join the decision (but for other reasons) and thus write a joint or individual concurring opinion. Justices who disagree with the majority opinion almost always write a dissenting opinion or join in a colleague's dissenting opinion, explaining why they think the majority was wrong. On rare occasions, when a justice wants to make a dramatic statement arguing that the majority is profoundly wrong, she or he will read this written dissent aloud.



Conference Room of the Supreme Court. The intimacy of the Supreme Court is best captured by the conference room where the nine justices meet to vote on which cases to hear, to discuss opinions, and to decide cases. The junior member of the Court is responsible for opening and closing the doors.

Bargaining and compromise sometimes ensue in an effort to create

a majority coalition.³¹ A study of justices' conference notes concludes that the Court's decisions come from "an intricate and shifting composite of law, politics, policy, principle, efficiency, expedience, pragmatism, dogmatism, reason, passion, detachment, individual personality, group psychology, institutional forces, and external pressures."³³ To this list, we would add the desire for approval from social groups with which they identify or associate and from the legal community of law professors and law students.³⁵

31. ³²

32. The classic early study of such bargaining is Walter Murphy's *Elements of Judicial Strategy* (Chicago: University of Chicago Press, 1964); see also Forrest Maltzman, James F. Spriggs II, and Paul J. Wahlbeck, *Crafting Law on the Supreme Court* (New York: Cambridge University Press, 2000); and Saul Brenner and Joseph W. Whitmeyer, *Strategy on the United States Supreme Court* (New York: Cambridge University Press, 2009).

33. ³⁴

34. Del Dickson, ed., *The Supreme Court in Conference (1940–1985): The Private Discussions Behind Nearly 300 Supreme Court Decisions* (New York: Oxford University Press, 2001), xxvii.

35. ³⁶

36. Lawrence Baum, *Judges and Their Audiences: A Perspective on Judicial Behavior* (Princeton, NJ: Princeton University Press, 2006).

The chief justice, if voting with the majority, determines who will write its opinion. Thus many of the Court's most important decisions are penned by the chief justice. If the chief justice is not in the majority, the justice in the majority who has served on the Court the longest takes on the assignment.

Key Takeaways

Coverage of most criminal cases is decided by plea bargains. A few trials attract abundant coverage in news and entertainment media, which depict them unrealistically. The federal court system consists of ninety-four district courts, with at least one in each state, and thirteen appeals courts, each one with jurisdiction over several states. At the top of the judicial system is the Supreme Court. The Supreme Court's decisions entail briefs, oral arguments, conferences, clerks, and opinions.

105. The Supreme Court

Explain the role of the Supreme Court and the contending philosophies governing its behavior

Learning Activities

The learning activities for this section include:

- Reading: Power of the Supreme Court

Take time to review and reflect on this activity in order to improve your performance on the assessment for this section.

106. F. Reading: Power of the U.S. Supreme Court

Learning Objectives

After reading this section, you should be able to answer the following questions:

1. What is judicial review?
2. Why is *Marbury v. Madison* important?
3. What is judicial power and how is it constrained?
4. What are the leading judicial philosophies?

In Federalist No. 78, Alexander Hamilton described the courts as “the least dangerous” branch of government. Yet, they do possess considerable power. For example, because of the Court’s 5–4 decision in 2002, the more than seven million public high school students engaged in “competitive” extracurricular activities—including cheerleading, Future Farmers of America, Spanish club, and choir—can be required to submit to random drug testing.¹

1. ²

Judicial Review

The federal courts' most significant power is judicial review. Exercising it, they can refuse to apply a state or federal law because, in their judgment, it violates the U.S. Constitution.

Marbury v. Madison

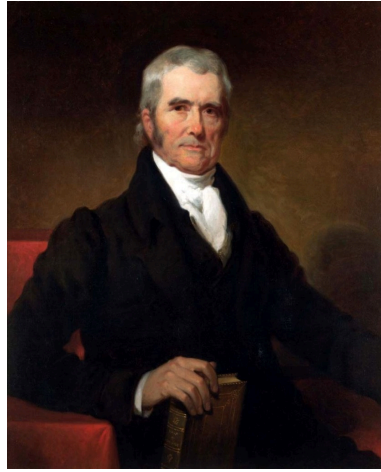
Judicial review was asserted by the U.S. Supreme Court in 1803 in the decision of Chief Justice John Marshall in the case of *Marbury v. Madison* (5 US 137, 1803).

Marshall was chief justice of the Supreme Court from 1801 to 1835 and the author of many decisions, including *Marbury v. Madison*.

After losing the election of 1800, John Adams made a flurry of forty-two appointments of justices of the peace for Washington, DC in the last days of his presidency. His purpose in doing so was to ensure that the judiciary would remain dominated by his Federalist party. The Senate approved the appointments, and Secretary of State John Marshall stamped the officials' commissions with the Great Seal

2. *Board of Education v. Earls*, 536 US 822 (2002).

of the United States. But no one in the outgoing administration delivered the signed and sealed commissions to the appointees. The new president, Thomas Jefferson, instructed his secretary of state, James Madison, not to deliver them. One appointee, William Marbury, sued, asking the Supreme Court to issue a writ of mandamus, a court order requiring Madison to hand over the commission.



Portrait of John Marshall by Henry Inman. Marshall was chief justice of the Supreme Court from 1801 to 1835 and the author of many decisions, including Marbury v. Madison.

The case went directly to the Supreme Court under its original jurisdiction. John Marshall was now chief justice,

having been appointed by Adams and confirmed by the Senate. He had a dilemma: a prominent Federalist, he was sympathetic to Marbury, but President Jefferson would likely refuse to obey a ruling from the Court in Marbury's favor. However, ruling in favor of Madison would permit an executive official to defy the provisions of the law without penalty.

Marshall's solution was a political masterpiece. The Court ruled that Marbury was entitled to his commission and that Madison had broken the law by not delivering it. But it also ruled that the part of the Judiciary Act of 1789 granting the Court the power to issue writs of mandamus was unconstitutional because it expanded the original jurisdiction of the Supreme Court beyond its definition in Article III; this expansion could be done only by a constitutional amendment. Therefore, Marbury's suit could not be heard by the Supreme Court. The decision simultaneously supported Marbury and the Federalists, did not challenge Jefferson, and relinquished

the Court's power to issue writs of mandamus. Above all, it asserted the prerogative of judicial review for the Supreme Court.³

Judicial Review Assessed

For forty years after *Marbury*, the Court did not overturn a single law of Congress. And when it finally did, it was the *Dred Scott* decision, which dramatically damaged the Court's power. The Court ruled that people of African descent who were slaves (and their descendants, whether or not they were slaves) were not protected by the Constitution and could never be U.S. citizens. The Court also

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4. This discussion is based in part on Jean Edward Smith, *John Marshall: Definer of a Nation* (New York: Holt, 1996), introduction and chap. 13. For an analysis of the distinction between judicial review and judicial supremacy (the obligation of officials to follow the Court's reasoning in the future), and the politics involved in the latter, see Keith E. Whittington, *Political Foundations of Judicial Supremacy: The Presidency, the Supreme Court, and Constitutional Leadership in U.S. History* (Princeton, NJ: Princeton University Press, 2007).

held that the U.S. Congress had no authority to prohibit slavery in federal territories.⁵

The pace of judicial review picked up in the 1960s and continues to this day. The Supreme Court has invalidated an average of eighteen federal laws per decade. The Court has displayed even less compunction about voiding state laws. For example, the famous *Brown v. Board of Education of Topeka, Kansas* desegregation case overturned statutes from Kansas, Delaware, South Carolina, and Virginia that either required or permitted segregated public schools. The average number of state and local laws invalidated per decade is 122, although it has fluctuated from a high of 195 to a low for the period 2000–2008 of 34.⁷

Judicial review can be seen as reinforcing the system of checks and balances. It is a way of policing the actions of Congress, the president, and state governments to make sure that they are in accord with the Constitution. But whether an act violates the Constitution is often sharply debated, not least by members of the Court.

5.⁶

6. *Dred Scott v. Sandford*, 60 US 393 (1857).

7.⁸

8. Lawrence Baum, *The Supreme Court*, 10th ed. (Washington, DC: CQ Press, 2010).

Constraints on Judicial Power

There are three types of constraints on the power of the Supreme Court and lower court judges: they are precedents, internal limitations, and external checks.

Ruling by Precedent

Judges look to precedent, previously decided cases, to guide and justify their decisions. They are expected to follow the principle of stare decisis, which is Latin for “to stand on the decision.” They identify the similarity between the case under consideration and previous ones. Then they apply the rule of law contained in the earlier case or cases to the current case. Often, one side is favored by the evidence and the precedents.

Precedents, however, have less of an influence on judicial power than would be expected. According to a study, “justices interpret precedent in order to move existing precedents closer to their preferred outcomes and to justify new policy choices.”⁹

9.¹⁰

10. Thomas G. Hansford and James F. Spriggs II, *The Politics*

Precedents may erode over time. The 1954 Brown school desegregation decision overturned the 1896 Plessy decision that had upheld the constitutionality of separate but equal facilities and thus segregation.¹¹ Or they may be overturned relatively quickly. In 2003, the Supreme Court by 6–3 struck down a Texas law that made homosexual acts a crime, overruling the Court’s decision seventeen years earlier upholding a similar antisodomy law in Georgia. The previous case “was not correct when it was decided, and it is not correct today,” Justice Kennedy wrote for the majority.¹³

Judges may disagree about which precedents apply to a case. Consider students wanting to use campus facilities for prayer groups: if this is seen as violating the separation of church and state, they lose their case; if it is seen as freedom of speech, they win it. Precedents may allow a finding for either party, or a case may involve new areas of the law.

of Precedent on the U.S. Supreme Court (Princeton, NJ: Princeton University Press, 2006), 130.

11.¹²

12. *Plessy v. Ferguson*, 153 US (1896); *Brown v. Board of Education of Topeka, Kansas*, 347 US 484 (1954).

13.¹⁴

14. The earlier case was *Bowers v. Hardwick*, 478 US 1861 (1986); it was overruled by *Lawrence v. Texas*, 02-102 (2003).

Internal Limitations

For the courts to exercise power, there must be a case to decide: a controversy between legitimate adversaries who have suffered or are about to suffer in some way. The case must be about the protection or enforcement of legal rights or the redress of wrongs. Judges cannot solicit cases, although they can use their decisions to signal their willingness to hear (more) cases in particular policy areas.

Judges, moreover, are expected to follow the Constitution and the law despite their policy preferences. In a speech to a bar association, Supreme Court Justice John Paul Stevens regretted two of his majority opinions, saying he had no choice but to uphold the federal statutes.¹⁵ That the Supreme Court was divided on these cases indicates, however, that some of the other justices interpreted the laws differently.

A further internal limitation is that judges are obliged to explain and justify their decisions to the courts above and below. The Supreme Court's written opinions are subject to scrutiny by other judges, law professors, lawyers, elected officials, the public, and, of course, the media.

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16. Linda Greenhouse, "Justice Weighs Desire v. Duty (Duty Prevails)," *New York Times*, August 25, 2005, A1.

External Checks on Power

The executive and legislative branches can check or try to check judicial power. Through their authority to nominate federal judges, presidents influence the power and direction of the courts by filling vacancies with people likely to support their policies.

They may object to specific decisions in speeches, press conferences, or written statements. In his [2010 State of the Union address](#), with six of the justices seated in front of him, President Obama criticized the Supreme Court's decision that corporations have a First Amendment right to make unlimited expenditures in candidate elections.¹⁷

Presidents can engage in frontal assaults. Following his overwhelming reelection victory, President Franklin D. Roosevelt proposed to Congress in February 1937 that another justice be added to the Supreme Court for each sitting justice over the age of seventy. This would have increased the number of justices on the court from nine to fifteen. His ostensible justification was the Court's workload and the ages of the justices. Actually, he was frustrated by the Court's decisions, which gutted his New Deal economic programs by declaring many of its measures unconstitutional.

The president's proposal was damned by its opponents as unwarranted meddling with the constitutionally guaranteed independence of the judiciary. It was further undermined when the justices pointed out that they were quite capable of coping with

17.¹⁸

18. *Citizens United v. Federal Election Commission*, 558 US 50 (2010).

their workload, which was not at all excessive. Media coverage, editorials, and commentary were generally critical, even hostile to the proposal, framing it as “court packing” and calling it a “scheme.” The proposal seemed a rare blunder on FDR’s part. But while Congress was debating it, one of the justices shifted to the Roosevelt side in a series of regulatory cases, giving the president a majority on the court at least for these cases. This led to the famous aphorism “a switch in time saves nine.” Within a year, two of the conservative justices retired and were replaced by staunch Roosevelt supporters.

Congress can check judicial power. It overcomes a decision of the Court by writing a new law or rewriting a law to meet the Court’s constitutional objections without altering the policy. It can threaten to—and sometimes succeed in—removing a subject from the courts’ jurisdiction, or propose a constitutional amendment to undo a Court decision.

Indeed, the first piece of legislation signed by President Obama overturned a 5–4 Supreme Court 2007 decision that gave a woman a maximum of six months to seek redress after receiving the first check for less pay than her peers.¹⁹ Named after the woman who at the end of her nineteen-year career complained that she had been paid less than men, the Lilly Ledbetter Fair Pay Act extends the period to six months after *any* discriminatory paycheck. It also applies to anyone seeking redress for pay discrimination based on race, religion, disability, or age.

The Constitution grants Congress the power to impeach judges. But since the Constitution was ratified, the House has impeached only eleven federal judges, and the Senate has convicted just five of them. They were convicted for such crimes as bribery, racketeering,

19. ²⁰

20. *Ledbetter v. Goodyear Tire & Rubber Co.* 550 US (2007).

perjury, tax evasion, incompetence, and insanity, but not for wrongly interpreting the law.

The Supreme Court may lose power if the public perceives it as going too far. Politicians and interest groups criticize, even condemn, particular decisions. They stir up public indignation against the Court and individual justices. This happened to Chief Justice Earl Warren and his colleagues during the 1950s for their school desegregation and other civil rights decisions.

WANTED

for Impeachment



EARL WARREN

OCCUPATION: Chief Justice of U.S. Supreme Court. PREVIOUS JUDICIAL EXPERIENCE: None. Warren reportedly leans heavily upon the writings of alien sociologists as authority for many of his court decrees.

DESCRIPTION

WARREN IS CONSIDERED TO BE A DANGEROUS AND SUBVERSIVE CHARACTER. HE IS AN APPARENT SYMPATHISER OF THE COMMUNIST PARTY AND HAS RENDERED NUMEROUS DECISIONS FAVORABLE TO IT. HIS ACCOMPLICES INCLUDE JUSTICE FELIX FRANKFURTER, WHO IS A FORMER DEFENSE ATTORNEY FOR COMMUNISTS, AND JUSTICE HUGO BLACK, WHOSE SISTER-IN-LAW IS A REGISTERED COMMUNIST.

WARREN IS A RABID AGITATOR FOR COMPULSORY RACIAL MONGRELIZATION AND HAS HANDED DOWN VARIOUS DECISIONS COMPELLING WHITES TO MIX WITH NEGROES IN THE SCHOOLS, IN PUBLIC HOUSING, IN RESTAURANTS AND IN PUBLIC BATHING FACILITIES. HE IS KNOWN TO WORK CLOSELY WITH THE N.A.A.C.P. AND FAVORS THE USE OF FORCE AND COERCION TO COMPEL WHITE SCHOOL CHILDREN TO MINGLE INTIMATELY WITH NEGROES.

CRIMINAL RECORD

WARREN HAS BEEN ACCUSED OF GIVING AID AND COMFORT TO THE COMMUNIST PARTY ON FREQUENT OCCASIONS. HE IS GUILTY OF PROMOTING AND INCITING RIOT, DISORDER AND ANARCHY IN LITTLE ROCK AND ELSEWHERE IN THE SOUTH THROUGH HIS ATTEMPTS TO IMPOSE JUDICIAL TYRANNY UPON WHITE SOUTHERNERS. HE HAS ILLEGALLY TRANSFORMED THE SUPREME COURT INTO A SOVIET-TYPE POLITBURO WITH POWER OVER THE CONGRESS AND OVER THE VARIOUS STATE GOVERNMENTS. AT HIS INSTIGATION FEDERAL MARSHALS AND BAYONET-EQUIPPED FEDERAL TROOPS HAVE BEEN EMPLOYED TO TERRORIZE AND INTIMIDATE WHITE CITIZENS OPPOSED TO HIS INTEGRATION DECREES.

CAUTION

EARL WARREN IS A PANATIC WHO WILL STOP AT NOTHING TO ACHIEVE HIS GOALS. HE SHOULD BE HANDLED WITH EXTREME CAUTION, AND ALL DECREES AND DECISIONS HANDED DOWN BY HIM SHOULD BE REGARDED AS SUSPECT. PERSONS WISHING TO AID IN BRINGING HIM TO JUSTICE SHOULD CONTACT THEIR CONGRESSMEN TO URGE HIS IMPEACHMENT FOR TREASON.

The controversial decisions of the Warren Court inspired a movement to impeach the chief justice.

How the decisions and reactions to them are framed in media reports can support or undermine the Court's legitimacy.

Comparing Content: *Brown v. Board of Education of Topeka, Kansas*

How a decision can be reported and framed differently is illustrated by news coverage of the 1954 Supreme Court school desegregation ruling.

The *New York Times* of May 18, 1954, presents the decision as monumental and historic, and school desegregation as both necessary and desirable. Southern opposition is acknowledged but downplayed, as is the difficulty of implementing the decision. The front-page headline states “High Court Bans School Segregation; 9–0 Decision Grants Time to Comply.” A second front-page article is headlined “Reactions of South.” Its basic theme is captured in two prominent paragraphs:

underneath the surface . . . it was evident that many Southerners recognized that the decision had laid down the legal principle rejecting segregation in public education facilities” and “that it had left open a challenge to the region to join in working out a program of necessary changes in the present bi-racial school systems.

There is an almost page-wide photograph of the nine members of the Supreme Court. They look particularly distinguished, legitimate, authoritative, decisive, and serene.

In the South, the story was different. The *Atlanta Constitution* headlined its May 18, 1954, story “Court Kills Segregation in Schools: Cheap Politics, Talmadge Retorts.” By using “Kills” instead of the *Times*’s “Bans,” omitting the fact headlined in the *Times* that the decision was unanimous, and including the reaction from Georgia Governor Herman E. Talmadge, the *Constitution* depicted the Court’s decision far more critically than the *Times*. This negative frame was reinforced by the headlines of the other stories on its front page. “Georgia’s Delegation Hits Ruling” announces one; “Segregation To Continue, School Officials Predict” is a second. Another story quotes Georgia’s attorney general as saying that the “Ruling Doesn’t Apply to Georgia” and pledging a long fight.

The *Times*’ coverage supported and legitimized the Supreme Court’s decision. Coverage in the *Constitution* undermined it.

External pressure is also applied when the decisions, composition, and future appointments to the Supreme Court become issues during presidential elections.²¹ In a May 6, 2008, speech at Wake Forest University, Republican presidential candidate Senator John McCain said that he would nominate for the Supreme Court “men and women with . . . a proven commitment to judicial restraint.” Speaking to a Planned Parenthood convention on July 17, 2007, Senator Barack Obama identified his criteria as “somebody who’s got the heart, the empathy, to recognize what it’s like . . . to be poor or African American or gay or disabled or old.”

21. ²²

22. Donald Grier Stephenson Jr., *Campaigns and the Court: The U.S. Supreme Court in Presidential Elections* (New York: Columbia University Press, 1999).

Judges as Policymakers

Judges have power because they decide cases: they interpret the Constitution and laws, and select precedents. These decisions often influence, even make, public policy and have important ramifications for social conflict. For example, the Supreme Court has effectively established the ground rules for elections. In 1962 it set forth its “one person, one vote” standard for judging electoral districts.²³ It has declared term limits for members of Congress unconstitutional. It has upheld state laws making it extremely difficult for third parties to challenge the dominance of the two major parties.²⁵

23.²⁴

24. *Baker v. Carr*, 369 US 186 (1962).

25.²⁶

26. See David K. Ryden, ed., *The U.S. Supreme Court and the Electoral Process* (Washington, DC: Georgetown University Press, 2000), especially the editor’s “Overview,” 1–4.

Judicial Philosophies

How willing judges are to make public policy depends in part on their judicial philosophies.²⁷ Some follow judicial restraint, deciding cases on the narrowest grounds possible. In interpreting federal laws, they defer to the views expressed in Congress by those who made the laws. They shy away from invalidating laws and the actions of government officials. They tend to define some issues as political questions that should be left to the other branches of government or the voters. When the Constitution is silent, ambiguous, or open ended on a subject (e.g., “freedom of speech,” “due process of law,” and “equal protection of the laws”), they look to see whether the practice being challenged is a long-standing American tradition. They are inclined to adhere to precedent.

Judicial restraint is sometimes paired with strict constructionism. Judges apply the Constitution according to what they believe was its original meaning as understood by a reasonable person when the Constitution was written.

Other judges follow a philosophy of judicial activism (although they may not call it that). Activist judges are willing to substitute

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28. For the argument that the justices’ behavior is largely determined by their individual policy preferences, see Jeffrey A. Segal and Harold J. Spaeth, *The Supreme Court and the Attitudinal Model Revisited* (New York: Cambridge University Press, 2002); see also Brian Z. Tamanaha, *Beyond the Formalist–Realist Divide: The Role of Politics in Judging* (Princeton, NJ: Princeton University Press, 2009).

their policy views for the policy actions or inaction of the other branches of government.

Judicial activism is often paired with loose constructionism, viewing the Constitution as a living document that the founders left deliberately ambiguous. In interpreting the Constitution, these judges are responsive to what they see as changes in society and its needs. A plurality of the Supreme Court found a right to privacy implicit in the Constitution and used it to overturn a Connecticut law prohibiting the use of contraceptives.²⁹ The justices later used that privacy right as a basis for the famous *Roe v. Wade* decision, “discovering” a woman’s constitutional right to an abortion.

The distinction between judicial restraint and strict constructionism on the one hand and judicial activism and loose constructionism on the other can become quite muddy. In 1995, the Supreme Court, by a 5–4 vote, struck down the Gun-Free School Zone Act—an attempt by Congress to keep guns out of schools.³¹ The ruling was that Congress had overstepped its authority and that only states had the power to pass such laws. This decision by the conservative majority, interpreting the Constitution according to what it believed was the original intentions of the framers, exemplified strict constructionism. It also exemplified judicial activism: for the first time in fifty years, the Court curtailed the power of Congress under the Constitution’s commerce clause to interfere with local affairs.³³ A 5–4 conservative majority has also

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30. *Griswold v. Connecticut*, 381 US 479 (1965).

31. ³²

32. *United States, Petitioner v. Alfonso Lopez, Jr.*, 514 US 549 (1995).

33. ³⁴

interpreted the Second Amendment to prohibit the regulation of guns.³⁵ This decision, too, could be seen as activist.

Political Views in Action

One doesn't have to believe that justices are politicians in black robes to understand that some of their decisions are influenced, if not determined, by their political views.³⁷ Judges appointed by a

34. In *The Supreme Court and the American Elite, 1789–2008* (Cambridge, MA: Harvard University Press, 2009), Lucas A. Powe Jr. argues that the Court “serves ruling political coalitions” and attacks the conservative Rehnquist Court for overturning legislation that extended rights and privileges, and protected and improved society.

35.³⁶

36. The cases are *District of Columbia et al. v. Heller*, 554 US (2008) and *McDonald et al. v. City of Chicago et al.* 561 US (2010).

37.³⁸

38. For the argument that there is nothing wrong with a

Democratic president are more liberal than those appointed by a Republican president on labor and economic regulation, civil rights and liberties, and criminal justice.³⁹ Republican and Democratic federal appeals court judges decide differently on contentious issues such as abortion, racial integration and racial preferences, church-state relations, environmental protection, and gay rights.

On rare occasions, the Supreme Court renders a controversial decision that graphically reveals its power and is seen as motivated by political partisanship. In December 2000, the Court voted 5–4, with the five most conservative justices in the majority, that the Florida Election Code’s “intent of the voter” standard provided insufficient guidance for manually recounting disputed ballots and that there was no time left to conduct recounts under

political court or with political motives in constitutional adjudication, see Terri Jennings Peretti, *In Defense of a Political Court* (Princeton, NJ: Princeton University Press, 1999), 73.

39.⁴⁰

40. Robert A. Carp, Kenneth L. Manning, and Ronald Stidham, “President Clinton’s District Judges: ‘Extreme Liberals’ or Just Plain Moderates?” *Judicature* 84, no. 5 (March–April 2001): 282–88; and “The Decision-Making Behavior of George W. Bush’s Judicial Appointees: Far-Right, Conservative, or Moderate?” *Judicature* 88, no. 1 (July–August 2004): 20–29.

constitutionally acceptable standards.⁴¹ This ensured that Republican George W. Bush would become president.

The decision was widely reported and discussed in the media. Defenders framed it as principled, based on legal considerations. Critics deplored it as legally frail and politically partisan. They quoted the bitter comment of dissenting Justice Stevens: “Although we may never know with complete certainty the identity of the winner of this year’s presidential election, the identity of the loser is perfectly clear. It is the nation’s confidence in the judge as an impartial guardian of the rule of law.”⁴³

Key Takeaways

In this section, we have explained how judicial review originated,

41. ⁴²

42. *Bush v. Gore*, 121 S. Ct. 525 (2000); also see David Margolick, Evgenia Peretz, and Michael Shnayerson, “The Path to Florida,” *Vanity Fair*, October 2004.

43. ⁴⁴

44. Quoted in Linda Greenhouse’s analysis “Bush v. Gore: A Special Report; Election Case a Test and a Trauma for Justices,” *New York Times*, February 20, 2001, A1.

how it is exercised, and what its effects are. We described the power of the courts, especially of the Supreme Court, and how it may be constrained by precedent, internal limitations, and external pressures. Justices make policy and are influenced by their ideological views and judicial philosophies.

107. Selecting Federal Judges

Explain the process of selecting federal judges

Learning Activities

The learning activities for this section include:

- Reading: Selecting Federal Judges
- Reading: The Courts in the Information Age
- Video: The Surprising Wretched History of the Supreme Court
- Video: Dean Chemerinsky Discusses His New Book: The Case Against the Supreme Court

Take time to review and reflect on each of these activities in order to improve your performance on the assessment for this section.

108. G. Reading: Selecting Federal Judges

Learning Objectives

After reading this section, you should be able to answer the following questions:

1. What factors influence the selection of federal judges?
2. What is the confirmation process?
3. Under what circumstances are the media important in the confirmation (or not) of Supreme Court nominees?
4. Why are some nominations unsuccessful and others successful?

The president nominates all federal judges, who must then be approved by the Senate. President George W. Bush's nominees were screened by a committee of fifteen White House and justice department officials headed by the White House legal counsel. They looked for ideological purity, party affiliation, and agreement with the president on policy issues and often turned to the Federalist Society, a conservative lawyers' group, for nominees.

The appointments of judges to the lower federal courts are

important because almost all federal cases end there.¹ Through lower federal judicial appointments, a president “has the opportunity to influence the course of national affairs for a quarter of a century after he leaves office.”³

Once in office, federal judges can be removed only by impeachment and conviction. Unless compelled to retire due to illness or incapacity, judges may time their departures so that their replacements are appointed by a president who shares their political views and policy preferences.⁵ Supreme Court Justice Souter retired in 2009 and Justice Stevens retired in 2010, enabling President Obama to nominate, and the Democratic-controlled Senate to confirm, their successors.

1. ²

2. For a study of lower federal court selection, see Sheldon Goldman, *Picking Federal Judges* (New Haven, CT: Yale University Press, 1997).

3. ⁴

4. From Tom Charles Huston to President Richard Nixon, 25 March 1969, in WHCF ExFG 50, the Judicial Branch (1969–1970), Box 1, White House Central Files, FG 50, Nixon Presidential Materials Project, College Park, Maryland.

5. ⁶

6. Lee Epstein and Jeffrey A. Segal, *The Politics of Judicial Appointments* (New York: Oxford University Press, 2005).

Choosing Supreme Court Justices

In nominating Supreme Court justices, presidents seek to satisfy their political, policy, and personal goals.⁷ They do not always succeed; justices sometimes change their views over time or may surprise the president from the start. “Biggest damfool mistake I ever made,” said President Dwight D. Eisenhower about his appointment of Chief Justice Earl Warren, who led the Supreme Court’s liberal decisions on civil rights and criminal procedure.

The following are some other factors that can influence presidents’ choices of Supreme Court nominees:⁹

7.⁸

8. Michael Comiskey, *Seeking Justices: The Judging of Supreme Court Nominees* (Lawrence: University Press of Kansas, 2004), thinks the confirmation process is acceptable and effective; but Christopher L. Eisgruber, *The Next Justice: Repairing The Supreme Court Appointments Process* (Princeton, NJ: Princeton University Press, 2007), wants the selection process to produce justices with moderate judicial philosophies; and Richard Davis, *Electing Justice: Fixing the Supreme Court Nomination Process* (New York: Oxford University Press, 2005), thinks the process is a mess and proposes various ways of electing Supreme Court justices.

9.¹⁰

- **Senate composition.** Whether the president's party has a majority or a minority in the Senate is a factor. In 1990, when the Democrats had a majority, Republican President George H. W. Bush nominated the judicially experienced and reputedly ideologically moderate David H. Souter, who was easily approved.
- **Timing.** The closer to an upcoming presidential election the appointment occurs, the more necessary it is to appoint a highly qualified, noncontroversial figure acceptable to the Senate, or at least someone senators would be reluctant to reject. Otherwise, senators have an incentive to stall until after the election, when it may be too late to obtain confirmation.
- **Public approval of the president.** The higher the president's approval ratings, the more nominating leeway the president possesses. But even presidents riding a wave of popularity can fail to get their nominees past the Senate, as was the case with Richard Nixon and his failed nominations of Clement Haynesworth and G. Harrold Carswell in 1970. So lacking were Carswell's qualifications that a senator defended him saying "Even if he were mediocre, there are a lot of mediocre judges and people and lawyers. They are entitled to a little representation . . . and a little chance."¹¹
- **Interest groups.** Nominees must usually be acceptable to

10. See David Alistair Yalof, *Pursuit of Justices: Presidential Politics and the Selection of Supreme Court Nominees* (Chicago: University of Chicago Press, 1999), 4–7 and 17.

11.¹²

12. Warren Weaver Jr., "Carswell Nomination Attacked and Defended as Senate Opens Debate on Nomination," *New York Times*, March 17, 1970, A11.

interest groups that support the president and invulnerable (or at least resistant) to being depicted negatively—for example, as ideological extremists—by opposition groups, in ways that would significantly reduce their chances of Senate approval.

Nominations go to the Senate Judiciary Committee, which usually holds hearings. Whether senators should concern themselves with anything more than the nominee's professional qualifications is often debated. Arguably, “nothing in the Constitution, historical experience, political practice, ethical norms, or statutory enactments prohibits senators from asking questions that reveal judicial nominees' views on political and ideological issues.”¹³

The next step is for the Judiciary Committee to vote on whether or not to send the nomination to the Senate floor. If it reaches the floor, senators then can vote to confirm or reject the nomination, or filibuster so that a vote is delayed or does not take place. Fewer than half of recent nominees to the federal appeals courts have been confirmed.¹⁵

13.¹⁴

14. Albert P. Melone, “The Senate's Confirmation Role in Supreme Court Nominations and the Politics of Ideology versus Impartiality,” *Judicature* 75, no. 2 (August–September 1991): 529; also Nancy Scherer, *Scoring Points: Political Activists and the Lower Federal Court Confirmation Process* (Palo Alto, CA: Stanford University Press, 2005).

15.¹⁶

16. Sarah A. Binder and Forrest Maltzman, *Advice and*

The Media and Supreme Court Nominees

Presidents have few opportunities to nominate Supreme Court justices, so the media provide intensive coverage of every stage of the nomination, from the time an incumbent justice leaves office until a replacement is confirmed by the Senate. The scrutiny is not necessarily damaging. President Clinton's nominees, Ruth Bader Ginsberg and Stephen Breyer, enjoyed Senate confirmation by votes of 97–3 and 87–9, respectively.

Sometimes the media determine a nominee's fate. President Reagan's nominee Douglas H. Ginsburg withdrew when news stories reported that he had smoked marijuana with some of his Harvard Law School students. The media were also intimately involved with the fates of Robert H. Bork and Clarence Thomas, particularly through their coverage of the Senate Judiciary Committee's hearings.

The Failed Nomination of

Dissent: The Struggle to Shape the Federal Judiciary (Washington, DC: Brookings Institution Press, 2009).

Robert H. Bork

Bork was a distinguished lawyer who had taught at Yale University, served as solicitor general and acting attorney general of the United States, and was a judge on the U.S. Court of Appeals for the DC Circuit. He opposed civil rights laws and such Supreme Court decisions as *Roe v. Wade* allowing abortion. More than three hundred, mostly liberal, interest groups publicly opposed him.

The anti-Bork coalition adroitly used the media against him. It barraged two thousand journalists and seventeen hundred editorial writers with detailed packets of material criticizing him. It sponsored television and newspaper advertisements attacking him and asking Americans to urge their senators to vote against him.¹⁷

17.¹⁸

18. Michael Pertschuk and Wendy Schaetzel, *The People's Rising* (New York: Thunder's Mouth Press, 1989), 155; also Ethan Bronner, *Battle for Justice: How the Bork Nomination Shook America* (New York: Norton, 1989).

The nominee, touted by his supporters as urbane, witty, and brilliant, contributed to his demise by the impression he made on national television during five contentious days, during which he candidly testified about his legal and political philosophy, defended his views on issues and cases, and responded to questions from members of the Senate Judiciary Committee. Having refused the practice sessions (known as “murder boards”) and coaching offered by the White House, the professorial, scraggly bearded Bork was outmaneuvered by his opponents on the committee, who came up with such sound bites—featured on the evening television news—as, “You are not a frightening man, but you are a man with frightening views.”¹⁹



Robert Bork with President Reagan. Self-confident at his public nomination by President Reagan, Bork would be defeated by the campaign waged against him by his opponents.

The Senate rejected the nominee on October 23, 1987, by a vote of 58–42. The process generated a new verb in politics: “to bork,” which means to unleash a lobbying and public relations campaign, using and facilitated by the media.

19. ²⁰

20. Senator Howard Metzenbaum (D.-Ohio), cited in Mark Gitenstein, *Matters of Principle* (New York: Simon & Schuster, 1992), 239.

Link: The Bork Hearings

Watch the [video of the Bork hearings](#).

The Successful Nomination of Clarence Thomas

When a similar attack was waged against Clarence Thomas in the fall of 1991, the White House and the nominee's defenders were ready with a highly organized public relations campaign.

President George H. W. Bush nominated Clarence Thomas for the seat of retiring Justice Thurgood Marshall. Both were African Americans. But in contrast to the liberal Democrat Marshall, Thomas was a conservative Republican. The nomination was opposed by leaders of liberal and feminist organizations, and supported by their conservative counterparts. It divided the civil rights community, which wanted an African American justice, but not one as conservative as Thomas.

Because the nomination was shrewdly announced on the Monday afternoon preceding the Fourth of July weekend, reporters had time to transmit only the favorable story, spoon-fed from the White House, of the nominee's rise from poverty to prominence. Later, they reported some of his more controversial decisions during his one-year tenure as a federal appeals court judge.

News coverage of the nomination resumed with the Senate Judiciary Committee's hearings during which Thomas, in contrast to Bork, steadfastly avoided taking clear stands on controversial issues. He had been advised by his White House advisors to "(1) stress his humble roots; (2) [not] engage Senators in ideological debate; and (3) stonewall on abortion."²¹ At the conclusion of the hearings, Senate confirmation seemed narrowly assured. Then law professor Anita Hill accused Thomas of having engaged in sexual improprieties when she worked for him at the Department of Education and the Equal Employment Opportunity Commission.

With the salacious accusations, media coverage skyrocketed, especially when the hearings reopened featuring Hill's testimony and Thomas's rebuttals. Entertainment media made light of the issue: on *Saturday Night Live*, Chris Rock observed that "if Clarence Thomas looked like Denzel Washington this thing would never have happened." Thomas angrily accused his detractors of attempting "a high-tech lynching for uppity blacks." In the end, most senators voted as they had been leaning prior to Hill's testimony. Thomas was confirmed by a vote of 52–48.

21. ²²

22. Mark Gitenstein, *Matters of Principle* (New York: Simon & Schuster, 1992), 337.

Link: The Thomas Hearings

Watch the [Thomas hearings online](#).

Nomination of John G. Roberts Jr.

In July 2005, President George W. Bush made the first Supreme Court nomination in eleven years. He chose John G. Roberts Jr., a federal appeals court judge on the DC Circuit, to replace the moderate Republican Sandra Day O'Connor, who was retiring. Roberts was then nominated to be chief justice after the death of incumbent William H. Rehnquist.

During three days of testifying before the Senate Judiciary Committee, the erudite and engaging Roberts deflected questions by comparing judges to umpires and saying that he would be guided by the law. On September 29, 2005, the Republican-controlled Senate



The media's intense attention to Supreme Court nominees is caught in this photograph showing the gaggle of journalists around John G. Roberts as he meets with the president.

approved him as chief justice of the U.S. Supreme Court by a vote of 78–22.

Link: John G. Roberts’ Opening Statement

Watch the [opening statement of John G. Roberts](#).

Nominations of Harriet Miers and Samuel A. Alito Jr.

Bush next turned to fill Sandra Day O’Connor’s vacant seat. He was under pressure, even in public statements from his wife, to appoint a woman to succeed O’Connor. He nominated his White House general counsel and close friend, Harriet Miers. She had never served as a judge, had little expertise on constitutional matters, and held few reported positions on important issues.

Conservatives, including officeholders, interest-group leaders,

columnists, pundits, and bloggers, rejected the president's assurance that she was a candidate they could trust. Leaders of the Senate Judiciary Committee rejected her answers to their questions as "inadequate, insufficient and insulting." Senators expressed doubts to the news media about her qualifications and knowledge of the Constitution. After twenty-four days of a ferocious barrage of criticism, all reported and amplified by the media, Ms. Miers withdrew from consideration.

President Bush then nominated a federal appeals court judge, Samuel A. Alito Jr. The judge had a record from his time in the Reagan administration and from fifteen years of judicial decisions of deferring to the executive branch, favoring business, and rejecting abortion rights.

In testifying before the members of the Senate Judiciary Committee, Judge Alito followed the stonewalling script. Nothing he said could be used against him by Democratic senators on the committee or by the media. A dramatic moment in his favor, shown on television, occurred when his wife, upset by the questioning directed at him, walked out of the hearings in tears. Soon after the hearings, Judge Alito was approved by 58–42 (54 Republicans plus 4 Democrats against 40 Democrats plus 1 Republican and 1 Independent).

Links: The Miers Nomination and Alito Nomination

Learn more about the [Miers nomination](#).

Learn more about the [Alito nomination](#).

Nominations of Sonia Sotomayor and Elena Kagan

When Justice Souter resigned from the Court, President Obama, making his first nomination, picked Sonia Sotomayor to replace him. Her confirmation hearings in July 2009 followed the script that had worked for Roberts and Alito. She refused to opine about cases or identify a judicial philosophy other than “fidelity to the law.” Sotomayor would be the first Hispanic and third woman ever appointed to the Court. She would not change its ideological balance, and there were no media revelations to derail her prospects. Since the Democrats had sixty votes in the Senate, it came as no surprise that she was confirmed by a vote of 68–31.

A similar pattern followed the resignation of Justice John Paul Stevens. Obama’s nominee, Solicitor General and former Dean of the Harvard Law School Elena Kagan, was unlikely to change the ideological balance on the Court. She, too, largely stonewalled the

hearings and was confirmed by the Senate on August 5, 2010, by a vote of 63–37.

Links: The Sotomayor Nomination and Kagan Nomination

Learn more about the [Sotomayor nomination](#).

Learn more about the [Kagan nomination](#).

Key Takeaways

Presidents usually look to nominate as federal judges people who share their ideological, policy, and partisan views. Nominations attract intense scrutiny from interest groups and the media and can be controversial and contentious. They are subject to confirmation by the Senate, which may delay, block, or approve them. We explain why the nominations of Robert H. Bork and Harriet Miers failed and

why those of Clarence Thomas, John G. Roberts Jr., Samuel A. Alito Jr., Sonia Sotomayor, and Elena Kagan were successful.

109. Reading: The Courts in the Information Age

Learning Objectives

After reading this section, you should be able to answer the following questions:

1. How do Supreme Court justices interact with the media?
2. How do reporters go about covering the Supreme Court?
3. How are the Supreme Court and its decisions depicted in the information age?
4. What are the consequences of these depictions?

Media Interactions

Occasionally, Supreme Court justices give speeches about broad constitutional issues, talk off the record with a journalist, or rarely,

engage in an on-the-record interview.¹ They may write a book setting forth their judicial philosophies and go on television to publicize it.² Justice Stephen Breyer appeared on *Larry King Live* to promote his latest book. He was circumspect, carefully avoiding discussing cases in any detail or revealing the Court's deliberations.⁴

The more flamboyant Justice Antonin Scalia has appeared on *60 Minutes* to promote a book he coauthored on how to persuade

1. An exception was Justice William J. Brennan Jr., who, in 1986, engaged in sixty hours of candid interviews with reporter Stephen Wermeil and allowed him to go through his papers. The agreement was that, after Brennan retired, the reporter would write his biography. Brennan retired in 1990. The book finally appeared in 2010: Sol Stern and Stephen Wermeil, *Justice Brennan: Liberal Champion* (Boston: Houghton Mifflin Harcourt, 2010).
- 2.³
3. Antonin Scalia, with replies by scholars, *A Matter of Interpretation: Federal Courts and the Law* (Princeton, NJ: Princeton University Press, 1998); also Stephen G. Breyer, *Active Liberty: Interpreting Our Democratic Constitution* (New York: Knopf, 2005).
- 4.⁵
5. Stephen G. Breyer, *Making Our Democracy Work: A Judge's View* (New York: Knopf, 2010); the interview was on September 15, 2010.

judges. During the interview, he did discuss some of his views.⁶ Also, he does not shy away from voicing controversial opinions in statements and speeches, saying, for example, “you would have to be an idiot” to believe that the Constitution is a living document.⁸ (Watch the [Scalia interview online](#).) Justice Ruth Bader Ginsberg, in a speech that could be seen as a response and that was posted on the Court’s website, expressed her preference for “dynamic” over “static, frozen-in-time constitutional interpretation.”⁹

Withal, most judges shun the media. They rarely hold press conferences or discuss current cases.¹¹ Toni House, who served

6.⁷

7. April 27, 2008; the book is Antonin Scalia and Bryan Garner, *Making Your Case: The Art of Persuading Judges* (Eagan, MN: Thomson West, 2008).

8. Justice Scalia appeared on the American Civil Liberties Union (ACLU) panel on the state of civil liberties televised by C-SPAN (October 15, 2006), explaining and defending some of his decisions.

9.¹⁰

10. Adam Liptak, “Public Comments by Justices Veer Toward the Political,” *New York Times*, March 19, 2006, 22.

11.¹²

12. Our discussion of interactions draws from Richard Davis, *Decisions and Images: The Supreme Court and the Press* (New York: Prentice Hall, 1994); also Robert E. Drechsel, *News Making in the Trial Courts* (New York: Longman, 1983).

as the Supreme Court's public information officer for many years, described her job as "peculiar in Washington because this office doesn't spin, it doesn't flap, it doesn't interpret . . . When an opinion comes down, we put it in the hands of a reporter."¹³¹⁴ Nowadays, the court does frequently release audio of the oral arguments.

The main way in which justices communicate with the media is through the legal language of their written opinions. Even when a case is controversial and the Supreme Court is divided 5–4, the justices use such language in their opinions to justify their decisions. No matter how impassioned, this legal language makes it difficult for reporters to raise the subjects of partisanship or politics when writing stories about the Court's actions.

13.

14. ¹⁵

15. Quoted in Elliot E. Slotnick and Jennifer A. Segal, *Television News and the Supreme Court* (New York: Cambridge University Press, 1998), 33–34.

Majesty and Secrecy

The justices have two powerful weapons that help them present to the public an image of themselves as above politics and partisanship: majesty and secrecy.

Majesty begins with the Supreme Court building, which commands awe and respect. It continues with what reporters see inside the courtroom—all that they see—which is designed to elevate the justices and the judicial process to a magisterial and impersonal status: the ornate setting, the ritual, the ceremony, the

justices presiding in their robes, seated on high-backed chairs, physically and metaphorically raised up. This effect is conveyed most visibly in the official photograph of the nine justices.



The Supreme Court building: so magisterial and redolent of justice achieved away from the hurly-burly of politics.

Enduring Image: Photos of the Supreme Court Justices

The traditional group photograph that the members of the Supreme Court allow to be taken shows them arrayed and authoritative in their impressive institutional setting. This enduring image enhances the justices' standing and contributes to people's acceptance of their rulings.



Official Photo of the Supreme Court Justices

But what if they were shown discussing cases as bargainers? Or engaged in a nonjudicial activity? Or caught in an embarrassing moment in the way that celebrities are trapped by the tabloids? Such photographs would detract from the justices' authority and the Court's legitimacy.

Note the furor provoked by *America (The Book)*¹⁶ by Jon Stewart and the writers of *The Daily Show with Jon Stewart*. Wal-Mart refused to stock it. The reason: one page of this parody of a civics textbook shows the faces of the Supreme Court justices superimposed over naked elderly bodies. The facing page has cutouts of the justices' robes and a caption asking readers to "restore their dignity by matching each justice with his or her respective robe."

The second way in which judges obtain favorable media coverage is through secrecy. Denied to reporters—and therefore absent from the news—are the justices' discussions on granting review, conference proceedings, and the process of creating a majority through opinion writing. The press is not privy to the decision-making processes, the informal contacts among the justices, the appeals and persuasion, the negotiation and bargaining, and the sometimes pragmatic compromises.¹⁸

16.¹⁷

17. Jon Stewart, *America (The Book)* (New York: Warner Brothers, 2004).

18. When he retired in 1994, Justice Harry Blackman gave his papers to the Library of Congress on the condition that they remained closed for five years.

Cameras in the Courtroom

Cameras are prohibited in the Supreme Court during public sessions. The stated reasons for the ban are that it prevents lawyers and justices from playing to the cameras and avoids any physical disruption of the chamber. There is also concern that news coverage would emphasize the brief oral arguments, which can be misleading—since the essence of appellate advocacy before the Court is in the written briefs. The unstated reasons are that cameras might not only cause the justices to lose their cherished anonymity and privacy but also undermine the Court’s mystique by allowing people to see and judge the justices’ behavior.

Television cameras are excluded from most other federal courts for many of the same reasons. They are allowed in all state courts under conditions and restrictions, for example, consent of the judge, agreement of the attorneys for both sides, fixed placement, and a prohibition against showing jurors.

Reporters

Reporters covering the Supreme Court tend to be protective of the institution and the justices. In part, this is because they see law and politics as separate and different. Also, they do not have access to the kind of behavior and information that might lead them to think of and frame the Court in terms of policy and, particularly, politics.

Even when reporters at the Court are familiar with the facts and the oral arguments and have read the briefs of cases, they have more than enough to do just summarizing the justices' decisions. These decisions can be complex, containing fifty to a hundred or more pages of dense text, often with detailed concurring and dissenting opinions. At its busiest time of the year, the Court releases several opinions at once; over 40 percent are issued during the last three weeks of the Court's term. Reporters have little time to check over the cases and opinions, decide which ones are important, and prepare a report in layperson's language.

On controversial cases, reporters are bombarded by reactions and analyses from the parties to the case, their attorneys, legal experts, and interest groups. Most of these people are usually available on the plaza in front of the Supreme Court, where microphones are set up for them.

After a controversial Supreme Court decision, reporters can interview the attorneys, their clients, and interest-group spokespersons.

Reporters may include some of these views in their stories and show that the justice's decisions have effects on people's lives. But they usually lack the time and space to explain the decisions in explicitly political terms.



The Supreme Court plaza. After a controversial Supreme Court decision, reporters can interview the attorneys, their clients, and interest-group spokespersons.

Media Depictions of the Supreme Court

After the acrimony of *Bush v. Gore*, the four dissenting justices returned to collegiality. Media and public discussion of the decision as partisan politics died down. The authority and legitimacy of the Court and the justices were reaffirmed.

Apolitical Coverage

Contributing to the return to normalcy, the media usually depict the Supreme Court as apolitical, that is, above and beyond politics and partisanship.

Only infrequently do stories about individual cases decided by the Supreme Court mention their political implications and the justices' partisan positions.¹⁹ Our analysis of all Associated Press (AP) wire-

19.²⁰

20. A study of all decisions handed down by the Court during its 1998 term corroborates our findings: see Rorie L. Spill and Zoe M. Oxley, "Philosopher Kings or Political Actors?"

service reports of the Supreme Court's significant rulings during a typical term (2002–3) for cases decided by a majority of 5–4 through 7–2 revealed that the terms “partisan” or “partisanship” were rare and the words “Democrat,” “Republican,” “political,” and “politics” never appeared. Editorial writers in newspapers across the country infrequently “use ideological labels to identify voting coalitions on the Court and to characterize individual justices . . . The Court and its members are set apart.”²¹

Journalists do refer to ideology when covering Supreme Court confirmation battles, that is, in the time before the nominees become members of the Court. And when the Court is obviously ideologically divided, the media characterize the blocs as conservative and liberal: for example, the 2006–7 term, when a third of all the cases (twenty-four) were decided by a 5–4 vote, with Chief Justice Roberts leading the identical five-man conservative majority on nineteen of them. A fresh reporter at the Court can see it politically. Thus the *New York Times*'s Adam Liptak, summarizing the 2010 term, cited studies by and data from political scientists to identify the Court as “the most conservative one in living memory.”²³ He subsequently wrote an article documenting that the

How the Media Portray the Supreme Court,” *Judicature* 87, no. 1 (July–August 2003): 22–29.

21. ²²

22. Jan P. Vermeer, *The View from the States: National Politics in Local Newspaper Editorials* (Lanham, MD: Rowman & Littlefield, 2002), 110.

23. ²⁴

24. Adam Liptak, “Court Under Roberts Is Most Conservative in Decades,” *New York Times*, July 24, 2010, A1.

justices usually selected law clerks who shared their ideological views.²⁵ But such a perspective is exceptional.

Limited Coverage

Media coverage of the Supreme Court is limited. Many of the Court's decisions are not reported by the news media or are recounted only briefly. The television networks give less than 4 percent of their coverage of the three branches of government to the Supreme Court. The leading news magazines focus on only 10 percent of the cases. Even a reader relying on the *New York Times* would not know about many of the Court's decisions.

A few cases, unrepresentative of the Court's docket, usually those involving the First Amendment or other rights, receive extensive coverage, as do cases arousing intense interest-group involvement. Typical is the widespread coverage given to the Court's 5–4 decision upholding a voucher system that partially pays tuition at religious schools.²⁷ Missing are decisions about contracts and taxes, criminal

25.²⁶

26. Adam Liptak, "Choice of Clerks Highlights Court's Polarization," *New York Times*, September 7, 2010, A1, 14, and 15.

27.²⁸

law and procedure, and federal statutes and regulations, except for cases involving big-name litigants.²⁹

Oversimplified Coverage

Coverage of the Court is often oversimplified. For example, in news accounts, the Court's refusal to grant certiorari is said to endorse the lower court's decision, when all it means is that the Court has refused to review the case. In a typical example, an NBC news anchor misleadingly announced that "the Court *upheld* a ban on dances in the public school of Purdy, Missouri, where many people are Southern Baptists who believe that dancing is sinful and satanic."³¹

28. *Zelman v. Simmons-Harris*, US Lexis 4885 (June 27, 2002).

29.³⁰

30. Susan Michelich, "Media Coverage of the Supreme Court, 1999–2000 Term in *USA Today* and *ABC News*" (paper for "Politics and the Media," Duke University, November 2000), 7–8.

31.³²

32. NBC News, April 15, 1990, cited in Elliot E. Slotnick and

New Media

The new media can breach the bulwark of majesty and secrecy protecting the Supreme Court. They can provide political and critical perspectives and cover more cases in more detail.

Reluctantly and cautiously, the Supreme Court has entered the information age. The Court's [official website](#) now contains transcripts of oral arguments on the same day they are made. It also provides the complete opinions of each case on the docket since the 2003 term and instructions on how to obtain opinions for earlier cases. In 2009, former Justice O'Connor launched a website called "Our Courts," which explains courts in relation to the Constitution. Much of the other information now available, however—such as on [Scotusblog.com](#), the go-to site for Supreme Court coverage—is intended for the legal community.

The Internet does contain commentary on the Court's decisions. Blogs range from the lighthearted and gossipy "[Underneath Their Robes](#)," which breaks with judges' aloofness and inaccessibility, to the academic "[Becker-Posner](#)" blog with essays by the two authors and a comment forum for reader response. There is now even an "[Anti-Becker-Posner-Blog](#)."

In an example of new-media innovation in covering a politically significant trial, six bloggers joined together to create [Firedoglake](#). The site offered, from a liberal perspective, intensive, real-time coverage of the perjury trial of Lewis Libby Jr., former top aide to

Jennifer A. Segal, *Television News and the Supreme Court* (New York: Cambridge University Press, 1998), 205 (their emphasis).

Vice President Dick Cheney. The coverage went beyond anything provided by the mainstream media.

Media Consequences

The news media's coverage makes it hard for people to see the political orientation of judges engaged in making and changing public policies. This is likely to reinforce the legitimacy of the courts and confidence in judges.

Indeed, 80 percent of the people in a survey conducted for the American Bar Association strongly agreed or agreed that "in spite of its problems, the American justice system is still the best in the world."³³ Fifty-four percent strongly agreed that "most judges are extremely well qualified for their jobs." Most faith was expressed in the Supreme Court, with 50 percent having strong confidence in it and only 15 percent having slight or no confidence.

However, reports of dramatic and sensational cases and their depictions in popular culture do make people quite critical of the way the legal system appears to operate.³⁵ Fifty-one percent of

33.³⁴

34. The American Bar Association, "[Perceptions of the U.S. Justice System.](#)"

35.³⁶

those surveyed agreed that it “needs a complete overhaul.” Close to 80 percent agreed that “it takes too long for courts to do their job” and “it costs too much to go to court.”

Tabloid trials can increase people’s knowledge of some aspects of the legal system. In a survey conducted in the wake of the overwhelmingly publicized criminal and civil cases involving O. J. Simpson, almost everyone knew that anyone accused of a crime has the right to be represented in court by a lawyer and that a defendant found not guilty in a criminal trial can be sued in a civil trial. Two-thirds knew that a criminal defendant is innocent until proven guilty, although one-third mistakenly believed the reverse.

Key Takeaways

The justices of the Supreme Court interact with reporters mainly through the legal language of their written decisions. They accentuate the Court’s majesty while concealing its inner workings and excluding cameras. Reporters perceive the Supreme Court primarily as a legal institution. They lack the time and space to

36. These data come from Richard L. Fox and Robert W. Van Sickel, *Tabloid Justice: Criminal Justice in an Age of Media Frenzy* (Boulder, CO: Lynne Rienner Publishers, 2001), chap. 4 and the second edition, coauthored with Thomas L. Steiger (2007), chap. 4.

report in detail on its activities. News media coverage of the Supreme Court is incomplete and oversimplified, usually depicting the justices as apolitical. These depictions reinforce the legitimacy of courts and people's confidence in judges. Americans believe that the legal system is the best in the world, but are critical of how it operates.

110. Video: The Surprising Wretched History of the Supreme Court

Ian Millhiser, a Senior Fellow at the Center for American Progress Action Fund and author of *Injustices: The Supreme Court's History of Comforting the Comfortable and Afflicting the Afflicted*, explains the regressive history of the Supreme Court. He also discusses the historical accident of the progressive nature of the Warren Court and explains why FDR wanted the Supreme Court out of economic policy.



One or more interactive elements has been excluded from this version of the text. You can view them online

here: <https://library.achievingthedream.org/herkimeramericangovernment/?p=133#oembed-1>

III. Video: Dean Chemerinsky Discusses His New Book: The Case Against the Supreme Court

Here is what the Los Angeles Review of Books says about *The Case Against the Supreme Court*:

Brilliant, thought provoking, disturbing, and enraging, the book could be the first shot in a battle to save the Supreme Court from what he believes is its most intractable foe—itsself. Filled with an insider’s understanding of how theories on jurisprudence differ from Supreme Court practice, it is balanced by the gravitas of a singular legal mind.

Watch the video below to learn more about it:



One or more interactive elements has been excluded from this version of the text. You can view them online

here: <https://library.achievingthedream.org/herkimeramericangovernment/?p=134#oembed-1>

112. Putting It Together

Summary

The federal court system consists of ninety-four district courts, with at least one in each state, and thirteen appeals courts, each one with jurisdiction over several states. At the top of the judicial system is the Supreme Court. The Supreme Court's decisions entail briefs, oral arguments, conferences, clerks, and opinions.

We have explained how judicial review originated, how it is exercised, and what its effects are. We described the power of the courts, especially of the Supreme Court, and how it may be constrained by precedent, internal limitations, and external pressures. Justices make policy and are influenced by their ideological views and judicial philosophies.

Presidents usually try to nominate as federal judges people who share their ideological, policy, and partisan views. Nominations attract intense scrutiny from interest groups and the media and can be controversial and contentious. They are subject to confirmation by the Senate, which may delay, block, or approve them. We examined why the nominations of Robert H. Bork and Harriet Miers failed and why those of Clarence Thomas, John G. Roberts Jr., Samuel A. Alito Jr., Sonia Sotomayor, and Elena Kagan were successful.

News media coverage of the Supreme Court is incomplete and oversimplified, usually depicting the justices as apolitical. These depictions reinforce the legitimacy of courts and people's confidence in judges. Americans believe that the legal system is the best in the world but are critical of how it operates.

PART IX

CH. 6 - POLITICAL CULTURE AND PUBLIC OPINION

113. Why It Matters

Explain the relationship between political culture, public opinion, and citizen participation in politics



What are the core beliefs that drive American political behavior? Equality? Democracy? Individualism? No doubt these are important, but do these commitments explain all that we see in American political history, or what we hear in our contemporary political debates? What other attitudes or beliefs do we need to add that might be said to make up the “American creed”?

As you work through this module you will think about the ideas, attitudes, and beliefs that make Americans tick. That is, you will consider the enduring and evolving tendencies of American political culture.

You will also consider public opinion as it relates to specific issues

and events. Furthermore, we will investigate the relationship between public attitudes and preferences and public policy. Understand that this is a very important relationship if we believe in democracy.

You will also consider a problematic fact of life for committed democrats: We the People are not particularly well informed about political issues or history. Can democracy work in such a context? Then again, are the preferences of elite decision-makers any better?

There's a lot to think about as you work through this module focused on political culture and public opinion.

114. Building Blocks of American Political Culture

Summarize major influences and ideas at the root of American political culture

Learning Activities

The learning activities for this section include:

- Reading: Political Culture
- Video: Politics and American Political Ideals
- Reading: Civic Ideals (A Review)

Take time to review and reflect on each of these activities in order to improve your performance on the assessment for this section.

115. A. Reading: Political Culture

Learning Objectives

After reading this section, you should be able to answer the following questions:

1. What is a nation's political culture, and why is it important?
2. What are the characteristics of American political culture?
3. What are the values and beliefs that are most ingrained in American citizens?
4. What constitutes a political subculture, and why are subcultures important?

This section defines political culture and identifies the core qualities that distinguish American political culture, including the country's traditions, folklore, and heroes. The values that Americans embrace, such as individualism and egalitarianism, will be examined as they relate to cultural ideals.

What Is Political Culture?

Political culture can be thought of as a nation's political personality. It encompasses the deep-rooted, well-established political traits that are characteristic of a society. Political culture takes into account the attitudes, values, and beliefs that people in a society have about the political system, including standard assumptions about the way that government works. As political scientist W. Lance Bennett notes, the components of political culture can be difficult to analyze. "They are rather like the lenses in a pair of glasses: they are not the things we see when we look at the world; they are the things we see with."¹ Political culture helps build community and facilitate communication because people share an understanding of how and why political events, actions, and experiences occur in their country.

Political culture includes formal rules as well as customs and traditions, sometimes referred to as "habits of the heart," that are passed on generationally. People agree to abide by certain formal rules, such as the country's constitution and codified laws. They also live by unstated rules: for example, the willingness in the United States to accept the outcomes of elections without resorting to violence. Political culture sets the boundaries of acceptable political behavior in a society.³

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2. W. Lance Bennett, *Public Opinion in American Politics* (New York: Harcourt Brace Jovanovich, 1980), 368.

3. ⁴

While the civic culture in the United States has remained relatively stable over time, shifts have occurred as a result of transforming experiences, such as war, economic crises, and other societal upheavals, that have reshaped attitudes and beliefs.⁵ Key events, such as the Civil War, World War I, World War II, the Great Depression, the Vietnam War, the civil rights movement, and the terrorist attacks of 9/11 have influenced the political world views of American citizens, especially young people, whose political values and attitudes are less well established.

American Political Culture

Political culture consists of a variety of different elements. Some aspects of culture are abstract, such as political beliefs and values. Other elements are visible and readily identifiable, such as rituals, traditions, symbols, folklore, and heroes. These aspects of political culture can generate feelings of national pride that form a bond between people and their country. Political culture is not

4. Daniel J. Elazar, *The American Mosaic* (Boulder, CO: Westview Press, 1994).

5.⁶

6. Ronald Inglehart, *Culture Shift in Advanced Industrial Society* (Princeton, NJ: Princeton University Press, 1990).

monolithic. It consists of diverse subcultures based on group characteristics such as race, ethnicity, and social circumstances, including living in a particular place or in a certain part of the country. We will now examine these aspects of political culture in the American context.

Beliefs

Beliefs are ideas that are considered to be true by a society. Founders of the American republic endorsed both equality, most notably in the Declaration of Independence, and liberty, most prominently in the Constitution. These political theories have become incorporated into the political culture of the United States in the central beliefs of egalitarianism and individualism.

Egalitarianism is the doctrine emphasizing the natural equality of humans, or at least the absence of a preexisting superiority of one set of humans above another. This core American belief is found in the preamble to the Declaration of Independence, which states that “all men are created equal” and that people are endowed with the unalienable rights to “life, liberty, and the pursuit of happiness.” Americans endorse the intrinsic equal worth of all people. Survey data consistently indicate that between 80 percent and 90 percent of Americans believe that it is essential to treat all people equally, regardless of race or ethnic background.⁷

The principle of individualism stresses the centrality and dignity of individual people. It privileges free action and people's ability to take the initiative in making their own lives as well as those of others more prosperous and satisfying. In keeping with the Constitution's preoccupation with liberty, Americans feel that children should be taught to believe that individuals can better themselves through self-reliance, hard work, and perseverance.⁹

The beliefs of egalitarianism and individualism are in tension with one another. For Americans today, this contradiction tends to be resolved by an expectation of equality of opportunity, the belief that each individual has the same chance to get ahead in society. Americans tend to feel that most people who want to get ahead can make it if they're willing to work hard.¹¹ Americans are more likely to promote equal political rights, such as the Voting Rights Act's stipulation of equal participation for all qualified voters, than

8. James Davison Hunter and Carl Bowman, *The State of Disunion* (Charlottesville, VA: In Media Res Educational Foundation, 1996); Pew Research Center for the People and the Press, *Values Survey* (Washington, DC: Pew Research Center, March 2009).

9.¹⁰

10. James Davison Hunter and Carl Bowman, *The State of Disunion* (Charlottesville, VA: In Media Res Educational Foundation, 1996).

11.¹²

12. Pew Research Center for the People and the Press, *Retro-Politics: The Political Typology* (Washington, DC: Pew Research Center, November 11, 1999).

economic equality, which would redistribute income from the wealthy to the poor.¹³

Values

Beliefs form the foundation for values, which represent a society's shared convictions about what is just and good. Americans claim to be committed to the core values of individualism and egalitarianism. Yet there is sometimes a significant disconnect between what Americans are willing to uphold in principle and how they behave in practice. People may say that they support the Constitutional right to free speech but then balk when they are confronted with a political extremist or a racist speaking in public.

Core American political values are vested in what is often called the American creed. The creed, which was composed by New York State Commissioner of Education Henry Sterling Chapin in 1918, refers to the belief that the United States is a government “by the people, for the people, whose just powers are derived from the consent of the governed.” The nation consists of sovereign states united as “a perfect Union” based on “the principles of freedom,

13. ¹⁴

14. Richard W. Wilson, “American Political Culture in Comparative Perspective,” *Political Psychology*, 18, no. 2 (1997): 483–502.

equality, justice, and humanity.” American exceptionalism is the view that America’s exceptional development as a nation has contributed to its special place in the world. It is the conviction that the country’s vast frontier offered boundless and equal opportunities for individuals to achieve their goals. Americans feel strongly that their nation is destined to serve as an example to other countries.¹⁵ They believe that the political and economic systems that have evolved in this country are perfectly suited in principle to permit both individualism and egalitarianism.

Consequently, the American creed also includes patriotism: the love of one’s country and respect for its symbols and principles. The events of 9/11 ignited Americans’ patriotic values, resulting in many public displays of support for the country, its democratic form of government, and authority figures in public-service jobs, such as police and firefighters. The press has scrutinized politicians for actions that are perceived to indicate a lack of patriotism, and the perception that a political leader is not patriotic can generate controversy. In the 2008 presidential election, a minor media frenzy developed over Democratic presidential candidate Barack Obama’s “patriotism problem.” The news media debated the significance of Obama’s not wearing a flag lapel pin on the campaign trail and his failure to place his hand over his heart during the playing of the national anthem.

15. ¹⁶

16. James Davison Hunter and Carl Bowman, *The State of Disunion* (Charlottesville, VA: In Media Res Educational Foundation, 1996).

Video Clip: Barack Obama's Patriotism

A steak fry in Iowa during the 2008 Democratic presidential primary sparked a debate over candidate Barack Obama's patriotism. Obama, standing with opponents Bill Richardson and Hillary Clinton, failed to place his hand over his heart during the playing of the national anthem. In the background is Ruth Harkin, wife of Senator Tom Harkin, who hosted the event.



One or more interactive elements has been excluded from this version of the text. You can view them online

here: <https://library.achievingthedream.org/herkimeramericanagovernment/?p=139#oembed-1>

Another core American value is political tolerance, the willingness to allow groups with whom one disagrees to exercise their constitutionally guaranteed freedoms, such as free speech. While many people strongly support the ideal of tolerance, they often are unwilling to extend political freedoms to groups they dislike. People acknowledge the constitutional right of racist groups, such as skinheads, to demonstrate in public, but will go to great lengths to prevent them from doing so.¹⁷

Democratic political values are among the cornerstones of the

17.¹⁸

18. John L. Sullivan, James Piereson, and George E. Marcus, *Political Tolerance and American Democracy* (Chicago: University of Chicago Press, 1982).

American creed. Americans believe in the rule of law: the idea that government is based on a body of law, agreed on by the governed, that is applied equally and justly. The Constitution is the foundation for the rule of law. The creed also encompasses the public's high degree of respect for the American system of government and the structure of its political institutions.

Capitalist economic values are embraced by the American creed. Capitalist economic systems emphasize the need for a free-enterprise system that allows for open business competition, private ownership of property, and limited government intervention in business affairs. Underlying these capitalist values is the belief that, through hard work and perseverance, anyone can be financially successful.¹⁹

19. ²⁰

20. Herbert McClosky and John Zaller, *The American Ethos* (Cambridge, MA: Harvard University Press, 1987).



Tea Party supporters from across the country staged a “March on Washington” to demonstrate their opposition to government spending and to show their patriotism.

The primacy of individualism may undercut the status quo in politics and economics. The emphasis on the lone, powerful person implies a distrust of collective action and of power structures such as big government, big business, or big labor. The public is leery of having too much power concentrated in the hands of a few large companies. The emergence of the Tea Party, a visible grassroots conservative movement that gained momentum during the 2010 midterm elections, illustrates how some Americans become mobilized in opposition to the “tax and spend” policies of big government.²¹ While the Tea Party shunned the mainstream media

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because of their view that the press had a liberal bias, they received tremendous coverage of their rallies and conventions, as well as their candidates. Tea Party candidates relied heavily on social media, such as Facebook and Twitter, to get their anti-big government message out to the public.

22. Pew Research Center for the People and the Press, *Views of Business and Regulation Remain Unchanged* (Washington, DC: Pew Research Center, February 21, 2001).

Rituals, Traditions, and Symbols

Rituals, traditions, and symbols are highly visible aspects of political culture, and they are important characteristics of a nation's identity. Rituals, such as singing the national anthem at sporting events and saluting the flag before the start of a school day, are ceremonial acts that are performed by the people of a nation. Some rituals have important symbolic and substantive purposes: Election Night follows a standard script



President Barack Obama gives the 2010 State of the Union address. The ritual calls for the president to be flanked by the Speaker of the House of Representatives (Nancy Pelosi) and the vice president (Joe Biden). Members of Congress and distinguished guests fill the House gallery.

that ends with the vanquished candidate congratulating the opponent on a well-fought battle and urging support and unity behind the victor. Whether they have supported a winning or losing candidate, voters feel better about the outcome as a result of this ritual.²³ The State of the Union address that the president makes to Congress every January is a ritual that, in the modern era, has become an opportunity for the president to set his policy agenda, to

23.²⁴

24. Benjamin Ginsberg and Herbert Weissberg, "Elections and the Mobilization of Popular Support," *American Journal of Political Science* 22, no.1 (1978): 31–55.

report on his administration's accomplishments, and to establish public trust. A more recent addition to the ritual is the practice of having representatives from the president's party and the opposition give formal, televised reactions to the address.

Political traditions are customs and festivities that are passed on from generation to generation, such as celebrating America's founding on the Fourth of July with parades, picnics, and fireworks. Symbols are objects or emblems that stand for a nation. The flag is perhaps the most significant national symbol, especially as it can take on enhanced meaning when a country experiences difficult times. The bald eagle was officially adopted as the country's emblem in 1787, as it is considered a symbol of America's "supreme power and authority."



The Statue of Liberty stands in New York Harbor, an 1844 gift from France that is a symbol welcoming people from foreign lands to America's shores.

Folklore

Political folklore, the legends and stories that are shared by a nation, constitutes another element of culture. Individualism and egalitarianism are central themes in American folklore that are used to reinforce the country's values. The “rags-to-riches” narratives of novelists—the late-nineteenth-century writer Horatio Alger being the quintessential example—celebrate the possibilities of advancement through hard work.

Much American folklore has grown up around the early presidents and figures from the American Revolution. This folklore creates an image of men, and occasionally women, of character and strength. Most folklore contains elements of truth, but these stories are usually greatly exaggerated.

The first American president, George Washington, is the subject of folklore that has been passed on to school children for more than two hundred years. Young children learn about Washington's impeccable honesty and, thereby, the importance of telling the truth, from the legend of the cherry tree. When asked by his father if he had chopped down a cherry tree with his new hatchet, Washington confessed to committing the deed by replying, “Father, I cannot tell a lie.” This event never happened and was fabricated by



There are many folktales about young George Washington, including that he chopped down a cherry tree and threw a silver dollar across the Potomac River. These stories were popularized by engravings like this one by John C. McCabe depicting Washington working as a land surveyor.

biographer Parson Mason Weems in the late 1700s.²⁵ Legend also has it that, as a boy, Washington threw a silver dollar across the Potomac River, a story meant to illustrate his tremendous physical strength. In fact, Washington was not a gifted athlete, and silver dollars did not exist when he was a youth. The origin of this folklore is an episode related by his step-grandson, who wrote that Washington had once thrown a piece of slate across a very narrow portion of the Rappahannock River in Virginia.²⁷

Heroes

Heroes embody the human characteristics most prized by a country. A nation's political culture is in part defined by its heroes who, in theory, embody the best of what that country has to offer.

25.²⁶

26. George Washington's Mount Vernon, "[Is it true that George Washington chopped down a cherry tree when he was a boy?](#)," accessed February 3, 2011.

27.²⁸

28. George Washington's Mount Vernon, "[Did George Washington really throw a silver dollar across the Potomac River?](#)," accessed February 3, 2011.

Traditionally, heroes are people who are admired for their strength of character, beneficence, courage, and leadership. People also can achieve hero status because of other factors, such as celebrity status, athletic excellence, and wealth.

Shifts in the people whom a nation identifies as heroes reflect changes in cultural values. Prior to the twentieth century, political figures were preeminent among American heroes. These included patriotic leaders, such as American-flag designer Betsy Ross; prominent presidents, such as Abraham Lincoln; and military leaders, such as Civil War General Stonewall Jackson, a leader of the Confederate army. People learned about these leaders from biographies, which provided information about the valiant actions and patriotic attitudes that contributed to their success.

Today American heroes are more likely to come from the ranks of prominent entertainment, sports, and business figures than from the world of politics. Popular culture became a powerful mechanism for elevating people to hero status beginning around the 1920s. As mass media, especially motion pictures, radio, and television, became an important part of American life, entertainment and sports personalities who received a great deal of publicity became heroes to many people who were awed by their celebrity.²⁹

In the 1990s, business leaders, such as Microsoft's Bill Gates and General Electric's Jack Welch, were considered to be heroes by some Americans who sought to achieve material success. The tenure of business leaders as American heroes was short-lived, however, as media reports of the lavish lifestyles and widespread criminal misconduct of some corporation heads led people to become disillusioned. The incarceration of Wall Street investment

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30. Fred I. Greenstein, *Children and Politics* (New Haven, CT: Yale University Press, 1969).

advisor Bernard Madoff made international headlines as he was alleged to have defrauded investors of billions of dollars.³¹

Sports figures feature prominently among American heroes, especially during their prime. Cyclist Lance Armstrong is a hero to many Americans because of his unmatched accomplishment of winning seven consecutive Tour de France titles after beating cancer. However, heroes can face opposition from those who seek to discredit them: Armstrong, for example, has been accused of doping to win races, although he has never failed a drug test.

31. ³²

32. Sandra Yin, "Shifting Careers," *American Demographics*, 23, no. 12 (December 2001): 39–40.

NBA basketball player Michael Jordan epitomizes the modern-day American hero. Jordan's hero status is vested in his ability to bridge the world of sports and business with unmatched success. The media promoted Jordan's hero image intensively, and he was marketed commercially by Nike, who produced his "Air Jordans" shoes.³³ His unauthorized 1999 film biography is titled *Michael Jordan: An American Hero*, and it focuses on how Jordan triumphed over obstacles, such as racial prejudice and personal insecurities, to become a role model on and off the basketball court. Young filmgoers watched Michael Jordan help Bugs



Cyclist Lance Armstrong is considered by many to be an American hero because of his athletic accomplishments and his fight against cancer. He also has been the subject of unrelenting media reports that attempt to deflate his hero status.

Bunny defeat evil aliens in *Space Jam*. In the film *Like Mike*, pint-sized rapper Lil' Bow Wow plays an orphan who finds a pair of Michael Jordan's basketball shoes and is magically transformed into an NBA star. Lil' Bow Wow's story has a happy ending because he works hard and plays by the rules.

The 9/11 terrorist attacks prompted Americans to make heroes of

33. ³⁴

34. Pat Walters, "Michael Jordan: The New American Hero" (Charlottesville VA: The Crossroads Project, 1997).

ordinary people who performed in extraordinary ways in the face of adversity. Firefighters and police officers who gave their lives, recovered victims, and protected people from further threats were honored in numerous ceremonies. Also treated as heroes were the passengers of Flight 93 who attempted to overtake the terrorists who had hijacked their plane, which was believed to be headed for a target in Washington, DC. The plane crashed in a Pennsylvania field.

Subcultures

Political subcultures are distinct groups, associated with particular beliefs, values, and behavior patterns, that exist within the overall framework of the larger culture. They can develop around groups with distinct interests, such as those based on age, sex, race, ethnicity, social class, religion, and sexual preference. Subcultures also can be geographically based. Political scientist Daniel Elazar identified regional political subcultures, rooted in American immigrant settlement patterns, that influenced the way that government was constituted and practiced in different locations across the nation. The moral political subculture, which is present in New England and the Midwest, promotes the common good over individual values. The individual political subculture, which is evident in the middle Atlantic states and the West, is more concerned with private enterprise than societal interests. The traditional political subculture, which is found in the South, reflects a hierarchical societal structure in which social and familial ties

are central to holding political power.³⁵ Political subcultures can also form around social and artistic groups and their associated lifestyles, such as the heavy metal and hip-hop music subcultures.

Media Frames: The Hip-Hop Subculture

A cohort of black Americans has been labeled the hip-hop generation by scholars and social observers. The hip-hop generation is a subculture of generation X (people born between 1965 and 1984) that identifies strongly with hip-hop music as a unifying force. Its heroes come from the ranks of prominent music artists, including Grandmaster Flash, Chuck D, Run DMC, Ice Cube, Sister Souljah, Nikki D, and Queen Latifah. While a small number of people who identify with this subculture advocate extreme politics, including violence against political leaders, the vast majority are peaceful, law-abiding citizens.³⁷

35.³⁶

36. Daniel J. Elazar, *American Federalism: A View From the States*, 2nd ed. (New York: Thomas Y. Crowell, 1972).

37.³⁸

The hip-hop subculture emerged in the early 1970s in New York City. Hip-hop music began with party-oriented themes, but by 1982 it was focusing heavily on political issues. Unlike the preceding civil rights generation—a black subculture of baby boomers (people born immediately after World War II) that concentrated on achieving equal rights—the hip-hop subculture does not have an overarching political agenda. The messages passed on to the subculture by the music are highly varied and often contradictory. Some lyrics express frustration about the poverty, lack of educational and employment opportunities, and high crime rates that plague segments of the black community. Other songs provide public service messages, such as those included on the *Stop the Violence* album featuring Public Enemy and MC Lyte, and Salt-N-Pepa’s “Let’s Talk about AIDS.” Music associated with the gangsta rap genre, which was the product of gang culture and street wars in South Central Los Angeles, promotes violence, especially against women and authority figures, such as the police. It is from these lyrics that the mass media derive their most prominent frames when they cover the hip-hop subculture.³⁹

Media coverage of the hip-hop subculture focuses heavily on negative events and issues, while ignoring the socially constructive messages of many musicians. The subculture receives most of its media attention in response to the murder of prominent artists, such as Tupac Shakur and Notorious B.I.G., or the arrest of musicians for violating the law, usually for a weapons- or drug-

38. Bakari Kitwana, *The Hip-Hop Generation* (New York: Basic Civitas Books, 2002).

39.⁴⁰

40. Manning Marable, “[The Politics of Hip-Hop](#),” *The Urban Think Tank*, 2 (2002).

related charge. A prominent news frame is how violence in the music's lyrics translates into real-life violence. As hip-hop music became more popular with suburban white youth in the 1990s, the news media stepped up its warnings about the dangers of this subculture.

Media reports of the hip-hop subculture also coincide with the release of successful albums. Since 1998, hip-hop and rap have been the top-selling record formats. The dominant news frame is that the hip-hop subculture promotes selfish materialist values. This is illustrated by news reports about the cars, homes, jewelry, and other commodities purchased by successful musicians and their promoters.⁴¹

Although the definition of political culture emphasizes unifying, collective understandings, in reality, cultures are multidimensional and often in conflict. When subcultural groups compete for societal resources, such as access to government funding for programs that will benefit them, cultural cleavages and clashes can result. As we will see in the section on multiculturalism,



Media coverage of hip-hop tends to downplay the positive aspects of the subculture.

41. ⁴²

42. Autumn Lewis, "Vilification of Black Youth Culture by the Media" (master's thesis, Georgetown University, 2003).

conflict between competing subcultures is an ever-present fact of American life.

Multiculturalism

One of the hallmarks of American culture is its racial and ethnic diversity. In the early twentieth century, the playwright Israel Zangwill coined the phrase “melting pot” to describe how immigrants from many different backgrounds came together in the United States. The melting pot metaphor assumed that over time the distinct habits, customs, and traditions associated with particular groups would disappear as people assimilated into the larger culture. A uniquely American culture would emerge that accommodated some elements of diverse immigrant cultures in a new context.⁴³ For example, American holiday celebrations incorporate traditions from other nations. Many common American words originate from other languages. Still, the melting pot concept fails to recognize that immigrant groups do not entirely abandon their distinct identities. Racial and ethnic groups maintain many of their basic characteristics, but at the same time, their cultural

43. ⁴⁴

44. Lawrence H. Fuchs, *The American Kaleidoscope*. (Middletown, CT: Wesleyan University Press, 1990).

orientations change through marriage and interactions with others in society.

Over the past decade, there has been a trend toward greater acceptance of America's cultural diversity. Multiculturalism celebrates the unique cultural heritage of racial and ethnic groups, some of whom seek to preserve their native languages and lifestyles. The United States is home to many people who were born in foreign countries and still maintain the cultural practices of their homelands.

Multiculturalism has been embraced by many Americans, and it has been promoted formally by institutions. Elementary and secondary schools have adopted curricula to foster understanding of cultural diversity by exposing students to the customs and traditions of racial and ethnic groups. As a result, young people today are more tolerant of diversity in society than any prior generation has been. Government agencies advocate tolerance for diversity by sponsoring Hispanic and Asian American/Pacific Islander heritage weeks. The U.S. Postal Service has introduced stamps depicting prominent Americans from diverse backgrounds.



Americans celebrate their multicultural heritage by maintaining traditions associated with their homelands.

Despite these trends, America's multiculturalism has been a source of societal tension. Support for the melting pot assumptions about racial and ethnic assimilation still exists.⁴⁵ Some Americans believe that too much effort and expense is directed at maintaining separate racial and ethnic practices, such as bilingual education. Conflict can arise when people feel that society has gone too far in accommodating multiculturalism in areas such as employment

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46. James Davidson Hunter and Carl Bowman, *The State of Disunion* (Charlottesville, VA: In Media Res Education Foundation, 1996).

programs that encourage hiring people from varied racial and ethnic backgrounds.⁴⁷

Enduring Images: The 9/11 Firefighters' Statue

On 9/11 Thomas E. Franklin, a photographer for Bergen County, New Jersey's *Record*, photographed three firefighters, Billy Eisengrein, George Johnson, and Dan McWilliams, raising a flag amid the smoldering rubble of the World Trade Center. Labeled by the press "the photo seen 'round the world," his image came to symbolize the strength, resilience, and heroism of Americans in the face of a direct attack on their homeland. Franklin said that the image reminded him of the famous Associated Press image of Marines raising the American flag on Iwo Jima during World War II.

See the photo [here](#).

Developer Bruce Ratner commissioned a nineteen-foot-tall, \$180,000 bronze statue based on the photograph to stand in front of the New York City Fire Department (FDNY) headquarters in

47. ⁴⁸

48. Pew Research Center for the People and the Press, *Retro-Politics: The Political Typology* (Washington, DC: Pew Research Center, November 11, 1999).

Brooklyn. When the statue prototype was unveiled, it revealed that the faces of two of the three white firefighters who had originally raised the flag had been replaced with those of black and Hispanic firefighters. Ratner and the artist who designed the statue claimed that the modification of the original image represented an effort to promote America's multicultural heritage and tolerance for diversity. The change had been authorized by the FDNY leadership.⁴⁹

The modification of the famous photo raised the issue of whether it is valid to alter historical fact in order to promote a cultural value. A heated controversy broke out over the statue. Supporters of the change believed that the statue was designed to honor all firefighters, and that representing their diverse racial and ethnic backgrounds was warranted. Black and Hispanic firefighters were among the 343 who had lost their lives at the World Trade Center. Kevin James of the Vulcan Society, which represents black firefighters, defended the decision by stating, "The symbolism is far more important than representing the actual people. I think the artistic expression of diversity would supersede any concern over factual correctness."⁵¹

Opponents claimed that since the statue was not meant to be a tribute to firefighters, but rather a depiction of an actual event, the representation needed to be historically accurate. They drew a parallel to the famous 1945 Associated Press photograph of six

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50. Rod Dreher, "The Bravest Speak," *National Review Online*, January 16, 2002.

51.⁵²

52. "Ground Zero Statue Criticized for '[Political Correctness](#),'" CNN, January 12, 2002.

Marines raising the flag on Iwo Jima during World War II and the historically precise memorial that was erected in Arlington, Virginia. Opponents also felt that it was wrong to politicize the statue by making it part of a dialogue on race. The proposed statue promoted an image of diversity within the FDNY that did not mirror reality. Of the FDNY's 11,495 firefighters, 2.7 percent are black and 3.2 percent are Latino, percentages well below the percentage these groups represent in the overall population.

Some people suggested a compromise—two statues. They proposed that the statue based on the Franklin photo should reflect historical reality; a second statue, celebrating multiculturalism, should be erected in front of another FDNY station and include depictions of rescue workers of diverse backgrounds at the World Trade Center site. Plans for any type of statue were abandoned as a result of the controversy.

Key Takeaways

Political culture is defined by the ideologies, values, beliefs, norms, customs, traditions, and heroes characteristic of a nation. People living in a particular political culture share views about the nature and operation of government. Political culture changes over time in response to dramatic events, such as war, economic collapse, or radical technological developments. The core American values of democracy and capitalism are vested in the American creed. American exceptionalism is the idea that the country has a special place in the world because of the circumstances surrounding its founding and the settling of a vast frontier.

Rituals, traditions, and symbols bond people to their culture and can stimulate national pride. Folklore consists of stories about a nation's leaders and heroes; often embellished, these stories highlight the character traits that are desirable in a nation's citizens. Heroes are important for defining a nation's political culture.

America has numerous subcultures based on geographic region; demographic, personal, and social characteristics; religious affiliation, and artistic inclinations. America's unique multicultural heritage is vested in the various racial and ethnic groups who have settled in the country, but conflicts can arise when subgroups compete for societal resources.

II6. Video: Politics and American Political Ideals

In the video below, Conversations host Harry Kreisler welcomes Rogers M. Smith, Professor of Political Science at the University of Pennsylvania, for a discussion of political ideals and political realities in American history. He highlights the importance of building community and political identity by assembling coalitions around narratives that appeal to a broad audience while shaping policy agendas. Professor Smith compares the leadership of Lincoln, Reagan, and Obama in addressing these tasks. He concludes with an analysis of how the issue of race has been approached as American political life has become increasingly polarized around issues of inequality and relative international decline.



One or more interactive elements has been excluded from this version of the text. You can view them online

here: <https://library.achievingthedream.org/herkimeramericangovernment/?p=140#oembed-1>

117. Reading: Civic Ideals (A Review)

Rogers Smith's book *Civic Ideals: Conflicting Visions of Citizenship in U.S. History* was a major contribution to our understanding of American political culture. Smith argues that it is nearly impossible to understand American history without taking serious account of the darker side of political culture, which he calls "ascriptive Americanism." So, while Americans certainly value egalitarianism, individualism, and liberty, our history is also driven by racism, sexism, and other forms of hierarchical thinking—with damaging consequences on display in our politics today. As you read this scholarly review of Smith's book, think about how he has complicated the way we must think about our political selves and how we might edge closer to those ideals that represent the "better angels of our nature."

Read the review of *Civic Ideals: Conflicting Visions of Citizenship in U.S. History* [here](#).

118. Political Socialization

Explain the agents of political socialization

Learning Activities

The learning activities for this section include:

- Reading: Political Socialization
- Video: Why Conspiracy Theories Are Rational to Believe
- Reading: Political Culture and Socialization in the Information Age

Take time to review and reflect on each of these activities in order to improve your performance on the assessment for this section.

119. B. Reading: Political Socialization

Learning Objectives

After reading this section, you should be able to answer the following questions:

1. How do people develop an understanding of their political culture?
2. What is political socialization, and why is it important?
3. What constitutes a political generation?

This section will define what is meant by political socialization and detail how the process of political socialization occurs in the United States. It will outline the stages of political learning across an individual's life course. The agents that are responsible for political socialization, such as the family and the media, and the types of information and orientations they convey will be discussed. Group differences in political socialization will be examined. Finally, the section will address the ways that political generations develop through the political socialization process.

What Is Political Socialization?

People are inducted into the political culture of their nation through the political socialization process.¹ Most often older members of society teach younger members the rules and norms of political life. However, young people can and do actively promote their own political learning, and they can influence adults' political behavior as well.³

Political scientists Gabriel Almond and James Coleman once observed that we “do not inherit our political behavior, attitudes, values, and knowledge through our genes.”⁵ Instead, we come to understand our role and to “fit in” to our political culture through

1. ²

2. Fred I. Greenstein, *Children and Politics* (New Haven, CT: Yale University Press, 1969).

3. ⁴

4. Michael McDevitt and Steven Chaffee, “From Top-Down to Trickle-Up Influence: Revisiting the Assumptions about the Family in Political Socialization,” *Political Communication*, November 2002, 281–301.

5. ⁶

6. Gabriel A. Almond and James S. Coleman, eds., *The Politics of the Developing Areas* (Princeton, NJ: Princeton University Press, 1960), 27.

the political learning process.⁷ Political learning is a broad concept that encompasses both the active and passive and the formal and informal ways in which people mature politically.⁹ Individuals develop a political self, a sense of personal identification with the political world. Developing a political self begins when children start to feel that they are part of a political community. They acquire the knowledge, beliefs, and values that help them comprehend government and politics.¹¹ The sense of being an American, which includes feeling that one belongs to a unique nation in which people share a belief in democratic ideals, is conveyed through the political learning process.

Political socialization is a particular type of political learning whereby people develop the attitudes, values, beliefs, opinions, and behaviors that are conducive to becoming good citizens in their country. Socialization is largely a one-way process through which young people gain an understanding of the political world through

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8. Pamela Johnston Conover, "Political Socialization: Where's the Politics?" in *Political Science: Looking to the Future, Volume III, Political Behavior*, ed. William Crotty (Evanston, IL: Northwestern University Press, 1991), 125–152.

9.¹⁰

10. Carole L. Hahn, *Becoming Political* (Albany: State University of New York Press, 1998).

11.¹²

12. Richard E. Dawson and Kenneth Prewitt, *Political Socialization* (Boston: Little Brown and Company, 1969).

their interaction with adults and the media. The process is represented by the following model.¹³

Who (subjects) → learns what (political values, beliefs, attitudes, behaviors) → from whom (agents) → under what circumstances → with what effects.

Agents of socialization, which include parents, teachers, and the mass media, convey orientations to subjects, who are mostly passive. For example, parents who take an active role in politics and vote in every election often influence their children to do the same. Young people who see television coverage of their peers volunteering in the community may take cues from these depictions and engage in community service themselves. The circumstances under which political socialization can take place are almost limitless. Young people can be socialized to politics through dinner conversations with family members, watching television and movies, participating in a Facebook group, or texting with friends. The effects of these experiences are highly variable, as people can accept, reject, or ignore political messages.

People develop attitudes toward the political system through the socialization process. Political legitimacy is a belief in the integrity of the political system and processes, such as elections. People who believe strongly in the legitimacy of the political system have confidence that political institutions will be responsive to the wants and needs of citizens and that abuses of governmental power will be held in check. If political leaders engage in questionable behavior, there are mechanisms to hold them accountable. The presidential impeachment process and congressional ethics hearings are two such mechanisms.

Political efficacy refers to individuals' perceptions about whether

13. ¹⁴

14. Fred I. Greenstein, *Children and Politics* (New Haven, CT: Yale University Press, 1969).

or not they can influence the political process. People who have a strong sense of political efficacy feel that they have the skills and resources to participate effectively in politics and that the government will be responsive to their efforts. Those who believe in the legitimacy of the political system and are highly efficacious are more likely to participate in politics and to take strong stands on public-policy issues.¹⁵ Citizens who were frustrated about the poor state of the economy and who felt they could influence the political process identified with the Tea Party in the 2010 election and worked to elect candidates who promised to deal with their concerns.

Much political socialization in the United States passes on norms, customs, beliefs, and values supportive of democracy from one generation to the next. Americans are taught to respect the democratic and capitalist values imbedded in the American creed. Young people are socialized to respect authorities, such as parents, teachers, police officers, and fire fighters, and to obey laws.

The goal of this type of socialization is deliberately intended to ensure that the democratic political system survives even in times of political stress, such as economic crisis or war.¹⁷ One indicator of a stable political system is that elections take place regularly following established procedures and that people recognize the outcomes as legitimate.¹⁹ Most Americans quickly accepted George

15.¹⁶

16. Stephen C. Craig, *Malevolent Leaders* (Boulder, CO: Westview, 1993).

17.¹⁸

18. Jack Dennis, David Easton, and Sylvia Easton, *Children in the Political System* (New York: McGraw-Hill, 1969).

19.²⁰

W. Bush as president when the 2000 election deadlock ended with the Supreme Court decision that stopped the recounting of disputed votes in Florida. The country did not experience violent protests after the decision was announced, but instead moved on with politics as usual.²¹

Video Clip: 2000 Presidential Election Bush vs. Gore

The citizen-produced video below shows peaceful protestors outside of the Supreme Court as the case of Bush v. Gore was being considered to decide the outcome of the 2000 presidential election.



One or more interactive elements has been excluded from this version of the text. You can view them online

here: <https://library.achievingthedream.org/herkimeramericangovernment/?p=143#oembed-1>

20. Jack Dennis, David Easton, and Sylvia Easton, *Children in the Political System* (New York: McGraw-Hill, 1969).

21.²²

22. Pamela Johnston Conover, “Political Socialization: Where’s the Politics?” in *Political Science: Looking to the Future, Volume III, Political Behavior*, ed. William Crotty (Evanston, IL: Northwestern University Press, 1991), 125–152.

Some scholars argue that political socialization is akin to indoctrination, as it forces people to conform to the status quo and inhibits freedom and creativity.²³ However, socialization is not always aimed at supporting democratic political orientations or institutions. Some groups socialize their members to values and attitudes that are wildly at odds with the status quo. The Latin Kings, one of the largest and oldest street gangs in the United States, has its own constitution and formal governing structure. Leaders socialize members to follow gang rules that emphasize an “all for one” mentality; this includes strict internal discipline that calls for physical assault against or death to members who violate the rules. It also calls for violent retribution against rival gang members for actions such as trafficking drugs in the Kings’s territory. The Kings have their own sign language, symbols (a five-point crown and tear drop), colors (black and gold), and holidays (January 6, “King’s Holy Day”) that bond members to the gang.²⁵

23. ²⁴

24. Charles E. Lindblom, “Another Sate of Mind,” in *Discipline and History*, ed. James Farr and Raymond Seidelman (Ann Arbor: University of Michigan Press, 1993), 327–43.

25. ²⁶

26. Felix Padilla, *The Gang as American Enterprise* (New Brunswick, NJ: Rutgers University Press, 1992).

Political Socialization over the Life Course

Political learning begins early in childhood and continues over a person's lifetime. The development of a political self begins when children realize that they belong to a particular town and eventually that they are Americans. Awareness of politics as a distinct realm of experience begins to develop in the preschool years.²⁷

Younger children tend to personalize government. The first political objects recognized by children are the president of the United States and the police officer. Children tend to idealize political figures, although young people today have a less positive view of political actors than in the past. This trend is partially a result of the media's preoccupations with personal scandals surrounding politicians.

Young people often have warm feelings toward the political system. Children can develop patriotic values through school rituals, such as singing the "Star Spangled Banner" at the start of each day. As children mature, they become increasingly sophisticated in their perceptions about their place in the political world and their potential for involvement: they learn to relate abstract concepts that they read about in textbooks like this one to real-world actions, and they start to associate the requirements of democracy and majority rule with the need to vote when they reach the age of twenty-one.

27.²⁸

28. Jack Dennis, David Easton, and Sylvia Easton, *Children in the Political System*(New York: McGraw-Hill, 1969).

People are the most politically impressionable during the period from their midteens through their midtwenties, when their views are not set and they are open to new experiences. College allows students to encounter people with diverse views and provides opportunities for political engagement.²⁹ Young people may join a cause because it hits close to home. After the media publicized the case of a student who committed suicide after his roommate allegedly posted highly personal videos of him on the Internet, students around the country became involved in antibullying initiatives.³¹

Significant events in adults' lives can radically alter their political perspectives, especially as they take on new roles, such as worker, spouse, parent, homeowner, and retiree.³³ This type of transition is illustrated by 1960s student protestors against the Vietnam War. Protestors held views different from their peers; they were less trusting of government officials but more efficacious in that they

29.³⁰

30. Richard G. Niemi and Mary A. Hepburn, "The Rebirth of Political Socialization," *Perspectives on Political Science*, 24 (1995): 7–16.

31.³²

32. Virginia Sapiro, *The Political Integration of Women* (Urbana: University of Illinois Press, 1983).

33.³⁴

34. Janie S. Steckentrider and Neal E. Cutler, "Aging and Adult Political Socialization," in *Political Learning in Adulthood*, ed. Roberta S. Sigel (Chicago: University of Chicago Press, 1988), 56–88.

believed they could change the political system. However, the political views of some of the most strident activists changed after they entered the job market and started families. Some became government officials, lawyers, and business executives—the very types of people they had opposed when they were younger.³⁵



Student activists in the 1960s protested against US involvement in the Vietnam War. Some activists developed more favorable attitudes toward government as they matured, had families, and became homeowners.

35. ³⁶

36. Paul Lyons, *Class of '66* (Philadelphia: Temple University Press, 1994).

Even people who have been politically inactive their entire lives can become motivated to participate as senior citizens. They may find themselves in need of health care and other benefits, and they have more time for involvement. Organizations such as the Gray Panthers provide a pathway for senior citizens to get involved in politics.³⁷

Agents of Political Socialization

People develop their political values, beliefs, and orientations through interactions with agents of socialization. Agents include parents, teachers, friends, coworkers, military colleagues, church associates, club members, sports-team competitors, and media.³⁹

37.³⁸

38. Anne Daugherty Miles, “A Multidimensional Approach to Distinguishing between the Most and Least Politically Engaged Senior Citizens, Using Socialization and Participation Variables” (PhD diss., Georgetown University, 1997).

39.⁴⁰

The political socialization process in the United States is mostly haphazard, informal, and random. There is no standard set of practices for parents or teachers to follow when passing on the rites of politics to future generations. Instead, vague ideals—such as the textbook concept of the “model citizen,” who keeps politically informed, votes, and obeys the law—serve as unofficial guides for socializing agencies.⁴¹

Agents can convey knowledge and understanding of the political world and explain how it works. They can influence people’s attitudes about political actors and institutions. They also can show people how to get involved in politics and community work. No single agent is responsible for an individual’s entire political learning experience. That experience is the culmination of interactions with a variety of agents. Parents and teachers may work together to encourage students to take part in service learning projects. Agents also may come into conflict and provide vastly different messages.

We focus here on four agents that are important to the socialization process—the family, the school, the peer group, and the media. There are reasons why each of these agents is considered influential for political socialization; there are also factors that limit their effectiveness.

40. Richard E. Dawson and Kenneth Prewitt, *Political Socialization* (Boston: Little, Brown, 1969).

41.⁴²

42. Kenneth P. Langton, *Political Socialization* (New York: Oxford, 1969); Michael P. Riccards, *The Making of American Citizenry* (New York: Chandler Press, 1973).

Family

Over forty years ago, pioneering political-socialization researcher Herbert Hyman proclaimed that “foremost among agencies of socialization into politics is the family.”⁴³ Hyman had good reason for making this assumption. The family has the primary responsibility for nurturing individuals and meeting basic needs, such as food and shelter, during their formative years. A hierarchical power structure exists within many families that stresses parental authority and obedience to the rules that parents establish. The strong emotional relationships that exist between family members may compel children to adopt behaviors and attitudes that will please their parents or, conversely, to rebel against them.

Parents can teach their children about government institutions, political leaders, and current issues, but this rarely happens. They can influence the development of political values and ideas, such as respect for political symbols or belief in a particular cause. The family as an agent of political socialization is most successful in passing on basic political identities, especially an affiliation with the Republican or Democratic Parties and liberal or conservative ideological leanings.⁴⁵

43. ⁴⁴

44. Herbert Hyman, *Political Socialization* (Glencoe, IL: Free Press, 1959), 69.

45. ⁴⁶

46. Jack Dennis and Diana Owen, “The Partisanship Puzzle: Identification and Attitudes of Generation X,” in *After the*

Children can learn by example when parents act as role models. Young people who observe their parents reading the newspaper and following political news on television may adopt the habit of keeping informed. Adolescents who accompany parents when they attend public meetings, circulate petitions, or engage in other political activities stand a better chance of becoming politically engaged adults.⁴⁷ Children can sometimes socialize their parents to become active in politics; participants in the Kids Voting USA program have encouraged their parents to discuss campaign issues and take them to the polls on Election Day.

Boom, ed. Stephen C. Craig and Stephen Earl Bennet (Lanham, MD: Rowman & Littlefield, 1997), 43–62.

47.⁴⁸

48. Richard M. Merelman, *Making Something of Ourselves* (Berkeley: University of California Press, 1986).

The home environment can either support or discourage young people's involvement in political affairs. Children whose parents discuss politics frequently and encourage the expression of strong opinions, even if it means challenging others, are likely to become politically active adults. Young people raised in this type of family will often initiate political discussion and encourage parents to become involved. Alternatively, young people from homes where political conversations are rare, and airing controversial viewpoints is discouraged, tend to abstain from politics as adults.⁴⁹ Politics was a central



Members of the Kennedy family have been prominently involved in politics for over a century, illustrating how the desire to participate in politics is passed on generationally.

focus of family life for the Kennedys, a family that has produced generations of activists, including President John F. Kennedy and Senator Ted Kennedy.

There are limitations on the effectiveness of the family as an agent of political learning and socialization. Most families are not like the Kennedys. For many families, politics is not a priority, as they are

49. ⁵⁰

50. M. N. Saphir and Steven H. Chaffee, "Adolescents' Contribution to Family Communication Patterns," *Human Communication Research* 28, no. 1 (2002): 86–108.

more concerned with issues related to day-to-day life. Few parents serve as political role models for their children. Many activities, such as voting or attending town meetings, take place outside of the home.⁵¹

School

Some scholars consider the school, rather than the family, to be the most influential agent of political socialization.⁵³ Schools can stimulate political learning through formal classroom instruction via civics and history classes, the enactment of ceremonies and rituals such as the flag salute, and extracurricular activities such as student government. Respect for authorities is emphasized, as teachers have the ability to reward and punish students through grades.

51.⁵²

52. Richard M. Merelman, "The Family and Political Socialization: Toward a Theory of Exchange," *Journal of Politics*, 42:461–86.

53.⁵⁴

54. Robert Hess and Judith Torney, *The Development of Political Attitudes in Children* (Chicago: Aldine, 1967).

The most important task of schools as agents of political socialization is the passing on of knowledge about the fundamentals of American government, such as constitutional principles and their implications for citizens' engagement in politics. Students who master these fundamentals feel competent to participate politically. They are likely to develop the habit of following politics in the media and to become active in community affairs.⁵⁵

The college classroom can be an environment for socializing young people to politics. Faculty and student exchanges can form, reinforce, or change evaluations of politics and government. A famous study of women students who attended Bennington College during the Great Depression of the 1930s illustrates how the college experience can create long-lasting political attitudes. The Bennington women came predominantly from wealthy families with conservative values. The faculty consisted of political progressives who supported the New Deal and other social programs. About one-third of the Bennington women adopted the progressive ideals of their teachers. Many of these women remained active in politics their entire lives. A number became leaders of the women's rights movement.⁵⁷

While schools have great potential as agents of political

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56. Norman H. Nie, Jane Junn, and Kenneth Stehlik-Barry, *Education and Democratic Citizenship in America* (Chicago: University of Chicago Press, 1996).

57.⁵⁸

58. Duane F. Alwin, Ronald L. Cohen, and Theodore M. Newcomb, *Political Attitudes Over the Life Span* (Madison: University of Wisconsin Press, 1991).

socialization, they are not always successful in teaching even basic facts about government to students. Schools devote far less time to civics and history than to other subjects that are considered to be basic skills, such as reading and math. The average amount of classroom time spent on civics-related topics is less than forty-five minutes per week nationwide, although this figure varies widely based on the school. Students whose exposure to civics is exclusively through lectures and readings generally memorize facts about government for tests but do not remember them or make connections to real-world politics. The most effective civic education programs engage students in activities that prepare them for the real world of politics, such as mock elections and legislative hearings.⁵⁹

Peer Group

Peers (a group of people who are linked by common interests, equal social position, and similar age) can be influential in the political socialization process. Young people desire approval and are likely to adopt the attitudes, viewpoints, and behavior patterns of groups to which they belong. Unlike the family and school, which are

59. ⁶⁰

60. Richard G. Niemi and Jane Junn, *Civic Education* (New Haven, CT: Yale University Press, 1998).

structured hierarchically with adults exercising authority, the peer group provides a forum for youth to interact with people who are at similar levels of maturity. Peers provide role models for people who are trying to fit in or become popular in a social setting.⁶¹

Peer-group influence begins when children reach school age and spend less time at home. Middle-childhood (elementary school) friendships are largely segregated by sex and age, as groups of boys and girls will engage in social activities such as eating together in the lunchroom or going to the mall. Such interactions reinforce sex-role distinctions, including those with political relevance, such as the perception that males are more suited to hold positions of authority. Peer relationships change later in childhood, adolescence, and young adulthood, when groups are more often based on athletic, social, academic, and job-related interests and abilities.⁶³

The pressure to conform to group norms can have a powerful impact on young people's political development if group members are engaged in activities directly related to politics, such as student government or working on a candidate's campaign. Young people even will change their political viewpoints to conform to those held by the most vocal members of their peer group rather than face

61. ⁶²

62. Lawrence J. Walker, Karl H. Hennig, and Tobias Krettenauer, "Parent and Peer Contexts for Children's Moral Reasoning Development," *Child Development* 71, no. 4 (August 2000): 1033–48.

63. ⁶⁴

64. Judith Rich Harris, "Where Is the Child's Environment? A Group Socialization Theory of Development," *Psychological Review* 102, no. 3 (1995): 458–89.

being ostracized. Still, individuals often gravitate toward groups that hold beliefs and values similar to their own in order to minimize conflict and reinforce their personal views.⁶⁵ As in the case of families, the influence of peer groups is mitigated by the fact that politics is not a high priority for most of them.

Media

As early as the 1930s, political scientist Charles Merriam observed that radio and film had tremendous power to educate: “Millions of persons are reached daily through these agencies, and are profoundly influenced by the material and interpretations presented in impressive form, incessantly, and in moments when they are open to suggestion.”⁶⁷ The capacity of mass media to socialize people to politics has grown massively as the number of

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66. Eric L. Dey, “Undergraduate Political Attitudes,” *Journal of Higher Education*, 68 (1997): 398–413.

67.⁶⁸

68. Charles Edward Merriam, *The Making of Citizens* (Chicago: University of Chicago Press, 1931), 160–61.

media outlets has increased and as new technologies allow for more interactive media experiences. Most people's political experiences occur vicariously through the media because they do not have personal access to government or politicians.

Since the advent of television, mass media have become prominent socialization agents. Young people's exposure to mass media has increased markedly since the 1960s. Studies indicate that the typical American aged two to eighteen spends almost forty hours a week consuming mass media, which is roughly the equivalent of holding a full-time job. In one-third of homes, the television is on all day. Young people's mass-media experiences often occur in isolation. They spend much of their time watching television, using a computer or cell phone, playing video games, or listening to music alone. Personal contact with family members, teachers, and friends has declined. More than 60 percent of people under the age of twenty have televisions in their bedrooms, which are multimedia sanctuaries.⁶⁹

The use of more personalized forms of media, such as text messaging and participation in social networking sites, has expanded exponentially in recent years. Young people using these forms of media have greater control over their own political socialization: they can choose to follow politics through a Facebook group that consists largely of close friends and associates with similar viewpoints, or they may decide to avoid political material altogether. Young people, even those who have not reached voting age, can become involved in election campaigns by using social media to contribute their own commentary and videos online.

Media are rich sources of information about government, politics, and current affairs. People learn about politics through news

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70. Kaiser Family Foundation, *The Media Family* (Menlo Park, CA: Kaiser Family Foundation, 2006).

presented on television, in newspapers and magazines, on radio programs, on Internet websites, and through social media. The press provides insights into the workings of government by showcasing political leaders in action, such as gavel-to-gavel coverage of Congress on C-SPAN. People can witness politicians in action, including on the campaign trail, through videos posted on YouTube and on online news sites such as CNN and MSNBC. Entertainment media, including television comedies and dramas, music, film, and video games also contain much political content. Television programs such as *The West Wing* and *Law and Order* offer viewers accounts of how government functions that, although fictionalized, can appear realistic. Media also establish linkages between leaders, institutions, and citizens. In contrast to typing and mailing a letter, it is easier than ever for people to contact leaders directly using e-mail and Facebook.

Some factors work against the media as agents of political socialization. Media are first and foremost profit-driven entities that are not mandated to be civic educators; they balance their public service imperative against the desire to make money. Moreover, unlike teachers, journalists do not have formal training in how to educate citizens about government and politics; as a result, the news often can be more sensational than informative.

Group Differences

Political learning and socialization experiences can differ vastly for people depending on the groups with which they associate, such as those based on gender and racial and ethnic background. Certain

groups are socialized to a more active role in politics, while others are marginalized. Wealthier people may have more resources for participating in politics, such as money and connections, than poorer people.

There are significant differences in the way that males and females are socialized to politics. Historically, men have occupied a more central position in American political culture than women. This tradition was institutionalized at the time of the founding, when women did



Secretary of State Hillary Clinton is one of an increasing number of women who has achieved a highly visible political leadership role.

not receive the right to vote in the Constitution. While strides have been made over the past century to achieve political equality between the sexes, differences in sex-role socialization still exist. Traits associated with political leadership, such as being powerful and showing authority, are more often associated with males than females. Girls have fewer opportunities to observe women taking political action, especially as few females hold the highly visible positions, such as member of Congress and cabinet secretary, that are covered by mass media. This is starting to change as women such as Madeleine Albright and now Hillary Clinton attract media attention in their roles as secretary of state or as Nancy Pelosi did as Speaker of the House of Representatives. Sarah Palin gained national attention as Republican John McCain's vice presidential running mate in 2008, and she has become a visible and outspoken political figure in her own right. Despite these developments, women are still socialized to supporting political roles, such as volunteering in political campaigns, rather than leading roles, such as holding higher-level elected office. The result is that fewer

women than men seek careers in public office beyond the local level.⁷¹

Political Generations

A political generation is a group of individuals, similar in age, who share a general set of political socialization experiences leading to the development of shared political orientations that distinguish them from other age groups in society. People of a similar age tend to be exposed to shared historical, social, and political stimuli. A shared generational outlook develops when an age group experiences a decisive political event in its impressionable years—the period from late adolescence to early adulthood when people approach or attain voting age—and begins to think more seriously about politics. At the same time, younger people have less clearly defined political beliefs, which makes them more likely to be influenced by key societal events.⁷³

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72. Virginia Sapiro, *Women in American Society* (New York: Mayfair Publishing, 2002).

73. ⁷⁴

74. Michael X. Delli Carpini, *Stability and Change in American Politics* (New York: New York University Press, 1986).

The idea of American political generations dates back to the founding fathers. Thomas Jefferson believed that new generations would emerge in response to changing social and political conditions and that this would, in turn, influence public policy. Today people can be described as being part of the Depression Era/GI generation, the silent generation, the baby boom generation, generation X, and the millennial generation/generation Y. Depression Era/GIs, born between 1900 and 1924, were heavily influenced by World War I and the Great Depression. They tend to trust government to solve programs because they perceived that Franklin Delano Roosevelt's New Deal programs helped the country recover from the Depression. The silent generation, born between 1922 and 1945, experienced World War II and the 1950s during their impressionable years. Like their predecessors, they believe that government can get things done, but they are less trusting of leaders. The Vietnam War and the civil rights and women's rights movements left lasting impressions on the baby boomers, who were born between 1943 and 1960. The largest of the generations, this cohort protested against the government establishment in its youth and still distrusts government. Generation Xers, born between 1965 and 1980, came of age during a period without a major war or economic hardship. The seminal events they relate to are the explosion of the Challenger spacecraft and the Iran-Contra hearings. This generation developed a reputation for lacking both knowledge and interest in politics.⁷⁵ The political development of the millennials, those born between 1981 and 2000, is influenced by the terrorist attacks of 9/11 and its aftermath, as well as by the rise of digital technologies. This generation is more multicultural and has more tolerance for racial and ethnic difference than older

75. ⁷⁶

76. William Strauss and Neil Howe, *Generations* (New York: William Morrow, 1992).

cohorts. Sociologists William Strauss and Neil Howe have identified an emerging cohort born after 2000, which they label the homeland generation. This generation is influenced by omnipresent technology, the war on terror, and parents who seek to protect them from societal ills.⁷⁷

Conflicts between generations have existed for centuries. Thomas Jefferson observed significant differences in the political worldviews of younger and older people in the early days of the republic. Younger government leaders were more willing to adapt to changing conditions and to experiment with new ideas than older officials.⁷⁹ Today generation Xers and the millennials have been portrayed as self-interested and lacking social responsibility by their elders from the baby boom generation. Generational conflicts of different periods have been depicted in landmark films including the 1950s-era *Rebel without a Cause* and the 1960s-era *Easy Rider*. Generation X has been portrayed in films such as *Slacker*, *The Breakfast Club*, and *Reality Bites*. Movies about the millennial generation include *Easy A* and *The Social Network*.

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78. William Strauss and Neil Howe, *Millennials Rising* (New York: Random House, 2000).

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80. Daniel J. Elazar, *The Generational Rhythm of American Politics* (Philadelphia: Temple University, Center for the Study of Federalism, 1976).

Key Takeaways

Political socialization is the process by which people learn about their government and acquire the beliefs, attitudes, values, and behaviors associated with good citizenship. The political socialization process in the United States stresses the teaching of democratic and capitalist values. Agents, including parents, teachers, friends, coworkers, church associates, club members, sports teams, mass media, and popular culture, pass on political orientations.

Political socialization differs over the life course. Young children develop a basic sense of identification with a country. College students can form opinions based on their experiences working for a cause. Older people can become active because they see a need to influence public policy that will affect their lives. There are subgroup differences in political socialization. Certain groups, such as citizens with higher levels of education and income, are socialized to take an active part in politics, while others are marginalized.

Political generations consist of individuals similar in age who develop a unique worldview as a result of living through particular political experiences. These key events include war and economic depression.

120. Video: Why Conspiracy Theories Are Rational to Believe

In the following video, Cass Sunstein describes how conspiracy theories work and how they explain the current disagreements between political parties.



One or more interactive elements has been excluded from this version of the text. You can view them online

here: <https://library.achievingthedream.org/herkimeramericangovernment/?p=144#oembed-1>

121. C. Reading: Political Culture and Socialization in the Information Age

Learning Objectives

After reading this section, you should be able to answer the following questions:

1. How do people's interactions with media contribute to their political socialization?
2. How do media depict political socialization in the news and on entertainment channels?

New media are becoming important agents of political socialization because they host a great deal of political content and require the active engagement of users. Both news media and entertainment media provide depictions that influence political socialization, such as models of government leaders and citizen action.

Media Interactions

People's interactions with media are increasingly important to the process of political socialization. The explosion in communication technologies has resulted in people communicating less via face-to-face interactions with family members and peers and more through technological intermediaries, such as the Internet, cell phones, and personal digital devices. Even teachers find it increasingly difficult to compete with the communications technologies that command their students' attention.

The Internet is a potentially powerful agent of political socialization because of the vast amount of political information available online and the fact that people actively engage with online platforms. Not only do people get information about government from news sites and blogs, they can post responses to stories and debate others through discussion forums. They also can use online media to actively take part in political processes, such as election campaigns.

Young people, in particular, use the Internet to learn about and participate in politics, although older people are going online for politics at an increasing rate. Evidence suggests that young people are developing their political identities online as they learn about the differences between candidates and political parties and acquire information about issues and political events. They use social media to create collaborative online communities that organize for political causes, lobby government, and campaign for candidates. All of these activities contribute to the socialization of engaged citizens.

Media Depictions

Depictions of socialization and learning experiences abound in media. News and entertainment media are especially powerful as they provide depictions that embody the beliefs and values that make up American political culture. Core American values are crucial elements of a “good story,” as they resonate with the public. Both egalitarianism and individualism are celebrated in stories in which lone, ordinary people are able to defeat powerful economic and political forces aligned against them.

News Media

News media provide frequent depictions of political role models, including government leaders and citizens who are actively involved in community affairs. Politicians are often portrayed negatively, which can cause people to distrust leaders and lose faith in government. A prominent media frame portrays political leaders as constantly at odds and unable to reach civil agreement or compromise. This media frame is reinforced during elections when candidates attack their opponents unrelentingly in their stump speeches and ads.

Entertainment Media

Entertainment media provide depictions of core American values central to the political socialization process. Individualism is portrayed frequently in television dramas and comedies that tell stories of average citizens taking on the political and economic systems. Politicians can use entertainment media to convey an image of themselves embodying American values. Former Alaska governor Sarah Palin has cultivated an image of rugged individualism and self-reliance. She reinforced this image through the reality television program *Sarah Palin's Alaska*.

Depictions can take the form of fictional dramas, such as *Friday Night Lights*' portrayal of family life and the politics of sports in rural Texas, and sitcoms, or the offbeat view of parent-child relationships shown in *Modern Family*. Reality television programs such as *Kate Plus 8* and *Keeping Up with the Kardashians* offer insights into family socialization that can invite commentary and criticism from viewers.

Children's literature and movies feature many stoic, individualist characters. The classic film *The Wizard of Oz* (1939) has been called a tale of self-reliance. Dorothy, dropped from Kansas into Oz by a tornado, is advised that, to be able to return home, she should go to the Emerald City and appeal to the superior power, the Wizard of Oz. On the way there, she meets up with a Scarecrow desiring a brain, a Tin Man in search of a heart, and a Cowardly Lion in need of courage. The four meet a fearsome Wizard who orders them to bring back the broom of the Wicked Witch of the West. After a series of adventures, they return victorious to the Emerald City, only to find that the Wizard is nothing but a small man behind a curtain who has created an illusion of the "great and powerful Oz." It turns out, he explains, that he was merely a lost itinerant balloonist who, upon descending from the clouds, was declared a Wizard by the

credulous people. Dorothy and her friends learn that they each had the power they sought all along.

Teachers seeking to instill democratic and character values in their students have capitalized on the popularity of Harry Potter, the protagonist wizard in J. K. Rowling's popular books. Harry has become a hero to children (and adults) who have read about his exploits. He embodies values of individualism and bravery tempered with humility. Young people can relate to Harry because in the world of the Muggles (those without magical powers), he is average and imperfect. Even among the wizards, he is not the smartest or the most talented. Yet he is able to handle extraordinary situations with bravery and skill. Harry's heroism provides a civics lesson for readers because it illustrates the balance between the democratic values of individualism and egalitarianism. While Harry realizes that his magic powers give him the ability to distinguish himself, he chooses to include others—Hermione Granger, Ron and Ginny Weasley, and Neville Longbottom—as he fights against evil. Further, Harry does not seek public recognition for his acts of heroism.¹

MTV's series *The Real World*, which first aired in 1991, provides an intriguing look at the socialization experiences of groups of twentysomething strangers who live together for a year. The program provides insights into the effects of peers on the development of the housemates' attitudes and behaviors. In the course of learning to adapt to new surroundings, live as a group, and find jobs, cast members deal with political issues. The San Francisco season attracted national media attention because it featured the

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2. Jeffrey A. Becker, "Heroism and the Political Morality of Democracy in Harry Potter," paper delivered at the Annual Meeting of the American Political Science Association, Boston, MA, August 29–September 1, 2002.

house members grappling with the issue of HIV/AIDS when roommate Pedro, who worked as an AIDS educator and counselor, tested positive for the disease. Depictions related to subgroup relations and multiculturalism abound on *The Real World*. Cast members come from a variety of racial and ethnic backgrounds, which is a source of tension in the house. Almost every season involves a black male who stereotypically is alienated and confrontational. Most of the time, this character is shown talking about the societal injustices he suffers and picking fights with other house members. These confrontations force cast members to take sides and voice their opinions about race.

Media Consequences

Parents and educators express concerns that socialization of young people via mass media contributes to a citizenry that is alienated from politics and distrusts government. Many of the media messages young people receive about politics are negative. They spend little time discussing these messages with other people or discovering the ways in which they can actively engage the political world. Alternatively, young people today are exposed to much more political media content than any prior generation. This exposure can contribute to greater awareness of government and opportunities for civic action. Digital communication technologies offer people increased opportunities for taking part in politics via media, such as posting to a blog or participating in a “[tweetup](#),” using the microblogging platform Twitter to inform people about a political event taking place online or offline.

Scandal Coverage

The influence of mass media on children's attitudes toward leaders and government has become more negative over time, as media messages focus more on personal scandals and institutional dysfunction. For the most part, young children's initial views of politics tend to be positive. Studies conducted in the 1960s showed that children idealized the president. They considered him a benevolent leader, someone who did good things for the country and would help a child personally. Even during the Watergate scandal of the 1970s, which involved a break-in at the Democratic National Committee headquarters and a cover-up by President Richard Nixon, children held strong, positive feelings about the office of the president. Children learned about President Nixon's impeachment primarily from their parents and teachers, and not from the mass media. Media accounts focused on the political aspects of the Nixon impeachment, which went over the heads of most children. Many parents felt it was important to instill positive views of government in their children during this period of political upheaval.

The situation was much different in the 1990s when children learned about President Bill Clinton's involvement with White House intern Monica Lewinsky, predominantly from nonstop, graphic television coverage that focused on Clinton's personal life. Young children became disillusioned with President Clinton because they felt he had not told the truth. For the first time, children's views of the sitting president, as well as their opinions about the institution of the presidency, were significantly more negative than those of

their parents. Fewer children aspired to become president when they grew up.³

Hollywood and Washington

The Payne Fund studies of motion pictures and youth, conducted between 1929 and 1933, provide early evidence that film can be a powerful agent of socialization. The studies found that people developed attitudes toward racial and ethnic groups, war, and crime based on their exposure to popular films. Audience members who saw the controversial film *Birth of a Nation* believed that blacks in the post-Civil War era were uncivilized and dangerous. Children who watched their favorite movie stars, such as James Cagney and Humphrey Bogart, playing criminals on screen imitated their behavior patterns by acting up in school.⁵

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4. Diana Owen and Jack Dennis, “Kids and the Presidency: Assessing Clinton’s Legacy,” *The Public Perspective* 10, no. 3 (April–May 1999): 41–44.

5.⁶

6. Garth Jowett, Ian C. Jarvic, and Kathy H. Fuller, *Children and the Movies* (New York: Cambridge, 1996).

Recognizing that film has the power to impart political messages to the public, officials in Washington have forged connections with the filmmaking community in Hollywood. The Hollywood-Washington connection dates back to the 1930s when President Herbert Hoover befriended MGM mogul Louis B. Mayer, whose studio produced many of the most popular films of the era.



Early research indicated that film could be an influential agent of political socialization. Negative attitudes toward African Americans were transmitted to audiences through the film Birth of a Nation.

President Franklin D. Roosevelt realized that films could influence public perceptions of the Great Depression and the United States' involvement in World War II. Roosevelt encouraged filmmakers to make movies with optimistic messages that would generate support for government action. The defeatist ending of director John Ford's Oscar-winning film *The Grapes of Wrath* (1940), based on the John Steinbeck novel, was changed to depict the Joad family persevering despite terrible hardship, due to their inner strength. In addition to prowar documentaries such as Frank Capra's *Why We Fight* series, Roosevelt requested that studio heads make popular films in support of the war effort. Films such as *Confessions of a Nazi Spy* depicted Germany as a nation out to destroy the American Constitution and the Bill of Rights. Anti-German messages were delivered in popular series films such as *Tarzan Triumphs* (1943), in which Tarzan and Cheetah fight Nazis who parachute into their jungle paradise.⁷

Immediately following the 9/11 terrorist attacks, representatives of Hollywood's major studios, television networks, trade organizations, and the creative community met with senior White House officials to discuss how the entertainment community could help in the war against terror by emphasizing that the 9/11 attacks were an affront to civilization.⁹ Hollywood sought to define its political role while at the same time protecting its future at the box office. The first inclination was to feature comedy and fantasy fare that would be uplifting and noncontroversial. Films featuring terrorist themes—such as the Jennifer Lopez vehicle *Tick Tock*, which is about terrorists planting bombs in Los Angeles shopping malls, and *Nose Bleed*, a Jackie Chan movie about a window washer who discovers a plan to blow up the World Trade Center—were shelved. Images of the Twin Towers were removed from films set for release, such as *Spiderman*. However, video rentals of films featuring dramatic action and terrorist plots increased by 30 percent in the months directly following the attacks, which gave Hollywood an indication that the public would be receptive to more violent offerings.¹¹ War films with a patriotic theme, such as *Behind Enemy Lines* and *The Last Castle*, proved to be highly popular, and

8. Clayton R. Koppes and Gregory D. Black, *Hollywood Goes to War* (New York: Free Press, 1987).

9.¹⁰

10. "[Hollywood Considers Role in War Effort](#)," CNN, November 12, 2001.

11.¹²

12. "[Commercial Response to September 11](#)," *NewsHour Online*, October 24, 2001.

coincidentally, reinforced the messages suggested by the White House delegation.

Key Takeaways

Mass media have become compelling agencies of political learning, as young people spend a tremendous amount of time being exposed to television, the Internet, video games, and other media rather than interacting with other people. Media messages about politics are often negative, which may lead young people to become alienated from the political process. Young people, in particular, may learn a good deal about politics from entertainment and popular media.

122. Public Opinion

Summarize the concept of public opinion

Learning Activities

The learning activities for this section include:

- Reading: What Is Public Opinion?

Take time to review and reflect on this activity in order to improve your performance on the assessment for this section.

123. D. Reading: What Is Public Opinion?

Learning Objectives

After reading this section, you should be able to answer the following questions:

1. What is public opinion?
2. What are the different interpretations of public opinion?
3. How does an attitude differ from an opinion?

Public opinion is one of the most frequently evoked terms in American politics. At the most basic level, public opinion represents people's collective preferences on matters related to government and politics. However, public opinion is a complex phenomenon, and scholars have developed a variety of interpretations of what public opinion means. One perspective holds that individual opinions matter; therefore, the opinions of the majority should be weighed more heavily than opinions of the minority when leaders make decisions. A contrasting view maintains that public opinion is controlled by organized groups, government leaders, and media elites. The opinions of those in positions of power or who have access to those in power carry the most weight.

Public opinion is often made concrete through questions asked on polls. Politicians routinely cite public opinion polls to justify

their support of or opposition to public policies. Candidates use public opinion strategically to establish themselves as front-runners or underdogs in campaigns. Interest groups and political parties use public opinion polls to promote their causes. The mass media incorporate reports of public opinion into news story about government and politics.

Defining Public Opinion

What exactly is public opinion? Scholars do not agree on a single definition of public opinion. The concept means different things depending on how one defines “the public” and assumptions about whose opinion should or does count the most—individuals, groups, or elites.

Most simply, the public can be thought of as people who share something in common, such as a connection to a government and a society that is confronted by particular issues that form the bases of public policies. Not all people have the same connection to issues. Some people are part of the attentive public who pay close attention to government and politics in general. Other individuals are members of issue publics who focus on particular public policy debates, such as abortion or defense spending, and ignore others.¹

They may focus on a policy that has personal relevance; a health-care activist, for example, may have a close relative or friend who suffers from a prolonged medical problem. Some members of the public have little interest in politics or issues, and their interests may not be represented.

An opinion is the position—favorable, unfavorable, neutral, or undecided—people take on a particular issue, policy, action, or leader. Opinions are not facts; they are expressions of people's feelings about a specific political object. Pollsters seeking people's opinions often say to respondents as they administer a survey, "there are no right or wrong answers; it's your thoughts that count." Opinions are related to but not the same as attitudes, or persistent, general orientations toward people, groups, or institutions. Attitudes often shape opinions. For example, people who hold attitudes strongly in favor of racial equality support public policies designed to limit discrimination in housing and employment.

Public opinion can be defined most generically as the sum of many individual opinions. More specific notions of public opinion place greater weight on individual, majority, group, or elite opinion when considering policy decisions.

2. James A. Stimson, *Public Opinion in America*, 2nd ed. (Boulder, CO: Westview, 1999).

Equality of Individual Opinions

Public opinion can be viewed as the collection of individual opinions, where all opinions deserve equal treatment regardless of whether the individuals expressing them are knowledgeable about an issue or not. Thus, public opinion is the aggregation of preferences of people from all segments of society. The use of public opinion polls to gauge what people are thinking underlies this view.³ By asking questions of a sample of people who are representative of the US population, pollsters contend they can assess the American public's mood.⁵ People who favor this perspective on public opinion believe that government officials should take into account both majority and minority views when making policy.

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4. Carroll J. Glynn, Susan Herbst, Garrett J. O'Keefe, and Robert Y. Shapiro, *Public Opinion* (Boulder, CO: Westview, 1999).

5.⁶

6. Susan Herbst, *Numbered Voices* (Chicago: University of Chicago Press, 1993).

Majority Opinion

Another perspective maintains that public opinion is the opinion held by the most people on an issue. In a democracy, the opinions of the majority are the ones that should count the most and should guide government leaders' decision making. The opinions of the minority are less important than those of the majority. This view of public opinion is consistent with the idea of popular election in that every citizen is entitled to an opinion—in essence a vote—on a particular issue, policy, or leader. In the end, the position that is taken by the most people—in other words, the position that receives the most votes—is the one that should be adopted by policymakers.

Rarely, if ever, does the public hold a single unified opinion. There is often significant disagreement in the public's preferences, and clear majority opinions do not emerge. This situation poses a challenge for leaders looking to translate these preferences into policies. In 2005, Congress was wrestling with the issue of providing funding for stem cell research to seek new medical cures. Opinion polls indicated that a majority of the public (56 percent) favored stem cell research. However, views differed markedly among particular groups who formed important political constituencies for members. White evangelical Protestants opposed stem cell research (58 percent), arguing the need to protect human embryos, while mainline Protestants (69 percent) and Catholics supported research (63 percent).⁷

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8. Pew Research Center for the People & the Press, “More See Benefits of Stem Cell Research” (Washington, DC: Pew Research Center, May 23, 2005).

Public Debate among Groups

Some scholars contend that public opinion emerges from public debate among groups rather than from individual opinions.⁹ Political parties, interest groups, trade associations, nonprofit organizations, trade unions, and corporations will articulate positions and front public discussion of issues in which they have a stake. Groups representing opposing viewpoints often find themselves in a position to define social problems. While individuals often find it difficult to make their views known and have them taken seriously, organized groups have the resources, such as lobbyists and funding to administer polls and pay for advertising, as well as the ability to attract the attention of policymakers and the mass media. Social media have made it easier for groups without significant resources to publicize their opinions by using Facebook groups and other platforms.

Groups work hard to frame issue debates to their advantage. They often will gauge public preferences and use this information when devising media tactics to gain support for their positions.¹¹ Opposing groups will present competing public opinion poll data

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10. Carroll J. Glynn, Susan Herbst, Garrett J. O'Keefe, and Robert Y. Shapiro, *Public Opinion* (Boulder, CO: Westview, 1999).

11. ¹²

12. Ken Kollman, *Outside Lobbying* (Princeton, NJ: Princeton University Press, 1999).

in an effort to influence decision makers and the press. In 1997, the United States' participation in a summit in Kyoto, Japan, where nations signed a climate-control treaty, sparked a barrage of media stories on the issue of global warming and the potential for deadly gasses to induce climate change. Most Americans believed then that global warming existed and that steps should be taken to combat the problem.¹³ Groups such as the Environmental Defense Fund, Greenpeace, and the Sierra Club who favor government-imposed regulations on fossil-fuel companies and automobile manufacturers to curb pollution cited opinion poll data showing that over 70 percent of the public agreed with these actions. Organizations representing industry interests, such as the now-defunct Global Climate Coalition, used opinion polls indicating that the public was reluctant to sacrifice jobs or curb their personal energy use to stop global warming.¹⁵ The debate in the media among competing groups influenced public opinion over the following decade. There was a massive shift in opinion, as only 52 percent believed that global warming was a problem in 2010.¹⁷

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14. Jon A. Krosnick, Penny S. Visser, and Allyson L. Holbrook, "American Opinion on Global Warming," *Resources* no. 133 (Fall 1998): 5–9.

15.¹⁶

16. Glynn R. Wilson, "[Global Warming: Competing Ideas and Interest Groups](#)," *Public Opinion Project*, May 2, 1998, accessed June 19, 2005.

17.¹⁸

18. Christopher R. Borick, Erick Lachapelle, and Barry G.

Elite Opinion

Politicians, pollsters, policy specialists, activists, and journalists have assumed the position of opinion leaders who shape, create, and interpret public opinion. These political elites are devoted to following public affairs—it's their job.¹⁹ Noted journalist and social commentator Walter Lippmann observed that average people have neither the time nor the inclination to handle the impossible task of keeping up with the myriad issues that confront the nation. They do not have the opportunity to directly experience most political events and must rely on second-hand accounts conveyed by elites primarily through mass media. In Lippmann's view, public opinion is best managed by specialists who have the knowledge and capabilities to promote policies. Thus, elite opinion, and not the views of average citizens, should count the most.

The mass media rely heavily on the opinions of government elites, especially when covering foreign policy and domestic issues, such as the economy and employment. The breadth of news coverage about foreign affairs is constrained to reflect the range of viewpoints expressed by officials such as members of Congress who

Rabe, "[Climate Compared: Public Opinion on Climate Change in the United States and Canada](#)," *Issues in Governance Studies*, no. 39, April 2011, accessed April 11, 2011.

19.²⁰

20. John Zaller, *The Nature and Origins of Mass Opinion* (New York: Cambridge, 1992).

are debating the issues. The voices of average Americans are much less prominent in news coverage.²¹²²



“Talking heads,” who provide elite opinions about issues, events, and leaders, populate cable news.

Elite opinion is increasingly articulated by pundits who offer their opinion or commentary on political issues. College professors,

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22. ²³ As political scientist V. O. Key stated, “The voice of the people is but an echo.”²⁴

23. W. Lance Bennett, Regina C. Lawrence, and Steven Livingston, *When the Press Fails* (Chicago, IL: University of Chicago Press, 2007).

24. V. O. Key Jr., *Public Opinion and American Democracy* (New York: Alfred A. Knopf, 1961).

business and labor leaders, lobbyists, public relations representatives, and pollsters are typical pundits who provide expert opinion. Some pundits represent distinctly partisan or ideological viewpoints and use public opinion data selectively to support these positions. Pundits can establish their credentials as experts on governmental affairs and politics through their frequent media appearances as “talking heads” on cable television programs such as CNN, MSNBC, and Fox News.

Key Takeaways

Public opinion can be defined broadly as the collective views of people in a society. It is a complicated concept that takes into account the opinions of individual citizens, groups, and elites. Public opinion is publicized through the media, often by pundits who promulgate elite views.

124. Public Opinion and Democracy

Summarize the role of public opinion in a democracy

Learning Activities

The learning activities for this section include:

- Reading: Democracy and Public Opinion
- Video: Lawrence Lessig: We the People, and the Republic We Must Reclaim
- Video: Martin Gilens on Political Inequality
- Reading: Someone Finally Polled the 1%
- Reading: The Irrational Electorate

Take time to review and reflect on each of these activities in order to improve your performance on the assessment for this section.

125. E. Reading: Democracy and Public Opinion

Learning Objectives

After reading this section, you should be able to answer the following questions:

1. Why is public opinion important in a democracy?
2. How does public opinion differ from public judgment?
3. What is deliberative polling?

Political scientist Harold Lasswell once noted, “The open interplay of opinion and policy is the distinguishing mark of popular rule.”¹ Public opinion plays a number of important roles in a representative democracy. Leaders can take public opinion into account when making laws and formulating policy. Public opinion can act as a check on leadership, as the members of the public can express their

1. ²

2. Harold D. Lasswell, *Democracy through Public Opinion* (Menasha, WI: George Banta Publishing Company, 1941), 15.

dissatisfaction with politicians who refuse to take their opinions into account and vote them out of office.

Public Opinion and Public Policy

One purpose of public opinion in a democracy is to inform public policymaking. Opinion polls provide a mechanism for succinctly presenting the views of the mass public to government leaders who are making decisions that will affect society. Leaders often monitor the public pulse when making policy decisions, especially when they face an election campaign.

Perspectives about the relationship of public opinion to policymaking differ vastly. On the one hand, scholars and political practitioners believe that public policy should be guided by public opinion so that the will of the people is respected. Public opinion polls are essential to ensuring democratic governance. Political scientist Sidney Verba supports this view: “Surveys produce just what democracy is supposed to produce—equal representation of all citizens. The sample survey is rigorously egalitarian; it is designed so that each citizen has an equal chance to participate and an equal voice when participating.”³ From this perspective,

members of Congress, state legislators, and local officials should pay close attention to the public's views when making laws.

Others disagree with the notion that leaders should pay close attention to public opinion when making decisions. They point out that many members of the public are uninformed about issues, and the opinions they record on polls are not carefully reasoned. Journalist and scholar Walter Lippmann noted that governing by popularity is not always best. Instead, public policy should be grounded in sound principles supported by experts; decision making should not simply be the result of popular will. This view is consistent with the belief that the country is being run by pollsters and their followers and not by leaders with integrity and principle. As an editorial in the *Wall Street Journal* lamented, "Spend too much time following polls and you simply forget how to lead, especially when it matters."⁵

Some scholars take issue with Verba's assessment of the egalitarian nature of polls in democracy and argue that minority opinion is not given sufficient weight. Certain people, such as individuals with few economic resources, have a difficult time getting their views recognized. Pollsters may not reach these people because they do not have regular telephone or Internet service, or they do not have the time or inclination to answer questionnaires.

4. As cited in Scott Keeter, "Public Opinion Polling and Its Problems," in *Political Polling in the Digital Age*, ed. Kirby Goidel (Baton Rouge: Louisiana State University Press, 2011), 28.

5. ⁶

6. Kenneth F. Warren, *In Defense of Public Opinion Polling* (Boulder, CO: Westview Press, 2004), 6.

Public Judgment

Public opinion, especially as measured by polls, is a quick take on the public pulse. It often does not require that members of the public have much knowledge about politicians, government, or policies; they merely must be willing to state whatever views pop into their heads. Public opinion polls often deal with issues and abstract ideas that people have not thought much about.

Public judgment, in contrast, is a special type of public opinion where people carefully consider the important issues of the day, contemplate the range of viewpoints, and weigh the consequences of policy prescriptions. Rather than stating positions off the top of their heads, public judgment requires people to be knowledgeable about an issue and debate the merits of policies before arriving at an informed opinion. For example, public opinion polls conducted by the Pew Research Center in 2011 indicate that the public favors tougher immigration laws and better enforcement of border security. However, when people exercise public judgment and consider the consequences of immigration policy, such as the moral issues related to the welfare of children of illegal immigrants, they support more generous policies.⁷ Public judgment is not easily achieved, but it offers an important counterbalance to the domination of elite opinion in the policy sphere.

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8. Daniel Yankelovich, *Coming to Public Judgment* (Syracuse, NY: Syracuse University Press, 1991).

Deliberative Polling

Deliberative polling is a technique that provides members of the public with the opportunity to think carefully about issues and their relationship to public policy. It attempts to deal with the fact that many people know little about issues because they lack the time to acquire information. Deliberative polling was pioneered in 1988 and has been used around the world to gauge opinion. The Center for Deliberative Democracy at Stanford University applies and studies the use of deliberative polling.

Link: Deliberative Polling

Learn more about deliberative polling [here](#).

A random, representative sample of people is first polled about their positions on targeted issues. They are then brought together for a few days to discuss a particular issue in detail. The participants are provided with briefing materials, engage in a dialogue with experts on specific topics,



Deliberative polling brings people together to discuss issues in detail with policy experts so that they can develop informed choices.

and discuss their views in small groups led by trained moderators. The deliberations are shared with the general public through television broadcasts. The participants are polled again after they have deliberated to determine if their opinions have changed. Scholars believe that deliberative polls represent the opinions the public would hold on issues if they had the opportunity to exercise public judgment and carefully consider their options. After deliberating on an issue, members of the public frequently shift positions.⁹ For example, people participating in a deliberative polling experiment in Texas shifted their views on the use of wind power from 54 percent to 84 percent in favor. As a result, political leaders heeded the views of Texas's population, and the state went from last to first in the use of wind power.¹¹

Political scientist James Fishkin, who pioneered deliberative polling, observes, "The Public is very smart if you give it a chance. If people think their voice actually matters, they'll do the hard work, really study their briefing books, ask the experts smart questions and then make tough decisions."

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10. James S. Fishkin, *When the People Speak* (New York: Oxford University Press, 2009).

11.¹²

12. Joe Klein, "[How Can a Democracy Solve Tough Problems?](#)," *Time*, September 2, 2010, accessed June 6, 2011.

Key Takeaways

Public opinion is important in a democracy, as it can guide policy decisions. There is disagreement about the extent to which political leaders should take the public's views into account compared with the advice of experts. Many people do not have a good understanding about issues and related policies. Deliberative polling is an attempt to give people the opportunity to become more informed about issues and to contemplate policy options.

126. Video: Lawrence Lessig: We the People, and the Republic We Must Reclaim

There is a corruption at the heart of American politics, caused by the dependence of Congressional candidates on funding from the tiniest percentage of citizens. That's the argument at the core of this blistering talk by legal scholar Lawrence Lessig (below). With rapid-fire visuals, he shows how the funding process weakens the Republic in the most fundamental way and issues a rallying bipartisan cry that will resonate with many in the U.S. and beyond.



*One or more interactive elements has been excluded
from this version of the text. You can view them online*

here: [https://library.achievingthedream.org/
herkimeramericangovernment/?p=150#oembed-1](https://library.achievingthedream.org/herkimeramericangovernment/?p=150#oembed-1)

127. Video: Martin Gilens on Political Inequality

In the video below, at the MIT Citizens Rising “Anti-Corruption” Symposium, Martin Gilens explores political inequality in the United States. Discussing the results of his recent study, *Testing Theories of American Politics: Elites, Interest Groups, and Average Citizens*, Gilens presents us with “a deeply disturbing implication: our society is a democracy in name only.” Analyzing approximately 2,000 survey questions regarding a range of federal government policies since the 1980’s, he finds that policy makers respond exclusively to the desires of the rich—with the preferences of ordinary citizens being largely irrelevant.

Note: Feel free to watch the entire video, but the recommended talk by Martin Gilens begins at the 10:30 mark.



One or more interactive elements has been excluded from this version of the text. You can view them online

here: <https://library.achievingthedream.org/herkimeramericangovernment/?p=151#oembed-1>

128. Reading: Someone Finally Polled the 1%

Read “Someone Finally Polled the 1%—and It’s Not Pretty” by Auriandra [here](#).

129. Reading: The Irrational Electorate

Read “The Irrational Electorate” by Larry M. Bartels [here](#).

130. Polling

Identify the types of public opinion polls

Learning Activities

The learning activities for this section include:

- Reading: Polling the Public
- Video: Six of One—Obamacare vs. The Affordable Care Act
- Reading: Public Opinion in the Information Age

Take time to review and reflect on each of these activities in order to improve your performance on the assessment for this section.

131. F. Reading: Polling the Public

Learning Objectives

After reading this section, you should be able to answer the following questions:

1. How have public opinion polls developed historically?
2. What are the different types of public opinion polls?

Public opinion polling has a long history in the United States. Polls are ubiquitous in American political life. In 2007, there were nearly 5,500 polling organizations in the United States, an increase of over 1,500 organizations in ten years.¹ Every day the public is polled about topics ranging from their views about taxes and the federal budget, their opinions about the environment and global warming,

1.²

2. Kirby Goidel, “Public Opinion Polling in a Digital Age: Meaning and Measurement,” in *Political Polling in the Digital Age*, ed. Kirby Goidel (Baton Rouge: Louisiana State University, 2011), 11–27.

and whether or not a principal has the right to prevent students from bringing their lunches to school.

Polls vary greatly in terms of their quality, content, and purpose. Reliable public opinion data are gathered by reputable commercial polling organizations, nonpartisan think tanks, academic institutions, government agencies, and news organizations. Misleading information about public opinion can result from quick polls that do not employ appropriate data-gathering techniques.

History of Opinion Polling

Public opinion polls date back to the early days of the American republic. From the outset, polls were linked closely with newspapers. The *Harrisburg Pennsylvanian* conducted the first informal “straw poll” in 1824 that incorrectly predicted Andrew Jackson as the winner over John Quincy Adams in the presidential election.³ Early straw polls were administered haphazardly and without concern for drawing a proper sample, often right after people had cast their ballots in elections or even when they were checking into a hotel. They were notoriously inaccurate, yet they

3.⁴

4. Robert S. Erikson and Kent L. Tedin, *American Public Opinion*, 8th ed. (New York: Longman, 2011).

became a popular feature of newspapers and magazines, which treated poll data as a source of news much like today.

Straw polls were sponsored by publishers as a gimmick to attract readers who would fill out mail-in ballots that included subscription offers. Over eighty straw polls were conducted during the 1924 presidential election, six of which were national polls. Newspapers also conducted polls on pressing issues of the day, such as whether or not people favored Prohibition, the constitutional ban on alcohol. Coverage of these polls in print publications generated thousands of column inches.⁵

By the 1920s, market researchers had begun to use scientific polls that employed samples representative of the population to ascertain consumer product preferences. They used polls to discover everything from what kinds of magazine stories readers enjoyed most to what automobiles people preferred.⁷ Commercial pollsters applied market research techniques to determine what candidates voters favored, how satisfied the public was with the way the president was doing his job, and how people felt about the pressing issues of the day.

Despite these advances, magazines and newspapers continued to use unscientific straw polls, which were less expensive to administer and contributed to the profitability of the publication. The problems associated with straw polls came to a head in the 1936 presidential election when the *Literary Digest*, a popular magazine

5. ⁶

6. Robert S. Erikson and Ken L. Tedin, *American Public Opinion*, 8th ed. (New York: Longman, 2011).

7. ⁸

8. Kathleen Morgan Drowne, *The 1920s* (Westport, CT: Greenwood Press, 2004).

with a large circulation, incorrectly predicted the presidential election outcome, prompting the public to lose faith in polls. For a time after the *Literary Digest* debacle, newspapers shied away from highlighting polls in their coverage.

The *Literary Digest* Poll

In polling, more subjects does not necessarily yield better results. This lesson was learned all too well by the *Literary Digest* in 1936. Founded in 1890, the *Literary Digest* was a venerable general interest magazine that catered to an educated, well-off clientele. In 1916, the magazine initiated a presidential election poll that became a popular feature. Subscribers mailed in sample ballots indicating their preference in the election. The poll correctly predicted that Woodrow Wilson would be the winner, and the magazine's poll went on to successfully call the next four elections. Newspapers gave substantial coverage to the poll, which drove up the magazine's readership. In 1932, James A. Farley, chairman of the Democratic National Committee, was widely quoted as saying, "Any sane person cannot escape the implication of such a gigantic sampling of popular opinion as is embraced in the *Literary Digest* straw vote. . . . It is a Poll fairly and correctly conducted."

The magazine set out to launch its most ambitious poll ever in 1936. Over 10 million postcards were mailed to *Literary Digest* subscribers, people on automobile registration lists, and names in telephone directories, of which 2.4 million were returned. The *Literary Digest* issued its predictions in an article boasting that

the figures represented the opinions of “more than one in every five voters polled in our country” scattered throughout the forty-eight states. The results indicated that Republican candidate Alfred Landon would defeat Franklin Roosevelt, receive 57 percent of the popular vote, and carry thirty-two states in the Electoral College. Roosevelt won by a landslide, commanding 61 percent of the popular vote and winning in all but two states.

While the magazine made no claims of infallibility, its methodology was heavily flawed. The sample was biased toward Republican-leaning voters who could afford telephone service, cars, and magazine subscriptions. The volunteers who tabulated the results were not carefully trained, which introduced additional error into the calculations. The backlash from the errant results was monumental. The *Literary Digest* went bankrupt, and the public's faith in polls was shattered.

Commercial pollsters using scientific techniques correctly predicted that Roosevelt would defeat Landon in the 1936 election. These pollsters conduct polls for clients for a profit. The Gallup Poll administered personal interviews with a quota sample of people who fit into particular demographic categories, such as sex and age groups. Gallup correctly predicted the winners of the 1940 and 1944 presidential contests. However, during the 1948 election, three major pollsters—Gallup, Roper, and Crossley all incorrectly predicted that Republican presidential candidate Thomas Dewey would defeat Democratic candidate Harry Truman. The quota sampling method used by these pollsters was problematic and was replaced by probability sampling, in which subjects are randomly selected to take part in a poll.⁹

9.¹⁰

10. Barbara A. Bardes and Robert W. Oldendick, *Public*

Enduring Image: Dewey Defeats Truman

The 1948 presidential election did not start off well for Democratic candidate Harry S. Truman. As vice president, Truman was sworn in as president when Franklin Roosevelt died less than three months into his fourth term. Truman was forced to deal with a variety of controversial issues, including the decision to drop atomic bombs on Hiroshima and Nagasaki, which he believed would end World War II in the Pacific. Newspapers labeled Truman a “little man,” a tag that resonated with the public who contrasted him unfavorably to the larger-than-life Roosevelt.

The Democrats were highly factionalized when they met in Philadelphia for their national nominating convention. They attempted unsuccessfully to recruit popular war hero Dwight D. Eisenhower to be their candidate. When the convention adopted a strong civil rights platform, Southern delegations bolted and nominated their own candidate, Strom Thurmond of South Carolina. Liberals who disapproved of Truman's policies formed the Progressive Party and nominated Henry Wallace of Iowa as their candidate. In the end, Truman became the nominee with Senator Alben Barkley of Kentucky as his running mate. The pair was faced with an unenthusiastic constituency.

In contrast, the Republican Party united behind Thomas E. Dewey, the popular governor of New York. Dewey had been the Republicans' candidate in the 1944 presidential campaign, and had come close

Opinion: Measuring the American Mind (Belmont, CA: Wadsworth/Thompson Learning, 2006).

to Roosevelt in the popular vote. California Governor Earl Warren, future chief justice of the Supreme Court, was the vice presidential candidate.

Pollsters and the press anticipated that Dewey would win by a landslide. On September 9, 1948, nearly two months prior to the election, noted pollster Elmo Roper declared that there would be no more Roper Polls predicting the outcome: “My whole inclination is to predict the election of Thomas E. Dewey by a heavy margin and devote my time and efforts to other things.”¹¹

Normally, incumbents such as President Truman run low-key campaigns, and challengers such as Governor Dewey work hard to win. Dewey campaigned like a front-runner, remaining aloof and dignified while avoiding discussions of controversial issues. Roles were reversed in the 1948 presidential campaign. Truman, realizing he had nothing to lose, launched an aggressive “Whistle Stop” campaign. Traveling in a special Pullman railroad car nicknamed the Ferdinand Magellan, after the explorer who circumnavigated the world, Truman covered 32,000 miles and gave 355 rousing speeches. At each stop, Truman would introduce his family to the crowd, answer questions, and shake hands. As he fought his way through the campaign, he acquired the slogan “Give ‘em hell, Harry!”

Even as Truman’s campaign picked up steam and polls showed the gap between the candidates was closing, the press refused to concede that he could win. *Newsweek* polled fifty political journalists a month before the campaign, and all of them stated that Dewey would win. Truman had the support of only 15 percent of the nation’s newspapers.¹³ By Election Day, polls indicated that

11. ¹²

12. Elmo Roper as quoted in David McCullough, *Truman* (New York: Simon & Schuster, 1992), 657.

13. ¹⁴

Truman might pull an upset, but journalists stuck to their story that Dewey would win by a landslide. Reports filtered in throughout Election Night that Truman was leading in the popular vote, but the press continued to report that he could not emerge victorious. The *Chicago Tribune* was so certain that Truman would lose, the headline of the early edition proclaimed “DEWEY DEFEATS TRUMAN.” The paper had already been delivered, and the *Tribune* dispatched employees to retrieve the papers from newsstands and homes, but many remained in the hands of readers. Traveling by train from his home state of Missouri to Washington, DC, Truman made a brief stop in St. Louis, where he was presented with one of the papers bearing the infamous headline. Truman held up the paper and quipped, “This is for the books.”¹⁵

14. American Treasures of the Library of Congress, “Dewey Defeats Truman” (Washington, DC: Library of Congress, American Memory Collection, 2003).

15. ¹⁶

16. David McCullough, *Truman* (New York: Simon & Schuster, 1992).

Survey research organizations associated with academic institutions emerged in the 1940s with the establishment of the [National Opinion Research Center](#) (NORC) at the University of Chicago and the [Survey Research Center](#) (SRC) at the University of Michigan. These organizations and others like them, such as the [Roper Center](#) at the University of Connecticut, field

and archive detailed surveys that provide researchers with a wealth of data to use in studies to gain a deeper understanding of the public's political attitudes and behavior. Nonpartisan survey research organizations, such as the [Pew Research Center](#) and the [Field Poll](#) in California, provide data to news organizations and academics. Commercial pollsters, including [Gallup](#) and [IBOPE Zogby International](#), provide polling services to clients and also share their data with the press, scholars, and the public through their websites.



*"DEWEY DEFEATS TRUMAN."
Truman's victory, as immortalized in this enduring image, is one of the biggest comebacks in American elections.*

Types of Polls

The amount of polling data available today from commercial polling firms, academic survey research organizations, campaign organizations, trade associations, interest groups, media outlets,

and online sources is almost overwhelming. There are great variations in the type and quality of polling data. A public opinion survey fielded by a reputable organization using proper social scientific techniques differs greatly from a quick poll consisting of one or two questions administered online to whoever is willing to take it.

Questionnaires used to measure public opinion include a variety of question types. Closed-ended questions provide respondents with a fixed number of options about a topic from which they can choose the one that best fits their position. A closed-ended question frequently asked to gauge people's feelings about the direction in which the country is headed is "Generally speaking, would you say things in this country are heading in the right direction, or are they off on the wrong track?" Respondents must select one of the options: the right direction or the wrong track. Closed-ended questions are easier and less time-consuming to analyze, although they limit the respondent's ability to express their opinions to the choices offered by the researcher. Open-ended questions do not provide fixed options but instead allow respondents to reply to a question in their own words. This type of question elicits more information from respondents and can be useful in gaining insight into sensitive topics. The drawbacks of open-ended questions are that people may not want to take the time to answer them and they are more time-consuming for pollsters to analyze. An open-ended question about the direction in which the country is headed would ask people to express their own views in response to the question "How do you think things are going in this country?"

Most polls provide snapshots of people's opinions at a particular point in time. Other polls track opinions over time in order to determine if people's views remain stable or change. In rare cases, studies have tracked the opinions of the same groups of people over years, even decades. The views of the women who attended Bennington College in the 1930s were tracked through the 1980s. The study revealed that the college experience changed some of the

women's attitudes and that the views acquired in college remained stable over time.¹⁷

Polls and Surveys

The terms “poll” and “survey” often are used interchangeably, yet there are distinctions between them. A public opinion poll is typically conducted by a commercial organization working for a profit. A poll generally consists of a short questionnaire administered over a brief period of time to a sample of between six hundred and fifteen hundred people. A survey most often is conducted by academic or government researchers. Surveys consist of longer questionnaires designed to examine the foundations and consequences of opinions in some detail. Researchers may administer the survey to thousands of subjects interviewed over an extended period of time.¹⁹

17.¹⁸

18. Duane F. Alwin, Ronald L. Cohen, and Theodore M. Newcomb, *Political Attitudes over the Life Span: The Bennington Women after Fifty Years*(Madison: University of Wisconsin Press, 1991).

19.²⁰

Scientific polls and surveys are considered to be the gold standard for measuring public opinion. They adhere to established procedures that help ensure the accuracy of their results, which includes using proper techniques for drawing a sample and designing questions. Scientific polls and surveys are administered to a sample of people who are representative of a larger population. The sample is drawn using probability sampling, meaning that each person in the population has a chance of being included in the sample. It is possible to get an accurate accounting of public opinion with a relatively small sample. A representative sample of twelve hundred people can accurately reflect the public opinion of the entire population of the United States. On the other hand, large samples that are not representative may not reflect public opinion accurately at all. Question wording is another important consideration when measuring public opinion. Questions need to be clearly stated, and they should not lead the respondent to choose one answer over another. A poorly worded question can be misunderstood by the respondent and ultimately can misrepresent the public's viewpoints. Answer options that do not provide the public with clear alternatives also are problematic.

Poll: Give Obama a Grade on

20. Michael W. Traugott and Paul J. Lavrakas, *The Voter's Guide to Election Polls*, 2nd ed. (New York: Chatham House, 2000).

the State of the Union

A Fox News poll taken after the 2011 State of the Union Address does not provide clear options for respondents.²¹ The answers are double-barreled because people can agree with one part of the answer but not the other. For option A, you may believe that President Obama gave a wonderful speech but not reconsider at least one item on his agenda. Similarly, for option B, you may agree that President Obama gave a good speech, but you may have changed your mind about his agenda. The poll asked the following:

If you could give Obama a grade on the State of the Union Address:

A. He gave a wonderful speech, and I've reconsidered at least one item on his agenda.

B. A good speech, but I feel relatively the same about his agenda.

C. I was indifferent to the address, and my views remained unchanged.

D. The president could have given a much better speech, and he did not deliver in addressing the issues I care about.

E. The president failed the test.²³

There are many ways in which polls and surveys can be

21. ²²

22. "[Fox News Poll: Give Obama a Grade on the State of the Union](#)," Fox News, January 26, 2011, accessed April 5, 2011.

23. Source: Adapted from <http://foxnewsinsider.com/2011/01/26/poll-give-obama-a-grade-on-the-state-of-the-union/>.

administered, including through face-to-face interviews, telephone interviews, mail questionnaires, and online questionnaires. Each of these methods has pros and cons. Face-to-face interviews are advantageous for administering long, complicated surveys, yet they are costly and subjects may be reluctant to talk to a stranger about their opinions. Telephone interviews are relatively easy to administer, but getting a representative sample has become more difficult as many polling organizations rely on landline telephone directories to recruit respondents, and people increasingly are relying on cell phones. Young people are not well represented in landline polls.²⁴ Mail questionnaires are a low-cost method that allows subjects privacy when answering questions, which can yield more accurate results. However, mail surveys often suffer from low response rate, as people simply opt out because the questionnaire is self-administered.²⁶

Online polls have become a more popular option in recent years as the majority of the public has access to the Internet. According to the Pew Internet and American Life Project, 79 percent of American adults were online in May 2010. Studies indicate that online polls are no less reliable than other forms of polling. They have the advantage of being cost-effective, and allowing respondents privacy when answering questions. Online polls also provide opportunities for

24.²⁵

25. Scott Keeter, “Public Opinion Polling and Its Problems,” in *Political Polling in the Digital Age*, ed. Kirby Goidel (Baton Rouge: Louisiana State University Press, 2011), 28–53.

26.²⁷

27. Michael W. Traugott and Paul J. Lavrakas, *The Voter’s Guide to Election Polls*, 2nd ed. (New York: Chatham House, 2000).

innovation, such as getting reactions to video clips of campaign ads. The limitation of online polls is that it is more difficult to get a representative sample using the Internet than with some traditional methods, because not all of the public is online. Also, online surveys are self-administered, and people can drop out before they are completed, especially if the questionnaire is lengthy.²⁸

Exit Polls

Exit polls are face-to-face interviews with voters taken as they leave the voting booth to determine their candidate preference in the election and their positions on issues. They are fielded in a small number of voting precincts with states with the goal of acquiring representative data. They are used to predict the outcomes of elections and to determine the characteristics of voters who supported particular candidates. Exit poll data can reveal, for example, who female, Latino, Republican voters favored in an election campaign.

Exit polls are a major component of the media's Election Night coverage. Until 1992, each news network had its own in-house exit

28.²⁹

29. Scott Keeter, "Public Opinion Polling and Its Problems," in *Political Polling in the Digital Age*, ed. Kirby Goidel (Baton Rouge: Louisiana State University Press, 2011), 28–53.

polling operation. To cut costs, an exit poll consortium, Voter News Service (VNS), was formed to provide data to all the major networks. VNS released the exit poll data that prompted the networks to prematurely declare the results of the 2000 presidential election, and the organization subsequently was disbanded. Exit poll data in the 2008 presidential election and 2010 midterm elections were provided to major television news organizations and the Associated Press by the National Election Exit Polls conducted by Edison Research.

Link: Exit Polling

Read more about exit polling at [Edison Research](#).

News organizations use exit polls to declare a winner, sometimes when few of the actual returns from the voting precincts have been recorded. This practice has raised concerns, especially since the major television networks all rely on exit poll data from the same source—the National Election Exit Poll. While exit polls are often accurate, if the sample of voters is unrepresentative of the population, the survey questions are poorly written, or interviewers are not trained to properly administer the poll, the results can be wrong, as was the case in the 2000 presidential election.

Some scholars allege that media reports of exit polls can depress election turnout. When the media declare the winner in a presidential election on the basis of exit polls before the voting booths have closed across the country, people who have not yet voted may decide not turn out. Network television newscasts

declared Ronald Reagan the winner of the 1980 presidential election on the basis of exit polls hours before the voting booths had closed on the West Coast. A controversy ensued around the allegation that West Coast voters were discouraged from casting a ballot because they felt their vote was irrelevant. The networks agreed voluntarily to refrain from declaring a winner in elections until after all the polls have closed nationwide—an agreement that has not always been followed.

Quick Polls

A quick poll usually consists of one or two questions that are posted to a website, blog, discussion board, social media platform, or podcast. Quick polls have become standard features of websites of news organizations, political leaders, issue advocacy groups, political parties, candidates, bloggers, and even average citizens. They can be distributed through website sidebars, e-mail links, Facebook postings, and Twitter feeds. There are many platforms available that make it easy for just about anyone to field a quick poll. Quick polls also can be administered through robo-polling—administering automated polls by phone using a recorded voice to ask the question and requiring respondents to answer by pressing the touch pad on their telephone.³⁰

30. Mark Blumenthal, "[The Case for Robo-Pollsters](#),"

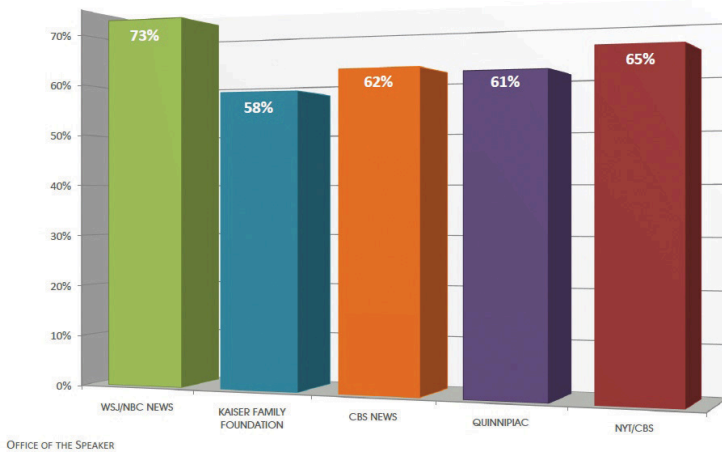
Quick polls do not conform to the established protocols for conducting scientific polls, and they generally are not reliable indicators of public opinion. They often use an unscientific convenience sample of people who may see the poll posted online or have the link sent to them through e-mail. Most respondents to quick polls are self-selected, and they may have a strong interest in the topic. Often it is possible for people to register their views more than once, which can bias the outcome of the poll. Quick polls may generate many responses, but the results can be wildly inaccurate. In addition, quick poll questions can be designed in a way that elicits a particular response that is then used to promote a particular position. For example, a quick poll might seek to find support for bike lanes in cities by stating, “Seven out of ten Americans favor designating bike lanes in major cities. Do you favor or oppose designating bike lanes in your city?”

Quick polls can be a fun way to generate interest in political affairs. People can express their views easily, and they often get immediate feedback about where they stand compared to others. The results of quick polls often are revealed in visually appealing graphics. Reporters and bloggers use the results of quick polls to generate story lines and supplement the text of their pieces. However, quick polls can be misused when the results are interpreted as if they truly reflect public opinion rather than the views of the people who chose to take them.

National Journal, September 14, 2009, accessed April 10, 2011.

AMERICANS SUPPORT A PUBLIC OPTION

POLLS CONTINUE TO FIND SIGNIFICANT SUPPORT FOR HEALTH INSURANCE REFORM WITH A PUBLIC OPTION



Quick polls provide snapshots of political opinion that are used by the media, interest groups, parties, and candidates.

Push Polls

A push poll is a marketing technique used by political campaigns and issue advocacy groups to influence the opinions of respondents. Despite their name, push polls are not legitimate public opinion polls. They are a form of advertising masquerading in the form of an opinion survey. No one collects or analyzes data from a push poll. However, push polls can influence vote choice in campaigns by incorporating negative attacks on a candidate into the questions

asked or associating a candidate with a particular issue position which may or may not be accurate.

Push polls were used against Republican candidate John McCain during the 2000 presidential primary. Voters in South Carolina were asked questions like “Would you be more or less likely to vote for John McCain for president if you knew he had fathered an illegitimate black child?” Push polls were used to target Democratic candidate Barack Obama in the 2008 presidential campaign. Voters in Ohio received phone calls from Opinion Access Corporation asking if they would be more or less likely to vote for Barack Obama if they knew that he had voted to let convicted child sex offenders out early.³¹ While these allegations were untrue or taken out of context, the information was spread to voters. Push polls have been outlawed in certain states and they have been condemned by the American Association of Public Opinion Researchers (AAPOR), the organization that upholds standards for polling and survey research.

31.³²

32. Sam Stein, “[Nasty Anti-Obama Push Poll Launched in Ohio](#),” *Huffington Post*, September 11, 2008, accessed June 6, 2011.

Other Ways of Measuring Public Opinion

There are a variety of ways of measuring public opinion aside from polls. The different sides of an argument expressed in public debates or at a community meeting reflect public opinion. The positions taken in letters to the editor, blog and social media posts, and the comments in response to news stories and editorials are all indicators of public sentiment. The commentary that people post in response to news stories can provide a rich source of information about public opinion, especially when people take the issue seriously and are respectful when expressing their views. This commentary also can be careless and vitriolic, as people resort to personal attacks or post quick reactions to complex issues.

Focus groups have been used for over eighty years to ascertain people's attitudes, beliefs, and opinions about politics within a group setting. A facilitator asks questions of a group of between eight and twelve people who can engage in a conversation about the topic. Focus groups not only are useful for gaining in-depth insights into what individuals think but also aid in understanding the group dynamics behind public opinion. Focus groups can reveal when people feel comfortable expressing their beliefs, when they will confront others about their views, when they will withdraw from a discussion, and when they are influenced by the opinions of others.³³ Focus groups have been used to allow college students to

33.³⁴

34. David W. Stewart, Prem N. Shamdasani, and Dennis W.

reveal their views about government and their role in a democratic polity. Talking with students in a group setting, researchers discovered that young people are more interested and engaged in politics than survey-based studies indicate, and that they are thinking creatively about ways to become involved, especially using social media.³⁵ Focus groups are used extensively in election campaigns to determine what voters are thinking about and which candidates they prefer.

Key Takeaways

Public opinion polling dates back to the early days of the republic. The abundance of poll data measuring Americans' opinions about government and politics available today is astounding. In this environment, it is important to differentiate between quality polling

Rook, *Focus Groups: Theory and Practice*, 2nd ed. (Thousand Oaks, CA: Sage Publications, 2007).

35.³⁶

36. Nicholas V. Longo and Ross P. Meyer, *College Students and Politics: A Literature Review*, Circle Working Paper 46 (College Park, MD: Center for Information and Research on Civic Learning and Engagement, May, 2006).

data generated through established scientific methods and unreliable information produced by quick polls.

132. G. Video: Six of One—Obamacare vs. The Affordable Care Act

Jimmy Kimmel serves as host and executive producer of Emmy nominated “Jimmy Kimmel Live,” ABC’s late-night talk show. The following video shows the hilarious results of Kimmel’s poll on the Affordable Care Act vs. Obamacare (which are the same thing).



One or more interactive elements has been excluded from this version of the text. You can view them online

here: <https://library.achievingthedream.org/herkimeramericangovernment/?p=156#oembed-1>

133. H. Reading: Public Opinion in the Information Age

Learning Objectives

After reading this section, you should be able to answer the following questions:

1. How are public opinion polls depicted in the media?
2. What are opinion leaders, and how do they influence the views of opinion followers?
3. What is an echo chamber? What is the effect of echo chambers on democracy?

The media's use of public opinion data has a long history. The press depends on polls as a source of information for its stories, and polling organizations need the media to publicize their results. For almost two centuries, the press has commissioned polls from professional organizations or sponsored their own in-house polling operations. Today, major news organizations join with well-established polling firms to measure public opinion. *USA Today* and CNN work with the Gallup organization to field opinion polls.

In the information age, the press's use of opinion polls has flourished as it is easy and more cost-effective to collect opinion

information. Digital polls are a quick way to get people to express their views and to exchange opinions with others. These polls can be taken online, on an electronic tablet, or on a cell phone. The potential for polls to not only measure public opinion but also influence opinion has increased.

Media Depictions

The results of public opinion polls are prominently depicted in all forms of media. News organizations regularly include poll results in their stories about political issues, events, and leaders. Poll results released by the press, candidate organizations, and political parties feature prominently during elections in news stories, commentary, and campaign media. Political websites and blogs offer quick polls where people can record their views on myriad topics instantaneously. These poll results are depicted as colorful sidebars that attract audiences' attention. Poll results frequently run on the ticker on cable television news broadcasts and on media organization websites.

Poll results make headlines. They can be presented in the form of eye-catching visuals to highlight their prominence. The headline for the lead story about the federal budget deficit in the April 20, 2011, online version of the *Washington Post* proclaimed, "Poll finds little backing for debt remedies." Directly beneath the headline was a colorful graph citing the public's approval of the way President Obama (39 percent approval) was handling the federal budget deficit compared to Republicans in Congress (33 percent approval). The story discussed the results of a *Washington Post*-ABC News

poll that indicated that most Americans want to keep government benefits, such as Medicare and Social Security, and would oppose plans to cut these programs to reduce the national debt. Almost three thousand people weighed in with their thoughts about this poll story within just a few hours of its posting. These comments represent another expression of public opinion. The poll story became the most popular piece on the *Washington Post* website for the day, and thousands of people recommended it to their friends on Facebook.

Pundits and experts who appear in the media make extensive use of poll results when making their case. They appear with charts and graphs depicting poll results to emphasize that the public shares their views. They use opinion polls to speak on behalf of the public, whether or not they are truly representing the views of the people.

Media Interactions

Elites and the mass public use public opinion polls in a variety of ways. Opinion leaders use poll results to convey information to others who rely on their guidance when making political decisions. Digital media have not only created more opportunities for the public to share their opinions but have also made it possible for average citizens to field their own polls and collect opinion data.

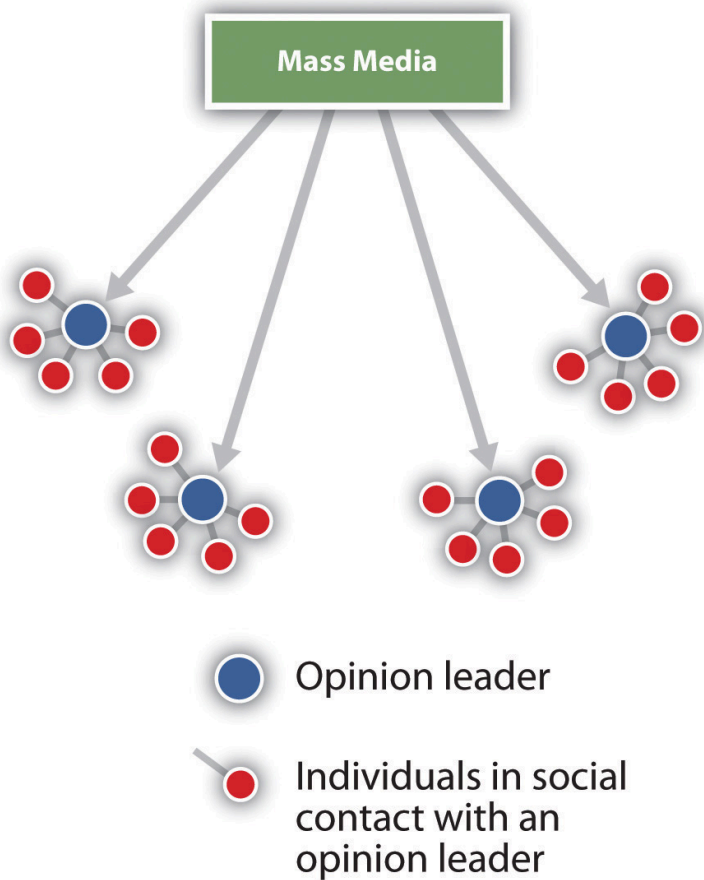
Opinion Leaders

An opinion leader is a broker who imparts information about politics and government to other people. Opinion leaders are attentive to media messages and pass on information in a simplified format to people who pay less attention to politics. The two-step flow model of communication posits that the media disseminate information that is received by opinion leaders, who interpret the information and pass it on to opinion followers, who are less interested in and informed about political affairs. Opinion leaders have the respect of opinion followers because of their status in a social group, their role as a political expert, or their celebrity.¹

Figure 1. Two-Step Flow Model of Communication

1.²

2. Paul F. Lazarsfeld, Bernard R. Berelson, and Hazel Gaudet, *The People's Choice* (New York: Duell, Sloan, and Pierce, 1944).



Source: Adapted from E. Katz and P. Lazarsfeld, *Personal Influence*, (New York, NY: The Free Press, 1955).

Opinion leaders may be members of the public who are especially attentive to political matters. They follow the news religiously, pay attention to political leaders' speeches, and even may participate in governmental affairs by attending meetings or holding office. People who are in the same social group will seek



Celebrities can use their prominence in the media to promote causes and influence public opinion.

cues from opinion leaders who share their interests and who can simplify their voting decisions or provide them with shortcuts for taking positions on complicated issues. Pundits, political experts, and public officials can be opinion leaders when they are held in esteem by citizens. Media personalities, including television news anchors, talk show hosts, and prominent political bloggers, increasingly have taken on the role of opinion leaders, especially when they have ideological views similar to people who follow them.³ Celebrities from the entertainment industry can become opinion leaders. Actor George Clooney has used his celebrity to bring attention to violence in the Sudan.

3.⁴

4. Ronald S. Burt, "The Social Capital of Opinion Leaders," *Annals of the American Academy of Political and Social Science*, November 1999, 1–22.

Digital Polls and Forums

The opportunities for the public to express their opinions through the media have skyrocketed in the information age. The interactive features of digital media make it easy for people to express their views and share their opinions with others. Quick polls can be incorporated into just about any news or political site, and they can be shared virally through social media and e-mail. Online forums allow people to post their views and react to the opinions of others.

Digital polls, which use Internet platforms and smartphones to administer questions to members of the public, have proliferated in the information age. These polls run the gamut from sophisticated survey instruments to one-question quick polls. Online polls are a standard feature of news websites, political party and candidate sites, interest group and trade association sites, blogs, social media sites, and Twitter feeds. The quality of online polls varies greatly as well. Online polls administered by reputable organizations to a representative sample of the public yield reliable results. Quick polls taken by a convenience sample of people who come across the poll and decide to take it are generally inaccurate.

Digital media have made it possible for members of the public to conduct their own informal polls to solicit opinions about government and politics. There are online platforms, such as YouPolls.com and SurveyMonkey.com, where average citizens, political activists, and bloggers can post a question and solicit answers from interested members of the public. People can post a video clip of a news item and gauge the public's reaction. These informal poll results can be used to stimulate online discussions about issues, leaders, government institutions, and political events. Some of these citizen-initiated polls deal with serious debates facing the nation, such as taxes and immigration policy. Some opinion forums are designed more to entertain than to elicit serious opinions. Comedian Stephen Colbert hosts the Colbert Nation

Forum on his website, where fans post often humorous statements and videos about current issues and events.

Live Polls

Live polls record people's reactions to a speech, debate, or event in real time. The results of live polls are displayed below images of the event as it takes place, which allows viewers to see fluctuations in opinion over time. In January 2011, live polling was used to gauge the public's opinion of President Obama's State of the Union address as it was unfolding. The public was invited to participate in a nationwide poll gathering reactions to the address using their smartphones and iPads. Reactions from Democrats, Republicans, and independents were tracked and displayed on the bottom portion of the television screen on cable news channels. While the sample was not representative, hundreds of thousands of people took part.⁵

The satirical news source *The Onion* produced a parody of pundits adjusting their views in an attempt to please the public as they watch a live poll tracking the audience's opinion about their discussion.

5. ⁶

6. David Baker, "[Live-Polling the State of the Union](#)," *Huffington Post*, January 25, 2011, accessed May 20, 2011.

Video Clip: In The Know: New Live Poll Lets Pundits Pander to Viewers in Real Time



One or more interactive elements has been excluded
from this version of the text. You can view them online

here: [https://library.achievingthedream.org/
herkimeramericangovernment/?p=157#oembed-1](https://library.achievingthedream.org/herkimeramericangovernment/?p=157#oembed-1)

A major issue confronting opinion researchers is whether or not polls released in the media actually influence opinion. It may be the case that polls not only reflect opinion but also can change people's views about candidates and issues. It is difficult to isolate poll effects, but there is some evidence to suggest that the media's dissemination of poll results can influence personal opinions.

The Echo Chamber

Public judgment, informed opinions about issues, requires that people be open to diverse viewpoints and consider the outcomes when supporting policy positions. Some scholars believe that a democracy requires media that provide a place where citizens can gain a broad perspective on political issues and events. However, in the current high-choice media environment that offers literally hundreds of options for getting information, people increasingly are exposed solely to viewpoints consistent with their own beliefs.

The media landscape is populated by cable news programs, talk radio shows, online news sites, and blogs that represent extreme liberal and extreme conservative positions on issues. Many people who tune into these opinionated sources of information shield themselves from other perspectives, thus cutting off the potential to meaningfully debate policy options. Communication scholars Kathleen Hall Jamieson and Joseph Cappella label this phenomenon the echo chamber. They observe that some people attend to media that are essentially “self protected enclaves hospitable to their own beliefs.”⁷ With more than three hundred cable channels alone to choose from, people gravitate toward niche media that often feature like-minded hosts. Fox News’s conservative talk show host [Sean Hannity](#) and MSNBC’s liberal host [Rachel Maddow](#) reach their followers on television, radio, and online. Blog readers visit sites that are in line with their views and avoid those that challenge their opinions.

7.⁸

8. Kathleen Hall Jamieson and Joseph N. Cappella, *Echo Chamber* (New York: Oxford University Press, 2008), 87.

Scholars have identified negative and positive consequences of the echo chamber effect. On one hand, selective exposure to ideological media may have deleterious effects on democratic discourse as people take extreme positions on issues and refuse to make compromises that are often necessary to achieve workable public policies. At the same time, people who come to feel strongly about their political beliefs are more likely to participate in politics.⁹

Key Takeaways

The relationship between the media and public opinion has grown increasingly complicated. Poll results and opinion forums have proliferated in all forms of media. The vast number of political media sources has made it possible for people to expose themselves only to news and information that conforms to their personal ideological and partisan perspectives. The implications for democratic politics are both negative and positive.

9.¹⁰

10. Natalie Jomini Stroud, *Niche News* (New York: Oxford University Press, 2011).

134. Putting It Together

Summary

Political culture refers to the ideologies, values, beliefs, norms, customs, traditions, and heroes that shape political behavior. In the United States, certain core values are said to be a part of the “American creed.” Those values include support for individualism, democracy, and political equality, though a full accounting would also include less positive tendencies, as well, as political scientist Rogers Smith has noted in his multiple-traditions account of American civic ideals.

Political culture is passed on from generation to generation through a process of political socialization. That process involves “agents” of socialization that communicate key values and beliefs. Some of the actors involved in this dynamic process include parents, teachers, friends, coworkers, church associates, club members, sports teams, mass media, and popular culture in general.

Public opinion is related to political culture but typically refers to specific (sometimes fleeting) attitudes and beliefs about particular issues and personalities of the day. One important measure of democratic health is the degree to which public opinion influences the creation of public policy. As we have seen, that relationship is a problematic one given the growth of inequality and the uneven distribution of political resources.

There is disagreement about the extent to which political leaders should take the public’s views into account compared with the advice of experts. The average citizen tends not to have a good understanding of issues and related policies. That said, elites do not have a particularly stellar record of policy-making, either. Deliberative polling is an attempt to give people the opportunity to become more informed about issues and to contemplate policy

options in the hope that an informed democratic process can emerge.

PART X

MEDIA AND POLITICS

135. Why It Matters

Summarize the role and function of the media in the American political system



Introduction

What is the role of the media in a democracy? Is it important for journalists to be “objective,” or is having a point of view acceptable, inevitable, or even desirable? How do news organizations decide which stories to cover and which to ignore? Has the American media done a good job informing the public?

How would you go about answering such questions? Keep them in mind as you tackle this module, which is focused on the relationship between the media and politics.

Also, consider your own interaction with media. Where do you get your news, and how do you know a trustworthy source from an untrustworthy one? How often do you read or listen to a source you disagree with?

However you answer the questions above, consider the role that media has played in the formation of your own worldview. Clearly, there are high stakes involved in the way journalists do their jobs and in the function of media institutions in general.

136. Media Influence

Explain the relationship between the media and politics

Learning Activities

The learning activities for this section include:

- Video: Agenda-Setting by Maxwell McCombs
- Reading: The Media
- Video: Rich Media, Poor Democracy
- Video: The Future of Journalism (Glenn Greenwald)
- Video: Glenn Greenwald's Plan to Poke, Prod, and Piss Off the Powerful

Take time to review and reflect on each of these activities in order to improve your performance on the assessment for this section.

137. Video: Agenda-Setting by Maxwell McCombs

In the following video Maxwell McCombs gives a one-minute summary of his agenda-setting theory.



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here: <https://library.achievingthedream.org/herkimeramericangovernment/?p=162#oembed-1>

138. Reading: The Media

I view this as a mini-series that has to be told over four nights. —Andy Card, co-chair of the 2000 Republican Convention.

Introduction

Does the media primarily report politics, or does it shape political events? The quote above certainly reflects the power of the media to determine the course of major political events. The purpose of a political party convention is to formally nominate a presidential candidate, but of course the party wants to win votes in the general election. When politicians play to the media, does the media then control politics? Many people today criticize television, radio, newspapers, magazines, and the Internet for unfairly using their power as a major link between citizens and their government. Do the media fairly explore issues, or do they impose their own positions?

The influence of the media is increased by the fact that campaigns today have become more focused on the individual than on the party. In order to win primaries, individual candidates seek media attention to gain attention from voters. As a result, do voters hold political power, or has the media simply replaced political parties as the primary force behind candidate selection?



The Political Influence of the Media

The media can shape government and politics in many ways. Here are a few:

1. By influencing political opinions of voters. Not surprisingly, the voting behavior of people who are actively interested in politics is probably not changed by the media. Committed Democrats and Republicans selectively learn what they want to from media sources. However, the media can sway people who are uncommitted or have no strong opinion in the first place. Since these voters often decide elections results, the power of media in elections can be substantial.
2. By determining the behavior of candidates and officials. Many good politicians have learned that they can succeed — in getting elected and in getting things done — if they know how to use the media. President Franklin Roosevelt was famous for his “fireside chats,” in which he soothed the pain of economic depression and war by talking to citizens over the radio. President Ronald Reagan’s skills as a film and television actor enabled him to communicate very effectively with American voters. Government officials and candidates for office carefully stage media events and photo opportunities. Critics believe that too much attention is focused on how politicians look and come across on camera, rather than on how good a job they are doing in public service.
3. By setting the public agenda. Most Americans learn about social issues from print or electronic media. The fact that the media focuses on some issues and ignores others can help set what gets done in government. Media sources have often been accused of emphasizing scandal and high-interest issues at the expense of duller but more important political problems. The government’s priorities can be rearranged as a result.

The media clearly has a great deal of power in American politics

today. Is that a good or a bad thing for government? From one point of view, the media abuse their power, especially since they are driven by profit motive to give people what they want, not necessarily what they need. On the other hand, perhaps the media serves as an important player in a modern “checks and balances” system. Reporters function as watchdogs to ensure that presidents, representatives, and justices do not abuse their powers. The media, in turn, is checked by government regulations, by skilled politicians, and by the people’s own good judgment.

139. Video: Rich Media, Poor Democracy

If a key indicator of the health of a democracy is the state of its journalism, the United States is in deep trouble. In the following video, Robert McChesney lays the blame for this state of affairs squarely at the doors of the corporate boardrooms of big media, which, far from delivering on their promises of more choice and more diversity, have organized a system characterized by a lack of competition, homogenization of opinion, and formulaic programming.

Through numerous examples, McChesney and media scholar Mark Crispin Miller demonstrate how journalism has been compromised by the corporate bosses of conglomerates such as Disney, Sony, Viacom, News Corp, and AOL Time Warner to produce a system of news that is high on sensationalism and low on information. They suggest that unless citizen activism can reclaim the commons, this new corporate system will be characterized by a rich media and an ever impoverished, poor democracy.



One or more interactive elements has been excluded from this version of the text. You can view them online

here: <https://library.achievingthedream.org/herkimeraamericangovernment/?p=164#oembed-1>

140. Video: The Future of Journalism (Glenn Greenwald)

In the following video, journalist Glenn Greenwald discusses the future of journalism and the “free press” in light of government efforts to increase surveillance and fight terrorism.

<https://youtu.be/wU6002l6ls8>

141. Video: Glenn Greenwald's Plan to Poke, Prod, and Piss Off the Powerful

Glenn Greenwald has lost all interest in making legal arguments. The reason for his indifference should terrify anyone who believes that the law—and not arbitrary decision-making by government officials—should govern a nation.

Greenwald's experience in uncovering our national secrets—from deep within our security apparatus to the FISA courts—has taught him that sometimes the law doesn't matter. When the government is determined to act outside of its constitutional restraints, justifications will be made, legal memoranda will be written, in order that the outcome will be determined by a contest of institutional power. Learn more in the video below.



One or more interactive elements has been excluded from this version of the text. You can view them online

here: <https://library.achievingthedream.org/herkimeramericangovernment/?p=166#oembed-1>

142. Reading: Types of Media

Learning Objective

- Evaluate the claim that press freedom is compromised by increasing consolidation in the media industry

Media in the United States comprises several different types of widespread communication: television, radio, cinema, newspapers, magazines, and Internet-based websites (especially blogs). Many of these networks are controlled by large, for-profit corporations that reap revenue from advertising, subscriptions, and the sale of copyrighted material. American media conglomerates tend to be leading global players, generating substantial revenue, not to mention fierce opposition in many parts of the world. Further deregulation and convergence are under way, suggesting more mega-mergers, greater concentration of media ownership, and the emergence of multinational media conglomerates. Critics allege that localism (local news and other content at the community level), media spending and coverage of news, and diversity of ownership and represented views have suffered as a result of such processes.

Theories on the success of such companies note a reliance on certain policies of the American federal government as well as a natural tendency to produce monopolies in the industry. Many prominent news organizations such as CBS, ABC, and Fox News are often criticized for creating political and corporate monopolies to boost popularity.

The organization Reporters Without Borders compiles and publishes an annual ranking of countries based on its assessment of their press freedom records. A smaller score on the index corresponds to greater freedom of press. Reporters Without Borders is careful to note that the index only addresses press freedom and does not measure the quality of journalism. In 2011–12, the United States was ranked 47 out of 179 countries, which was a setback from the preceding year.

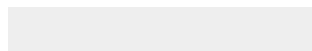
Map of the world with different countries given a color that corresponds to their ranking on the freedom-of-press index. 2010 Press Freedom Index Scores. These countries have been ranked on their freedom-of-press laws. A smaller score on the index corresponds to great freedom of press. The United States has a score of 47.

Key Takeaways

- Media in the United States has taken several forms, including television, film, radio and blogs.
- Media frequently gains power through its support from large corporations, and is often criticized by the public for such alliances.
- Reporters Without Borders publishes a yearly ranking on the level of free media in each country.

Key Term

- Blog: A website that allows users to reflect, share opinions, and discuss various topics in the form of an online journal while readers may comment on posts. Most blogs are written in a slightly informal tone (personal journals, news, businesses, etc.) Entries typically appear in reverse chronological order.



143. Reading: Organization and Ownership of Media

Learning Objective

- Discuss the recent history of media consolidation

Concentration of media ownership, also known as media consolidation or media convergence, is a process whereby progressively fewer individuals or organizations control increasing shares of the mass media. Contemporary research demonstrates increasing levels of consolidation, with many media industries already highly concentrated and dominated by a very small number of firms. Over the years there have been many merger attempts, some successful, and others unsuccessful. Over time the amount of media merging has increased and the amount of media outlets have increased. This means that there are fewer companies owning more media sources, thereby increasing the concentration of ownership.

Examples of Media Mergers and Their Potential Effect

In the United States, media consolidation has been in effect since the early twentieth century with major studios dominating movie production. Before that, there was a period in which Edison monopolized the industry. The music and television industries recently witnessed cases of media consolidation when SONY Music Entertainment's parent company merged their music division with Bertelsmann AG's BMG to form Sony BMG. TimeWarner's The WB

and CBS Corp's UPN also merged to form The CW. In the case of Sony BMG, there was a "Big Five" (now "Big Four") conglomerate of major record companies, while The CW's creation was an attempt to consolidate ratings and stand up to the "Big Four" of American television (this was despite the fact that The CW was, in fact, partially owned by CBS, one of the "Big Four"). In television, the vast majority of broadcast and basic cable networks, over a hundred in all, are controlled by nine corporations: News Corporation (the Fox family of channels), The Walt Disney Company (which includes the ABC, ESPN and Disney brands), CBS Corporation, Viacom, Comcast (which includes the NBC brands), Time Warner, Discovery Communications, EW Scripps television, or some combination thereof (including the aforementioned The CW as well as A&E networks, which is a consortium of Comcast and Disney).

The "Walt Disney Studios" graphic logo and a picture of Mickey Mouse.

Walt Disney is a major media conglomerate.

Another example occurred in 1999, when Viacom made CBS an offer of \$37 billion to buy them out. This buyout caused a lot of hype and many people were worried that this merge would decrease diversity and the quality of journalism because of the increased political influence.

There are also some large-scale owners in an industry that are not the causes of monopoly or oligopoly. For example, Clear Channel Communications, especially since the Telecommunications Act of 1996, acquired many radio stations across the United States, and came to own more than 1,200 stations. However, the radio broadcasting industry in the United States and elsewhere can be regarded as oligopolistic regardless of the existence of such a player. Because radio stations are local in reach, each station licenses a specific part of spectrum by the FCC in a certain local area, any local market is served by a limited number of stations. In most countries,

this system of licensing makes many markets local oligopolies. The similar market structure exists for television broadcasting, cable systems, and newspaper industries, all of which are characterized by the existence of large-scale owners. Concentration of ownership is often found in these industries.

Key Takeaways

- In the United States, movies have experienced conglomerate ownership since the early twentieth century, but just recently have news and broadcasting in the United States started to experience it.
- The Telecommunications Act of 1996 allowed for cross media, and since then Clear Channel Telecommunications have acquired many radio stations.
- The twentieth century has also seen many forms of media merging.

Term

- Conglomerate: A corporation formed by the combination of several smaller corporations whose activities are unrelated to the corporation's primary activity.

144. Reading: Who Owns the Media?

Introduction

Massive corporations dominate the U.S. media landscape. Through a history of mergers and acquisitions, these companies have concentrated their control over what we see, hear and read. In many cases, these companies control everything from initial production to final distribution. In the interactive charts below we reveal who owns what.

TV and Radio

Broadcasters make billions in profits while using the public airwaves for free. In return, they are supposed to provide programming that fulfills community needs. Instead, lobbyists have successfully fought to make it easier for broadcast companies to gobble up even more free airspace while doing less to serve the public.

[Take Action](#) to end the big broadcast swindle.

Bain Capital/Thomas H. Lee Partners (Clear Channel)

- **2011 Revenue:** \$6.2 billion
- **Company Overview:** These private equity firms own Clear Channel, the largest radio station owner in the country.

Approximately half of the company's revenue is generated from radio broadcasting. The remaining half comes from advertising companies and other investments.

- **Radio:** 866 radio stations and Premiere Radio Networks (a national radio network that produces, distributes or represents approximately 90 syndicated radio programs, serves nearly 5,800 radio station affiliates and has over 213 million weekly listeners. Programs include the *Rush Limbaugh Show*, *Glenn Beck* and the *Sean Hannity Show*); Fox Sports Radio; Fox News Radio; Australian Radio Network
- **Other:** Katz Media (radio advertising broker); American Outdoor Advertising

CBS Corporation

- **2011 Revenue:** \$14.2 billion
- **Company Overview:** CBS Corporation “has operations in virtually every field of media and entertainment, including broadcast television (CBS and the CW — a joint venture between CBS Corporation and Warner Bros. Entertainment), cable television (Showtime Networks, Smithsonian Networks and CBS Sports Network), local television (CBS television stations), television production and syndication (CBS Television Studios, CBS Studios International and CBS Television Distribution), radio (CBS Radio), advertising on out-of-home media (CBS Outdoor), publishing (Simon & Schuster), interactive media (CBS Interactive), music (CBS Records), licensing and merchandising (CBS Consumer Products), video/DVD (CBS Home Entertainment), motion pictures (CBS Films) and socially responsible media (EcoMedia).”
- **TV:** Twenty-nine television stations and CBS Television Studios; CBS Entertainment; CBS News; CBS Sports; CBS television stations; CBS Television Studios; CBS Studios

International; CBS Television Distribution; the CW; Showtime; CBS College Sports Network; CBS Television Network; Smithsonian Networks

- **Radio:** CBS Radio and 130 radio stations
- **Online Holdings:** CBS Interactive; CNET
- **Print:** Simon & Schuster; *Watch! Magazine*; Pocket Books; Scribner; Free Press (publishing house)
- **Entertainment:** CBS Films
- **Other:** CBS Outdoor; CBS Connections; EcoMedia

Comcast Corporation

- **2011 Revenue:** \$55.8 billion
- **Company Overview:** In 2011, the Federal Communications Commission approved Comcast's takeover of a majority share of NBCUniversal from General Electric. This merger combines the nation's largest cable company and residential Internet service provider and one of the world's biggest producers of TV shows and motion pictures. Comcast's media holdings now reach almost every home in America. It serves customers in 39 states and the District of Columbia. In addition to its vast NBCUniversal holdings, Comcast has 23.6 million cable subscribers, 18 million digital cable subscribers, 15.9 million high-speed Internet customers and 7.6 million voice customers. Comcast recently entered into a partnership with Verizon in which each company will market and sell the other's services.
- **TV:** NBCUniversal; twenty-four television stations and the NBC television network; Telemundo; USA Network; SyFy; CNBC; MSNBC; Bravo; Oxygen; Chiller; CNBC World; E!; the Golf Channel; Sleuth; mun2; Universal HD; VERSUS; Style; G4; Comcast SportsNet (Philadelphia), Comcast SportsNet Mid-Atlantic (Baltimore/Washington, D.C.), Cable Sports Southeast,

Comcast SportsNet Chicago, MountainWest Sports Network, Comcast SportsNet California (Sacramento), Comcast SportsNet New England (Boston), Comcast SportsNet Northwest (Portland, Ore.), Comcast Sports Southwest (Houston), Comcast SportsNet Bay Area (San Francisco), New England Cable News (Boston), Comcast Network Philadelphia, Comcast Network Mid-Atlantic (Baltimore/Washington, D.C.); the Weather Channel (25 percent stake); A&E (16 percent stake); the History Channel (16 percent stake); the Biography Channel (16 percent stake); Lifetime (16 percent stake); the Crime and Investigation Channel (16 percent stake); Pittsburgh Cable News Channel (30 percent stake); FEARnet (31 percent stake); PBS KIDS Sprout (40 percent stake); TV One (34 percent stake); Houston Regional Sports Network (23 percent stake); SportsNet New York (8 percent stake)

- **Online Holdings:** MSNBC.com (50 percent stake); Hulu (32 percent stake); DailyCandy; iVillage; Fandango
- **Telecom:** Clearwire Communications (9 percent stake)
- **Other:** Comcast Interactive Media; Plaxo; Universal Studios Hollywood; Wet 'n Wild theme park; Universal Studios Florida; Universal Islands of Adventure; Philadelphia 76ers; Philadelphia Flyers; Wells Fargo Center; iN DEMAND; Music Choice (12 percent stake); SpectrumCo (64 percent stake)

Gannett Co.

- **2011 Revenue:** \$5.2 billion
- **Company Overview:** International media company focusing on broadcast TV, print and Web content
- **TV:** Twenty-three television stations
- **Online Holdings:** CareerBuilder.com; MomsLikeMe.com; ShopLocal.com; Cars.com; Apartments.com; CareerSite.biz; Livestream.com; Metromix.com; Ongo, Inc.; Reviewed.com;

SavvyShopperDeals.com; Homefinder.com; BNOT.com; Nurse.com

- **Print:** *USA Today*; over 600 magazines and other non-daily print publications; *Clipper Magazine*; *Mint Magazine*; Gannett Government Media; Gannett Education; Newsquest (U.K.)
- **Other:** Gannett Healthcare Group; PointRoll; Planet Discover; Schedule Star; Classified Ventures; QuadrantONE; Fantasy Sports Ventures; Captivate; Pearls Review; Gannett Offset

News Corp

- **2011 Revenue:** \$33.4 billion
- **Company Overview:** News Corp's media holdings include the FOX Broadcasting Company; television and cable networks such as Fox, Fox Business Channel, National Geographic and FX; print publications including the *Wall Street Journal*, the *New York Post* and *TV Guide*; the magazines *Barron's* and *SmartMoney*; book publisher HarperCollins; film production companies 20th Century Fox, Fox Searchlight Pictures and Blue Sky Studios; numerous websites including MarketWatch.com; and non-media holdings including the National Rugby League.
- **TV:** Twenty-seven television stations and FOX Broadcasting Company (FOX Network, MyNetworkTV); FOX News; FOX Business; FOX News Radio Network; FOX News Talk Channel; FSN (12 regional sports networks); FX; SPEED; FUEL TV; Fox College Sports; Fox Movie Channel; Fox Soccer Channel; Fox Soccer Plus; Fox Pan American Sports; Fox Deportes; Big Ten Network; National Geographic U.S.; Nat Geo Adventure; Nat Geo Music; Nat Geo Wild; Fox International Channels; Utilisima; Fox Crime; NEXT; FOX History & Entertainment; the Voyage Channel; STAR World; STAR Movies; NGC Network International; NGC Network Latin America; LAPTV; Movie City;

City Mix; City Family; City Stars; City Vibe; the Film Zone; Cinecanal; Elite Sports Limited; BabyTV; STAR India; STAR Taiwan; ESPN STAR Sports; Shine Limited

- **Online Holdings:** Hulu.com (32 percent minority share)
- **Print:** HarperCollins Publishers; the *New York Post*; the *Daily News*; News International (the *Times*; the *Sunday Times*; the *Sun*); News Limited (146 newspapers in Australia); Dow Jones (*Wall Street Journal*, *Barron's*, *SmartMoney*, Factiva, Dow Jones Newswires, Dow Jones Local Media, Dow Jones VentureSource)
- **Telecom:** Satellite: BSkyB (39 percent minority share); SKY Italia
- **Entertainment:** Fox Filmed Entertainment; Twentieth Century Fox Home Entertainment; Twentieth Century Fox Television; Twentieth Television; Fox Television Studios
- **Other:** Marketing/advertising: News America Marketing Group; News Outdoor; Fox Library; IGN Entertainment, Inc.; Making Fun, Inc.; Wireless Generation

Time Warner, Inc.

- **2011 Revenue:** \$29 billion
- **Company Overview:** Time Warner is the world's second-largest entertainment conglomerate with ownership interests in film, television and print.
- **TV:** One television station and the Warner Brothers Television Group; Warner Brothers Television; Warner Horizon Television; CW Network (50 percent stake); TBS; TNT; Cartoon Network; truTV; Turner Classic Movies; Boomerang; CNN; HLN; CNN International; HBO; Cinemax; Space; Infinito; I-Sat; Fashion TV; HTV; Much Music; Pogo; Mondo TV; Tabi; CNN Español
- **Online Holdings:** Warner Brothers Digital Distribution; TMZ.com; KidsWB.com

- **Print:** Time, Inc.; 22 magazines including *People*, *Sports Illustrated*, *Time*, *Life*, *InStyle*, *Real Simple*, *Southern Living*, *Entertainment Weekly* and *Fortune*
- **Entertainment:** Warner Brothers; Warner Brothers Pictures; New Line Cinema; Castle Rock; WB Studio Enterprises, Inc.; Telepictures Productions, Inc.; Warner Brothers Animation, Inc.; Warner Home Video; Warner Premiere; Warner Specialty Films, Inc.; Warner Brothers International Cinemas
- **Other:** Warner Brothers Interactive Entertainment; DC Entertainment; DC Comics

Tribune Company

- **2010 Revenue:** \$3.2 billion
- **Company Overview:** Tribune owns 23 TV stations, one radio station, 12 daily newspapers, numerous magazines and other media properties.
- **TV:** Twenty-three television stations and the Food Network (30 percent stake); WGN America; CLTV Chicagoland; Tribune Entertainment
- **Radio:** One radio station
- **Online Holdings:** Zap2it.com; TribuneDirect.com; MetroMix.com (minority stake); CareerBuilder.com (minority stake); Apartments.com (minority stake); Cars.com (minority stake); ForSaleByOwner.com; HomeFinder.com (minority stake); Healthkey.com; Topix.net (minority stake)
- **Print:** Twelve daily newspapers (including the *Los Angeles Times*, the *Chicago Tribune*, the *Baltimore Sun* and the *Hartford Courant*); *Chicago Magazine*
- **Other:** Tribune Media Services; Classified Ventures (minority stake)

Viacom

- **2011 Revenue:** \$14.9 billion
- **Company Overview:** Viacom is the world's fourth-largest media conglomerate, with interests primarily in cable television networks, programming production and distribution. Viacom controls over 160 networks that reach more than 600 million people around the globe.
- **TV:** Viacom Media Networks (160 cable channels including MTV, VH1, CMT, Logo, Nickelodeon, Comedy Central, TV Land, Spike TV, Tr3s, BET and CENTRIC)
- **Online Holdings:** ParentsConnect.com
- **Entertainment:** Viacom Filmed Entertainment (produces motion pictures under numerous studio brands including Paramount Pictures, Insurge Pictures, MTV Films and Nickelodeon Movies)
- **Other:** Nickelodeon Games Group

Walt Disney Company

- **2011 Revenue:** \$40.1 billion
- **Company Overview:** The Walt Disney Company owns the ABC television network; cable networks including ESPN, the Disney Channel, SOAPnet, A&E and Lifetime; 277 radio stations, music- and book-publishing companies; film-production companies Touchstone, Miramax and Walt Disney Pictures; Pixar Animation Studios; the cellular service Disney Mobile; and theme parks around the world.
- **TV:** Eight television stations and the ABC television network; ESPN; Disney Channels Worldwide; ABC Family; SOAPnet Networks; A&E (42 percent stake); Lifetime Television (42 percent stake); the History Channel (42 percent stake); Lifetime

Movie Network (42 percent stake); the Biography Channel (42 percent stake); History International (42 percent stake); Lifetime Real Women (42 percent stake); Live Well Network (42 percent stake)

- **Radio:** ESPN Radio Network; Radio Disney
- **Print:** ESPN *The Magazine*; Disney Publishing Worldwide; Juvenile Publishing; Digital Publishing; Disney Music Publishing; Marvel Publishing
- **Entertainment:** Marvel Entertainment; ABC Studios; ABC Media Production; Pixar; Walt Disney Pictures; Walt Disney Records; Hollywood Records; Mammoth Records; Buena Vista Records; Lyric Street Records
- **Other:** Buena Vista Concerts; Disney Mobile; Disney Theatrical Productions; the Disney Store; Disney theme parks and water parks; Disney English; Disney Interactive Media Group; Disney Games; Playdom, Inc.

Washington Post Co.

- **2011 Revenue:** \$4.2 billion
- **Company Overview:** The Washington Post Company is engaged in print and online publishing of newspapers and magazines, television broadcasting and cable television systems. The company also owns Kaplan, Inc., which provides higher education services, test preparation, language instruction and professional training.
- **TV:** Six television stations
- **Print:** The *Washington Post*; the *Herald*; the Washington Post News Service; Post-Newsweek Media; Greater Washington Publishing; the Slate Group (*Slate*, the *Root*, *Foreign Policy*); *El Tiempo Latino*; Express Publications (Express, ExpressNightOut.com); Social Code; Classified Ventures (17 percent stake)

- **Telecommunications:** Cable ONE, Inc.
- **Other:** Kaplan (Kaplan Higher Education, Kaplan University, Kaplan Test Preparation, Kaplan International, Kaplan Ventures, Kaplan EduNeering, Kaplan Learning Technologies, the Kidum Group, Kaplan Continuing Education, Kaplan Global Solutions, Colloquy, Kaplan Virtual Education and Kaplan VC LLC); Avenue 100 Media Solutions, Inc.; Bowater Mersey Paper Company (49 percent stake)

Cable and Telecommunications

Access to high-speed Internet service — also known as broadband — has become a basic public necessity, just like water or electricity.

Yet despite its importance, broadband access in the United States is far from universal. Millions of Americans still stand on the wrong side of the “digital divide,” unable to tap into the political, economic and social resources of the Web. Meanwhile, cable and phone companies — which hold virtual monopolies over the infrastructure of the Internet — often refuse to build out high-speed broadband to regions that need it most, and actively seek to block communities from seeking their own broadband solutions.

[Take Action](#) to stop their shenanigans.

AT&T

- **2011 Revenue:** \$126.7 billion
- **Company Overview:** AT&T is the second-largest U.S. wireless provider and the largest company providing local phone service in the U.S. AT&T offers its wireless services to over 97 percent of the U.S. population and serves wired customers in 22 states. AT&T offers cable television services in portions of

its service territory under the brand name “U-Verse.”

- **Online Holdings:** Yellowpages.com; YP.com
- **Other:** Ingenio, Inc.; Wayport, Inc.; Superclick, Inc.; Xanaboo, Inc.; Plusmo, Inc.; Daniel IT Services, Inc.; Comergent Technologies, Inc.

Cablevision Systems Corporation

- **2011 Revenue:** \$6.7 billion
- **Company Overview:** Cablevision has 3.3 million cable TV subscribers and 3 million Internet customers. Cablevision’s local media properties include News 12 Networks, MSG Varsity and the Newsday Media Group. Cablevision also owns and operates Clearview Cinemas.
- **TV:** AMC; WE tv; IFC; Sundance Channel; News 12 Networks; MSG Varsity; Rainbow Media Holdings; IFC Entertainment; Rush HD; Bresnan Cable
- **Print:** Newsday Media Group; am New York; Star Community Publishing Group
- **Entertainment:** Clearview Cinemas
- **Other:** RASCO; PVI Virtual Media Services

CenturyLink

- **2011 Revenue:** \$18.7 billion
- **Company Overview:** CenturyLink is the third-largest telephone company in the U.S. and offers voice, video and data services to customers in 42 states.
- **Other:** Savvis, Inc.

Charter Communications, Inc.

- **2011 Revenue:** \$7.2 billion
- **Company Overview:** Charter is the fourth-largest cable operator in the United States, with systems serving customers in 26 states.

Comcast Corporation

- **2011 Revenue:** \$55.8 billion
- **Company Overview:** In 2011, the Federal Communications Commission approved Comcast's takeover of a majority share of NBCUniversal from General Electric. This merger combines the nation's largest cable company and residential Internet service provider and one of the world's biggest producers of TV shows and motion pictures. Comcast's media holdings now reach almost every home in America. It serves customers in 39 states and the District of Columbia. In addition to its vast NBCUniversal holdings, Comcast has 23.6 million cable subscribers, 18 million digital cable subscribers, 15.9 million high-speed Internet customers and 7.6 million voice customers. Comcast recently entered into a partnership with Verizon in which each company will market and sell the other's services.
- **TV:** NBCUniversal; twenty-four television stations and the NBC television network; Telemundo; USA Network; SyFy; CNBC; MSNBC; Bravo; Oxygen; Chiller; CNBC World; E!; the Golf Channel; Sleuth; mun2; Universal HD; VERSUS; Style; G4; Comcast SportsNet (Philadelphia), Comcast SportsNet Mid-Atlantic (Baltimore/Washington, D.C.), Cable Sports Southeast, Comcast SportsNet Chicago, MountainWest Sports Network, Comcast SportsNet California (Sacramento), Comcast

SportsNet New England (Boston), Comcast SportsNet Northwest (Portland, Ore.), Comcast Sports Southwest (Houston), Comcast SportsNet Bay Area (San Francisco), New England Cable News (Boston), Comcast Network Philadelphia, Comcast Network Mid-Atlantic (Baltimore/Washington, D.C.); the Weather Channel (25 percent stake); A&E (16 percent stake); the History Channel (16 percent stake); the Biography Channel (16 percent stake); Lifetime (16 percent stake); the Crime and Investigation Channel (16 percent stake); Pittsburgh Cable News Channel (30 percent stake); FEARnet (31 percent stake); PBS KIDS Sprout (40 percent stake); TV One (34 percent stake); Houston Regional Sports Network (23 percent stake); SportsNet New York (8 percent stake)

- **Online Holdings:** MSNBC.com (50 percent stake); Hulu (32 percent stake); DailyCandy; iVillage; Fandango
- **Telecom:** Clearwire Communications (9 percent stake)
- **Other:** Comcast Interactive Media; Plaxo; Universal Studios Hollywood; Wet 'n Wild theme park; Universal Studios Florida; Universal Islands of Adventure; Philadelphia 76ers; Philadelphia Flyers; Wells Fargo Center; iN DEMAND; Music Choice (12 percent stake); SpectrumCo (64 percent stake)

Sprint Nextel Corporation

- **2011 Revenue:** \$33.7 billion
- **Company Overview:** Sprint is the third-largest U.S. wireless provider and serves more than 53 million customers.

T-Mobile USA, Inc.

- **2011 Revenue:** \$20.6 billion

- **Company Overview:** T-Mobile is the U.S. subsidiary of German-owned Deutsche Telekom and serves more than 33 million U.S. wireless customers.

Time Warner Cable, Inc.

- **2011 Revenue:** \$19.7 billion
- **Company Overview:** Time Warner Cable is the second-largest cable provider in the United States. The company formally split from its parent, Time Warner, Inc., in 2008. Time Warner now has 12.1 million cable customers and 10.2 million wireless Internet customers.
- **Telecom:** Time Warner Cable Media, Inc.; Clearwire (4.7 percent stake); SpectrumCo (minority stake)
- **Other:** NaviSite, Inc.; Canoe Ventures LLC

Verizon

- **2011 Revenue:** \$110.9 billion
- **Company Overview:** Verizon is the largest U.S. wireless provider and the second-largest company providing local phone service in the U.S. Verizon offers its wireless services to over 98 percent of the U.S. population and serves wired customers in 13 states and the District of Columbia. Verizon offers cable television services in portions of its service territory under the brand name “FiOS.” Verizon recently entered into a partnership with Comcast, Time Warner Cable, Cox Communications and Bright House Networks in which each company will market and sell the other’s services.
- **Other:** Terremark Worldwide, Inc.

Print

Consolidation has contributed to tough times for the newspaper industry. When the industry was swimming in profits in the 1990s, big media companies used 14–27 percent profit margins to buy up other properties rather than invest in the quality of their existing products or innovate for the future. Now they want to make it possible for a given company to own a newspaper and a broadcast station in the same market.

[Take Action](#) to save the print industry from itself.

Bertelsmann

- **2011 Revenue:** \$20.7 billion
- **Company Overview:** Bertelsmann AG is one of the world's largest media companies, with substantial holdings in Europe and North America, including book publisher Random House, international radio and television station owner RTL Group and media firm Gruner + Jahr.
- **TV:** RTL Group (Europe's largest broadcasting and production company, which controls TV and radio stations in 10 different countries, along with content production)
- **Print:** Random House (with over 200 imprints in 15 countries, including the Ballantine Publishing Group, the Bantam Dell Publishing Group, Broadway, the Crown Publishing Group, the Doubleday Broadway Publishing Group, Pantheon, Random House U.K., Transworld, Sudamericana, C. Bertelsmann, Karl Blessing Verlag, Goldmann, Siedler Verlag, Wolf Jobst Siedler Verlag, Plaza & Janes (50 percent), Grijalbo Mondadori (50 percent), the Knopf Publishing Group, the RH Adult Trade Publishing Group, RH Audio, RH Children's Books, RH Direct, Inc., the RH Information Group, RH International, RH Large

Print, RH Value Publishing, and Waterbrook Press; Gruner + Jahr (285 print titles in 20 countries)

- **Other:** Avarto (outsourcing provider)

Gannett Co.

- **2011 Revenue:** \$5.2 billion
- **Company Overview:** International media company focusing on broadcast TV, print and Web content
- **TV:** Twenty-three television stations
- **Online Holdings:** CareerBuilder.com; MomsLikeMe.com; ShopLocal.com; Cars.com; Apartments.com; CareerSite.biz; Livestream.com; Metromix.com; Ongo, Inc.; Reviewed.com; SavvyShopperDeals.com; Homefinder.com; BNOT.com; Nurse.com
- **Print:** USA Today; over 600 magazines and other non-daily print publications; *Clipper Magazine*; *Mint Magazine*; Gannett Government Media; Gannett Education; Newsquest (U.K.)
- **Other:** Gannett Healthcare Group; PointRoll; Planet Discover; Schedule Star; Classified Ventures; QuadrantONE; Fantasy Sports Ventures; Captivate; Pearls Review; Gannett Offset

The Hearst Corporation

- **2009 Revenue:** \$3.9 billion
- **Company Overview:** The Hearst Corporation is a media conglomerate that controls or has ownership stakes in newspaper, magazine, television, cable network and Internet properties.
- **TV:** Thirty-one television stations and A&E (42 percent stake); the History Channel (42 percent stake); the Biography Channel

(42 percent stake); Lifetime (42 percent stake); the Crime and Investigation Channel (42 percent stake); Cosmopolitan TV; ESPN Networks (20 percent stake); ESPN Radio (20 percent stake); Current (minority stake); Reed Brennan Media Associates

- **Radio:** Two radio stations
- **Online Holdings:** Kaboodle.com; Manilla.com; RealAge.com; seattlepi.com; Brightcove.com (minority stake); BuzzFeed.com (minority stake); DoubleFusion.com (minority stake); Drugstore.com; ELNK (minority stake); Gazillion Entertainment (minority stake); Idilia (minority stake); IGG (minority stake); Mobity (minority stake); the News Market (minority stake); Pandora (minority stake); Suzanne's Files (minority stake); TurnHere (minority stake); Voxpop.tv (minority stake); Wideorbit.com (minority stake); WorldwideBiggies.com (minority stake); Ugo.com; Electronic Engineers Master
- **Print:** Twenty U.S. magazines (including *Car and Driver*, *Cosmopolitan*, *Country Living*, *ELLE*, *Esquire*, *Good Housekeeping*, *Marie Claire*, *O*, *Popular Mechanics*, *Redbook*, *Seventeen* and *Woman's Day*); King Features (syndicator of newspaper comic strips including *Blondie*, *Beetle Bailey*, *Hagar the Horrible*, *Family Circus*, *Dennis the Menace*, *Popeye*); Black Book; Hearst Business Media (*Electronics Products Magazine*; *Floor Covering Weekly*); IDG/Hearst; Hearst Books; Hearst News Service
- **Entertainment:** Hearst Entertainment
- **Other:** 1-800-Free-411 (minority stake); Hearst Tower; Hearst Ranch; Hearst Service Center; First Databank; Fitch Ratings; FleetCross; Map of Medicine; MOTOR Information Systems; Stocknet; Veretech; Zynx Health; LocalEdge; Metrix4Media; CDS Global; CMG; COMAG; iCrossing; PPSB

News Corp

- **2011 Revenue:** \$33.4 billion
- **Company Overview:** News Corp's media holdings include the FOX Broadcasting Company; television and cable networks such as Fox, Fox Business Channel, National Geographic and FX; print publications including the *Wall Street Journal*, the *New York Post* and *TV Guide*; the magazines *Barron's* and *SmartMoney*; book publisher HarperCollins; film production companies 20th Century Fox, Fox Searchlight Pictures and Blue Sky Studios; numerous websites including MarketWatch.com; and non-media holdings including the National Rugby League.
- **TV:** Twenty-seven television stations and FOX Broadcasting Company (FOX Network, MyNetworkTV); FOX News; FOX Business; FOX News Radio Network; FOX News Talk Channel; FSN (12 regional sports networks); FX; SPEED; FUEL TV; Fox College Sports; Fox Movie Channel; Fox Soccer Channel; Fox Soccer Plus; Fox Pan American Sports; Fox Deportes; Big Ten Network; National Geographic U.S.; Nat Geo Adventure; Nat Geo Music; Nat Geo Wild; Fox International Channels; Utilisima; Fox Crime; NEXT; FOX History & Entertainment; the Voyage Channel; STAR World; STAR Movies; NGC Network International; NGC Network Latin America; LAPT; Movie City; City Mix; City Family; City Stars; City Vibe; the Film Zone; Cinecanal; Elite Sports Limited; BabyTV; STAR India; STAR Taiwan; ESPN STAR Sports; Shine Limited
- **Online Holdings:** Hulu.com (32 percent minority share)
- **Print:** HarperCollins Publishers; the *New York Post*; the *Daily News*; News International (the *Times*, the *Sunday Times*; the *Sun*); News Limited (146 newspapers in Australia); Dow Jones (*Wall Street Journal*, *Barron's*, *SmartMoney*, Factiva, Dow Jones Newswires, Dow Jones Local Media, Dow Jones VentureSource)
- **Telecom:** Satellite: BSKyB (39 percent minority share); SKY

Italia

- **Entertainment:** Fox Filmed Entertainment; Twentieth Century Fox Home Entertainment; Twentieth Century Fox Television; Twentieth Television; Fox Television Studios
- **Other:** Marketing/advertising: News America Marketing Group; News Outdoor; Fox Library; IGN Entertainment, Inc.; Making Fun, Inc.; Wireless Generation

Tribune Company

- **2010 Revenue:** \$3.2 billion
- **Company Overview:** Tribune owns 23 TV stations, one radio station, 12 daily newspapers, numerous magazines and other media properties.
- **TV:** Twenty-three television stations and the Food Network (30 percent stake); WGN America; CLTV Chicagoland; Tribune Entertainment
- **Radio:** One radio station
- **Online Holdings:** Zap2it.com; TribuneDirect.com; MetroMix.com (minority stake); CareerBuilder.com (minority stake); Apartments.com (minority stake); Cars.com (minority stake); ForSaleByOwner.com; HomeFinder.com (minority stake); Healthkey.com; Topix.net (minority stake)
- **Print:** Twelve daily newspapers (including the *Los Angeles Times*, the *Chicago Tribune*, the *Baltimore Sun* and the *Hartford Courant*); *Chicago Magazine*
- **Other:** Tribune Media Services; Classified Ventures (minority stake)

Washington Post Co.

- **2011 Revenue:** \$4.2 billion
- **Company Overview:** The Washington Post Company is engaged in print and online publishing of newspapers and magazines, television broadcasting and cable television systems. The company also owns Kaplan, Inc., which provides higher education services, test preparation, language instruction and professional training.
- **TV:** Six television stations
- **Print:** The *Washington Post*; the *Herald*; the Washington Post News Service; Post-Newsweek Media; Greater Washington Publishing; the Slate Group (*Slate*, the *Root*, *Foreign Policy*); *El Tiempo Latino*; Express Publications (Express, ExpressNightOut.com); Social Code; Classified Ventures (17 percent stake)
- **Telecommunications:** Cable ONE, Inc.
- **Other:** Kaplan (Kaplan Higher Education, Kaplan University, Kaplan Test Preparation, Kaplan International, Kaplan Ventures, Kaplan EduNeering, Kaplan Learning Technologies, the Kidum Group, Kaplan Continuing Education, Kaplan Global Solutions, Colloquy, Kaplan Virtual Education and Kaplan VC LLC); Avenue 100 Media Solutions, Inc.; Bowater Mersey Paper Company (49 percent stake)

Internet

Giant companies like Apple, Facebook and Google are slowly reconstituting the Internet's walled gardens of old. As these companies try to steer us to their increasingly closed versions of the Internet — and to marketers who benefit from mining our personal

information — we must fight for policies that protect our rights as Internet users.

[Take Action](#) to stand up for your online rights.

Apple

- **2011 Revenue:** \$108.2 billion
- **Company Overview:** Apple produces the Macintosh computer system and a number of consumer electronic devices including the iPad, iPhone and iPod. It runs iTunes, the largest online music store, and distributes its products at retail stores nationwide.

Google

- **2011 Revenue:** \$37.9 billion
- **Company Overview:** Google operates the top search engine and is the largest online advertising seller in the world. It offers a host of online services and produces the Android operating system, the top-selling mobile device OS.
- **Online Holdings:** YouTube; DailyDeals.com; TheDealMap.com; Fridge; BeatThatQuote.com; Slide.com; Picnik.com; reCAPTCHA.net; Postini.com; FeedBurner.com; Panoramio.com
- **Entertainment:** Next New Networks
- **Other:** DoubleClick; Motorola Mobility (*pending*); Teracent Corporation; Nijinsky; Clever Sense; RightsFlow; Zagat; PittPatt; Punchd; SageTV; Admeld; PostRank; TalkBin; Widevine Technologies; Phonetic Arts; SocialDeck; Teracent; AdMob; Instantiations; ITA Software; Invite Media; Adscape

Microsoft

- **2011 Revenue:** \$69.9 billion
- **Company Overview:** Microsoft produces Windows, the most widely used computer operating system in the world. It also offers a variety of software and online services, including the number-two ranked search engine, Bing.com.
- **Online Holdings:** Bing.com; Xbox 360
- **Other:** Skype

Yahoo

- **2011 Revenue:** \$5 billion
- **Company Overview:** Yahoo! is a digital media company that offers Web portals, online services such as Flickr and online advertising sales.
- **Online Holdings:** Rivals.com; Flickr; FoxyTunes.com; Upcoming; Wretch; CitizenSports.com; Koprol.com; FireEagle.yahoo.net; Associated Content

145. Agenda Setting

Explain the agenda-setting role of the media

Learning Activities

The learning activities for this section include:

- Reading: Agenda-Setting Theory
- Video: Max McCombs on Agenda-Setting Theory
- Reading: The Propaganda Model: An Overview
- Video: The Propaganda Model of News

Take time to review and reflect on each of these activities in order to improve your performance on the assessment for this section.

146. Reading: Agenda-Setting Theory

Learning Objectives

1. Summarize the results of the key “Chapel Hill” study of the media and public opinion
2. Explain the relationship between the media and the executive branch

Agenda-setting theory describes the “ability [of the news media] to influence the salience of topics on the public agenda.” That is, if a news item is covered frequently, the audience will regard the issue as more important. In reality, mass media only shows the audience what it comprehends as an important issue. Print or broadcast news will then take away the audience’s ability to think for themselves.

OJ Simpson

Media experts contend that the OJ Simpson case was a prime example of media agenda setting. It captivated the country—and news outlets—for years.

Agenda-setting theory was formally developed by Dr. Max McCombs and Dr. Donald Shaw in a study on the 1968 presidential election. In the 1968 “Chapel Hill study,” McCombs and Shaw demonstrated a strong correlation between what one hundred residents of Chapel Hill, North Carolina, thought was the most important election issue and what the local and national news

media reported was the most important issue. By comparing the salience of issues in news content with the public's perceptions of the most important election issue, McCombs and Shaw determined the degree to which the media sways public opinion.

Agenda setting is the media's ability to transfer salience issues through their new agenda. This way, the public agenda can form an understanding of the salience issues. Two basic assumptions underlie most research on agenda setting: (1) the press and the media do not reflect reality; they filter and shape it; (2) media concentration on a few issues and subjects leads the public to perceive those issues as more important than other issues.

Before they attain the presidency status, Presidents are nominees for their own party. Nominees participate in nationally televised debates, and while the debates are usually restricted to the Democratic and Republican nominees, third party candidates may be invited, such as Ross Perot in the 1992 debates. Nominees campaign across the country to explain their views, convince voters and solicit contributions. Much of the modern electoral process is concerned with winning swing states through frequent visits and mass media advertising drives.

American news media are more obsessed than ever with the horse-race aspects of the presidential campaign, according to a new study. Coverage of the political campaigns have been less reflective on the issues that matter to voters, and instead have primarily focused on campaign tactics and strategy, according to a report conducted jointly by the Project for Excellence in Journalism, part of the Pew Research Center, and the Joan Shorenstein Center on the Press, Politics and Public Policy at the Kennedy School of Harvard University, which examined 1,742 stories that appeared from January through May 2007 in 48 news outlets.

Mass Communication

Mass communication plays an important role in our society. Its purpose is to inform the public about current and past events. Mass communication is defined in "Mass Media, Mass Culture" as the process whereby professional communicators use technological devices to share messages over great distances to influence large audiences. Within this process, the media (a newspaper, book, television program, etc) takes control of the information we see or hear. The media then uses gatekeeping and agenda setting to "control our access to news, information, and entertainment". Gatekeeping is a series of checkpoints that the news has to go through before it gets to the public. Through this process, many people have to decide whether or not the news is to be seen or heard. Some gatekeepers include reporters, writers and editors. After gatekeeping comes agenda setting. One of the most critical aspects in the concept of an agenda-setting role of mass communication is the time frame for this phenomenon. In addition, different media have different agenda-setting potential.

The Cognitive Effects of Agenda Setting

Agenda setting occurs through a cognitive process known as "accessibility." Accessibility implies that the more frequently and prominently the news media cover an issue, the more instances that issue becomes accessible in the audience's memories. When respondents are asked about the most important problem facing the country, they answer with the most accessible news issue in memory, which is typically the issue the news media focus on the most. The agenda-setting effect is not the result of receiving one or a few messages, but is due to the aggregate impact of a very large number of messages all dealing with the same general issue. Mass-

media coverage in general and agenda setting in particular also have a powerful impact on what individuals think that other people are thinking, and hence tend to allocate more importance to issues that have been extensively covered by mass media.

Key Points

- Drs. McCombs and Shaw did a study based on the 1968 election and discovered the correlation between what news viewers watched and their perception of important events.
- Mass communication is defined as the process whereby professional communicators use technological devices to share messages over great distances to influence large audiences.
- The theory of accessibility states that the more the media plays a story, the more accessible that story is to the viewer's mind.

Term

- Agenda setting: A theory in mass-communication stating that the media have the ability to determine which issues are important to the public.

147. Video: Max McCombs on Agenda-Setting Theory

Take a look at the following video for a fuller account of Max McCombs's agenda-setting theory.



*One or more interactive elements has been excluded
from this version of the text. You can view them online*

here: [https://library.achievingthedream.org/
herkimeramericangovernment/?p=172#oembed-1](https://library.achievingthedream.org/herkimeramericangovernment/?p=172#oembed-1)

148. Reading: The Propaganda Model: An Overview

Read “The Propaganda Model: An Overview” by David Cromwell [here](#).

149. Video: The Propaganda Model of News

The following is a twenty-minute excerpt from the documentary film *The Myth of the Liberal Media* (1998) about Edward S. Herman and Noam Chomsky's 1988 book *Manufacturing Consent: The Political Economy of the Mass Media*.



One or more interactive elements has been excluded from this version of the text. You can view them online

here: <https://library.achievingthedream.org/herkimeramericangovernment/?p=174#oembed-1>

150. New Media

Describe how new media and new technologies like the Internet have changed the production and consumption of news

Learning Activities

The learning activities for this section include:

- Video: The Future of Journalism (Tom Rosenstiel)

Take time to review and reflect on each of these activities in order to improve your performance on the assessment for this section.

151. Video: The Future of Journalism (Tim Rosenstiel)

When Tom Rosenstiel is asked, “Has digital technology made journalism worse or better?” he has a quick answer: “Yes.” In the following video, he explores a key question: In a world where the audience dictates what “news” is, what new roles must responsible journalists learn to play?



One or more interactive elements has been excluded from this version of the text. You can view them online

here: <https://library.achievingthedream.org/herkimeramericangovernment/?p=176#oembed-1>

152. Putting It Together

Summary

A major trend over the last three decades has been the concentration of media-outlet ownership among fewer and fewer large corporations. As you worked through this module, you considered whether or not this growing consolidation has corrupted the media's ability to properly inform the public.

Agenda setting is a major function of the media. As media scholar Max McCombs puts it, "Elements that are prominent in the media frequently become prominent in the public mind." The question is what sort of agenda gets propagated, if any? McCombs suggests that there is no overarching agenda and that the mainstream media "pretty much plays it down the middle." However, other scholars disagree with this characterization. Glenn Greenwald, for instance, thinks the corporate media tends to comfort the powerful, precisely the opposite of the ideal role he sees for journalism in a democratic society.

Chomsky and Herman's propaganda model lends support for Greenwald's view and suggests that there are five "filters" that determine what gets treated as "news" by mainstream media. These include (1) the aforementioned concentration of corporate ownership of media outlets, (2) the influence of corporate advertisers that finance news production, (3) the privileging of information from government and corporate sources, (4) "flak" or punitive activities by powerful organizations to counter or manage inconvenient stories—often to the point of discrediting organizations or individuals involved in challenging prevailing assumptions—and finally (5) the hyping of external threats as a means of distracting from and silencing voices critical of elite interests.

As the debate over framing and agenda setting rages on, the rise of social media and changes in the way journalism is financed have presented new challenges, and potentially democratic opportunities, for the production and consumption of information.

PART XI

CH. 7 - POLITICAL PARTIES AND INTEREST GROUPS

153. Why It Matters

Summarize the role of political parties and interest groups in the American political system



Introduction

Political parties and interest groups tend to have pretty bad reputations. Ask a friend what s/he thinks about either the Democrats or the Republicans, and you'll probably get a negative response.

One widespread perception is that the parties are more concerned with enhancing their own power than advancing the public interest. A similar assumption is attached to the actions of "special interests." Are those reputations deserved? It's hard to say,

“No, absolutely not” in response to that question, but it’s worth thinking about where our political system would be without parties and interest groups, both of which help organize and give shape to our politics.

As you work through the material in this section, it will be important to consider and take seriously some of the perennial complaints about parties and interests, but it will also be worth thinking about the ways in which both parties and interest groups help make our democracy run. In the end, you’ll probably find that some of the criticisms are valid but that both parties and interests wind up being pretty important to democracy in any case.

Let’s see whether you agree.

154. The History of Parties

Describe the historical role of parties in American politics

Learning Activities

The learning activities for this section include:

- Reading: History of American Political Parties
- Reading: Dixie's Long Journey from Democratic Stronghold to Republican Redoubt

Take time to review and reflect on each of these activities in order to improve your performance on the assessment for this section.

155. A. Reading: History of American Political Parties

Learning Objectives

After reading this section, you should be able to answer the following questions:

1. What is a political party?
2. What were James Madison's fears about political factions?
3. How did American political parties develop?
4. How did political machines function?

Political parties are enduring organizations under whose labels candidates seek and hold elective offices.¹ Parties develop and implement rules governing elections. They help organize government leadership.³ Political parties have been likened to

1. ²

2. Leon D. Epstein, *Political Parties in the American Mold* (Madison: University of Wisconsin Press, 1986), 3.

3. ⁴

public utilities, such as water and power companies, because they provide vital services for a democracy.

The endurance and adaptability of American political parties is best understood by examining their colorful historical development. Parties evolved from factions in the eighteenth century to political machines in the nineteenth century. In the twentieth century, parties underwent waves of reform that some argue initiated a period of decline. The renewed parties of today are service-oriented organizations dispensing assistance and resources to candidates and politicians.⁵

4. V. O. Key Jr., *Politics, Parties, & Pressure Groups*, 5th ed. (New York: Thomas Y. Crowell Company, 1964).

5.⁶

6. John H. Aldrich, *Why Parties? The Origin and Transformation of Party Politics in America* (Chicago: University of Chicago Press, 1995); Samuel J. Eldersveld and Hanes Walton Jr., *Political Parties in American Society*, 2nd ed. (Boston: Bedford/St. Martin's, 2000).

Link: The Development of Political Parties

A timeline of the development of political parties can be accessed [here](#).

Fear of Faction

The founders of the Constitution were fearful of the rise of factions, groups in society that organize to advance a political agenda. They designed a government of checks and balances that would prevent any one group from becoming too influential. James Madison famously warned in Federalist No. 10 of the “mischiefs of faction,” particularly a large majority that could seize control of government.⁷ The suspicion of parties persisted among political leaders for more than a half century after the founding. President

7.⁸

8. Publius (James Madison), “The Federalist No. 10,” in *The Federalist*, ed. Robert Scigliano (New York: The Modern Library Classics, 2001), 53–61.

James Monroe opined in 1822, “Surely our government may go on and prosper without the existence of parties. I have always considered their existence as the curse of the country.”⁹

Despite the ambiguous feelings expressed by the founders, the first modern political party, the Federalists, appeared in the United States in 1789, more than three decades before parties developed in Great Britain and other western nations.¹¹ Since 1798, the United States has only experienced one brief period without national parties, from 1816 to 1827, when infighting following the War of 1812 tore apart the Federalists and the Republicans.¹³



Newspaper cartoons depicted conflicts that arose between the Federalists and Republicans, who sought to control government.

9.¹⁰

10. Richard Hofstadter, *The Idea of a Party System* (Berkeley: University of California Press, 1969), 200.

11.¹²

12. William Nisbet Chambers and Walter Dean Burnham, *The American Party Systems* (New York, Oxford University Press, 1975).

13.¹⁴

14. William Nisbet Chambers, *Political Parties in a New Nation* (New York: Oxford University Press, 1963).

Parties As Factions

The first American party system had its origins in the period following the Revolutionary War. Despite Madison's warning in Federalist No. 10, the first parties began as political factions. Upon taking office in 1789, President George Washington sought to create an "enlightened administration" devoid of political parties.¹⁵ He appointed two political adversaries to his cabinet, Alexander Hamilton as treasury secretary and Thomas Jefferson as secretary of state, hoping that the two great minds could work together in the national interest. Washington's vision of a government without parties, however, was short-lived.

Hamilton and Jefferson differed radically in their approaches to rectifying the economic crisis that threatened the new nation.¹⁷ Hamilton proposed a series of measures, including a controversial tax on whiskey and the establishment of a national bank. He aimed to have the federal government assume the entire burden of the debts incurred by the states during the Revolutionary War. Jefferson, a Virginian who sided with local farmers, fought this proposition. He believed that moneyed business interests in the New England states stood to benefit from Hamilton's plan. Hamilton

15.¹⁶

16. John Kenneth White and Daniel M. Shea, *New Party Politics* (Boston: Bedford/St. Martin's, 2000).

17.¹⁸

18. Joseph Charles, *The Origins of the American Party System* (New York: Harper & Row, 1956).

assembled a group of powerful supporters to promote his plan, a group that eventually became the Federalist Party.¹⁹

The Federalists and the Republicans

The Federalist Party originated at the national level but soon extended to the states, counties, and towns. Hamilton used business and military connections to build the party at the grassroots level, primarily in the Northeast. Because voting rights had been expanded during the Revolutionary War, the Federalists sought to attract voters to their party. They used their newfound organization for propagandizing and campaigning for candidates. They established several big-city newspapers to promote their cause, including the *Gazette of the United States*, the *Columbian Centinel*, and the *American Minerva*, which were supplemented by broadsheets in smaller locales. This partisan press initiated one of the key functions of political parties—articulating positions on issues and influencing public opinion.²¹

19.²⁰

20. Richard Hofstadter, *The Idea of a Party System* (Berkeley: University of California Press, 1969).

21.²²



Farmers protested against a tax on whiskey imposed by the federal government. President George Washington established the power of the federal government to suppress rebellions by sending the militia to stop the uprising in western Pennsylvania. Washington himself led the troops to establish his presidential authority.

Disillusioned with Washington's administration, especially its foreign policy, Jefferson left the cabinet in 1794. Jefferson urged his friend James Madison to take on Hamilton in the press, stating, "For God's sake, my Dear Sir, take up your pen, select your most striking heresies, and cut him to pieces in the face of the public."²³ Madison did just that under the pen name of Helvidius. His writings helped

22. See William Nisbet Chambers, *Political Parties in a New Nation* (New York: Oxford University Press, 1963).

23.²⁴

24. William Nisbet Chambers, *Political Parties in a New Nation* (New York: Oxford University Press, 1963), 58.

fuel an anti-Federalist opposition movement, which provided the foundation for the Republican Party. This early Republican Party differs from the present-day party of the same name. Opposition newspapers, the *National Gazette* and the *Aurora*, communicated the Republicans' views and actions, and inspired local groups and leaders to align themselves with the emerging party.²⁵ The Whiskey Rebellion in 1794, staged by farmers angered by Hamilton's tax on whiskey, reignited the founders' fears that violent factions could overthrow the government.²⁷

First Parties in a Presidential Election

Political parties were first evident in presidential elections in 1796, when Federalist John Adams was barely victorious over Republican

25.²⁶

26. See William Nisbet Chambers, *Political Parties in a New Nation* (New York: Oxford University Press, 1963).

27.²⁸

28. Michael Schudson, *The Good Citizen* (New York: Free Press, 1998).

Thomas Jefferson. During the election of 1800, Republican and Federalist members of Congress met formally to nominate presidential candidates, a practice that was a precursor to the nominating conventions used today. As the head of state and leader of the Republicans, Jefferson established the American tradition of political parties as grassroots organizations that band together smaller groups representing various interests, run slates of candidates for office, and present issue platforms.²⁹

The early Federalist and Republican parties consisted largely of political officeholders. The Federalists not only lacked a mass membership base but also were unable to expand their reach beyond the monied classes. As a result, the Federalists ceased to be a force after the 1816 presidential election, when they received few votes. The Republican Party, bolstered by successful presidential candidates Thomas Jefferson, James Madison, and James Monroe, was the sole surviving national party by 1820. Infighting soon caused the Republicans to cleave into warring factions: the National Republicans and the Democratic-Republicans.³¹

29.³⁰

30. John Kenneth White and Daniel M. Shea, *New Party Politics* (Boston: Bedford/St. Martin's, 2000).

31.³²

32. Ronald P. Formisano, "Federalists and Republicans: Parties, Yes—System, No," in *The Evolution of the American Electoral Systems*, ed. Paul Kleppner, Walter Dean Burnham, Ronald P. Formisano, Samuel P. Hays, Richard Jensen, and William G. Shade (Westport, CT: Greenwood Press, 1981), 37–76.

Establishment of a Party System

A true political party system with two durable institutions associated with specific ideological positions and plans for running the government did not begin to develop until 1828. The Democratic-Republicans, which became the Democratic Party, elected their presidential candidate, Andrew Jackson. The Whig Party, an offshoot of the National Republicans, formed in opposition to the Democrats in 1834.³³

The era of Jacksonian Democracy, which lasted until the outbreak of the Civil War, featured the rise of mass-based party politics. Both parties initiated the practice of grassroots campaigning, including door-to-door canvassing of voters and party-sponsored picnics and rallies. Citizens voted in record numbers, with turnouts as high as 96 percent in some states.³⁵ Campaign buttons publicly displaying partisan affiliation came into vogue. The spoils system, also known as patronage, where voters' party loyalty was rewarded with jobs and favors dispensed by party elites, originated during this era.

The two-party system consisting of the Democrats and Republicans was in place by 1860. The Whig Party had disintegrated

33.³⁴

34. Michael F. Holt, *The Rise and Fall of the American Whig Party* (New York: Oxford University Press, 2003).

35.³⁶

36. Michael F. Holt, *The Rise and Fall of the American Whig Party* (New York: Oxford University Press, 2003).

as a result of internal conflicts over patronage and disputes over the issue of slavery. The Democratic Party, while divided over slavery, remained basically intact.³⁷ The Republican Party was formed in 1854 during a gathering of former Whigs, disillusioned Democrats, and members of the Free-Soil Party, a minor antislavery party. The Republicans came to prominence with the election of Abraham Lincoln.



The donkey and the elephant have been symbols of the two major parties since cartoonist Thomas Nast popularized these images in the 1860s.

37. ³⁸

38. Michael F. Holt, *The Rise and Fall of the American Whig Party* (New York: Oxford University Press, 2003).

Parties As Machines

Parties were especially powerful in the post-Civil War period through the Great Depression, when more than 15 million people immigrated to the United States from Europe, many of whom resided in urban areas. Party machines, cohesive, authoritarian command structures headed by bosses who exacted loyalty and services from underlings in return for jobs and favors, dominated political life in cities. Machines helped immigrants obtain jobs, learn the laws of the land, gain citizenship, and take part in politics.

Machine politics was not based on ideology, but on loyalty and group identity. The Curley machine in Boston was made up largely of Irish constituents who sought to elect their own.³⁹ Machines also brought different groups together. The tradition of parties as ideologically ambiguous umbrella organizations stems from Chicago-style machines that were run by the Daley family. The Chicago machine was described as a “hydra-headed monster” that “encompasses elements of every major political, economic, racial, ethnic, governmental, and paramilitary power group in the city.”⁴¹

39.⁴⁰

40. John Kenneth White and Daniel M. Shea, *New Party Politics* (Boston: Bedford/St. Martin's, 2000).

41.⁴²

42. Milton Rakove, *Don't Make No Waves, Don't Back No Losers: An Insider's Analysis of the Daley Machine* (Bloomington: Indiana University Press, 1975), 3.

The idea of a “balanced ticket” consisting of representatives of different groups developed during the machine-politics era.⁴³

Because party machines controlled the government, they were able to sponsor public works programs, such as roads, sewers, and construction projects, as well as social welfare initiatives, which endeared them to their followers. The ability of party bosses to organize voters made them a force to be reckoned with, even as their tactics were questionable and corruption was rampant.⁴⁵ Bosses such as William Tweed in New York were larger-than-life figures who used their powerful positions for personal gain. Tammany Hall boss George Washington Plunkitt describes what he called “honest graft”:

My party's in power in the city, and its goin' to undertake a lot of public improvements. Well, I'm tipped off, say, that they're going to lay out a new park at a certain place. I see my opportunity and I take it. I go to that place and I buy up all the land I can in the neighborhood. Then the board of this or that makes the plan public, and there is a rush to get my land, which nobody cared particular for before. Ain't it perfectly honest to charge a good price and make a profit on my investment and foresight? Of course, it is. Well, that's honest graft.⁴⁷

43. ⁴⁴

44. Gerald M. Pomper, *Passions and Interests* (Lawrence: University Press of Kansas, 1992).

45. ⁴⁶

46. A. James Riechley, *The Life of the Parties* (New York: Free Press, 1992).

47. ⁴⁸

Enduring Image: Boss Tweed Meets His Match

The lasting image of the political party boss as a corrupt and greedy fat cat was the product of a relentless campaign by American political cartoonist Thomas Nast in *Harper's Weekly* from 1868 to 1871. Nast's target was William "Boss" Tweed, leader of the New York Tammany Hall party machine, who controlled the local Democratic Party for nearly a decade.

Nast established the political cartoon as a powerful force in shaping public opinion and the press as a mechanism for "throwing the rascals" out of government. His cartoons ingrained themselves in American memories because they were among the rare printed images available to a wide audience in a period when photographs had not yet appeared in newspapers or magazines, and when literacy rates were much lower than today. Nast's skill at capturing political messages in pictures presented a legacy not just for today's cartoonists but for photographers and television journalists. His skill also led to the undoing of Boss Tweed.

Tweed and his gang of New York City politicians gained control of the local Democratic Party by utilizing the Society of Tammany (Tammany Hall), a fraternal organization, as a base. Through an extensive system of patronage whereby the city's growing Irish immigrant population was assured employment in return for votes, the Tweed Ring was able to influence the outcome of elections and profit personally from contracts with the city. Tweed controlled all

48. William L. Riordon, *Plunkitt of Tammany Hall* (St. James, NY: Brandywine Press, 1994), 3.

New York state and city Democratic Party nominations from 1860 to 1870. He used illegal means to force the election of a governor, a mayor, and the speaker of the assembly.

The *New York Times*, *Harper's Weekly*, reform groups, and disgruntled Democrats campaigned vigorously against Tweed and his cronies in editorials and opinion pieces, but none was as successful as Nast's cartoons in conveying the corrupt and greedy nature of the regime. Tweed reacted to Nast's cartoon, "Who Stole the People's Money," by demanding of his supporters, "Stop them damned pictures. I don't care what the papers write about me. My constituents can't read. But, damn it, they can see pictures."⁴⁹



Thomas Nast's cartoon, "Who Stole the People's Money," implicating the Tweed Ring appeared in *Harper's Weekly* on August 19, 1871.

49. ⁵⁰

50. Jonathan Kandall, "[Boss](#)," *Smithsonian Magazine*, February 2002, accessed March 23, 2011.

The Tweed Ring was voted out in 1871, and Tweed was ultimately jailed for corruption. He escaped and was arrested in Spain by a customs official who didn't read English, but who recognized him from the *Harper's Weekly* political cartoons. He died in jail in New York.

Parties Reformed

Not everyone benefited from political machines. There were some problems that machines either could not or would not deal with. Industrialization and the rise of corporate giants created great disparities in wealth. Dangerous working conditions existed in urban factories and rural coal mines. Farmers faced falling prices for their products. Reformers blamed these conditions on party corruption and inefficiency. They alleged that party bosses were diverting funds that should be used to improve social conditions into their own pockets and keeping their incompetent friends in positions of power.

The Progressive Era

The mugwumps, reformers who declared their independence from political parties, banded together in the 1880s and provided the foundation for the Progressive Movement. The Progressives initiated reforms that lessened the parties' hold over the electoral system. Voters had been required to cast color-coded ballots provided by the parties, which meant that their vote choice was not confidential. The Progressives succeeded by 1896 in having most states implement the secret ballot. The secret ballot is issued by the state and lists all parties and candidates. This system allows people to split their ticket when voting rather than requiring them to vote the party line. The Progressives also hoped to lessen machines' control over the candidate selection process. They advocated a system of direct primary elections in which the public could participate rather than caucuses, or meetings of party elites. The direct primary had been instituted in only a small number of states, such as Wisconsin, by the early years of the twentieth century. The widespread use of direct primaries to select presidential candidates did not occur until the 1970s.

The Progressives sought to end party machine dominance by eliminating the patronage system. Instead, employment would be awarded on the basis of qualifications rather than party loyalty. The merit system, now called the civil service, was instituted in 1883 with the passage of the Pendleton Act. The merit system wounded political machines, although it did not eliminate them.⁵¹

51. ⁵²

52. Charles Merriam and Harold F. Gosnell, *The American Party System* (New York: MacMillan, 1922).

Progressive reformers ran for president under party labels. Former president Theodore Roosevelt split from the Republicans and ran as the Bull Moose Party candidate in 1912, and Robert LaFollette ran as the Progressive Party candidate in 1924. Republican William Howard Taft defeated Roosevelt, and LaFollette lost to Republican Calvin Coolidge.



The Progressive Reformers' goal of more open and representative parties resonates today.

New Deal and Cold War Eras

Democratic President Franklin Delano Roosevelt's New Deal program for leading the United States out of the Great Depression in the 1930s had dramatic effects on political parties. The New Deal placed the federal government in the pivotal role of ensuring the economic welfare of citizens. Both major political parties recognized the importance of being close to the power center of government and established national headquarters in Washington, DC.

An era of executive-centered government also began in the 1930s, as the power of the president was expanded. Roosevelt became the symbolic leader of the Democratic Party.⁵³ Locating parties' control centers in the national capital eventually weakened them organizationally, as the basis of their support was at the local grassroots level. National party leaders began to lose touch with their local affiliates and constituents. Executive-centered government weakened parties' ability to control the policy agenda.⁵⁵

The Cold War period that began in the late 1940s was marked by concerns over the United States' relations with Communist countries, especially the Soviet Union. Following in the footsteps

53.⁵⁴

54. A. James Riechley, *The Life of the Parties* (New York: Free Press, 1992).

55.⁵⁶

56. John Kenneth White and Daniel M. Shea, *New Party Politics* (Boston: Bedford/St. Martin's, 2000).

of the extremely popular president Franklin Roosevelt, presidential candidates began to advertise their independence from parties and emphasized their own issue agendas even as they ran for office under the Democratic and Republican labels. Presidents, such as Dwight D. Eisenhower, Ronald Reagan, and George H. W. Bush, won elections based on personal, rather than partisan, appeals.⁵⁷

Candidate-Centered Politics

Political parties instituted a series of reforms beginning in the late 1960s amid concerns that party elites were not responsive to the public and operated secretively in so-called smoke-filled rooms. The Democrats were the first to act, forming the McGovern-Fraser Commission to revamp the presidential nominating system. The commission's reforms, adopted in 1972, allowed more average voters to serve as delegates to the national party nominating convention, where the presidential candidate is chosen. The result was that many state Democratic parties switched from caucuses, where convention delegates are selected primarily by party leaders, to primary elections, which make it easier for the public to take part.

57. ⁵⁸

58. James W. Caeser, *Presidential Selection* (Princeton, NJ: Princeton University Press, 1979).

The Republican Party soon followed with its own reforms that resulted in states adopting primaries.⁵⁹



Democrat Jimmy Carter, a little-known Georgia governor and party outsider, was one of the first presidential candidates to run a successful campaign by appealing to voters directly through the media. After Carter's victory, candidate-centered presidential campaigns became the norm.

The unintended consequence of reform was to diminish the influence of political parties in the electoral process and to promote the candidate-centered politics that exists today. Candidates build personal campaign organizations rather than rely on party support. The media have contributed to the rise of candidate-centered politics. Candidates can appeal directly to the public through

59. ⁶⁰

60. William Crotty, *American Parties in Decline* (Boston: Little, Brown, 1984).

television rather than working their way through the party apparatus when running for election.⁶¹ Candidates use social media, such as Facebook and Twitter, to connect with voters. Campaign professionals and media consultants assume many of the responsibilities previously held by parties, such as developing election strategies and getting voters to the polls.

Key Takeaways

Political parties are enduring organizations that run candidates for office. American parties developed quickly in the early years of the republic despite concerns about factions expressed by the founders. A true, enduring party system developed in 1828. The two-party system of Democrats and Republicans was in place before the election of President Abraham Lincoln in 1860.

Party machines became powerful in the period following the Civil War when an influx of immigrants brought new constituents to the country. The Progressive Movement initiated reforms that fundamentally changed party operations. Party organizations were weakened during the period of executive-centered government that began during the New Deal.

61. ⁶²

62. Diana Owen, *Media Messages in American Presidential Elections* (Westport, CT: Greenwood Press, 1991).

Reforms of the party nominating system resulted in the rise of candidate-centered politics beginning in the 1970s. The media contributes to candidate-centered politics by allowing candidates to take their message to the public directly without the intervention of parties.

156. Reading: Dixie's Long Journey from Democratic Stronghold to Republican Redoubt

Read “Dixie’s Long Journey from Democratic Stronghold to Republican Redoubt” by Ron Elving [here](#).

157. Political Parties Today

Explain the role and characteristics of political parties in our modern setting

Learning Activities

The learning activities for this section include:

- Reading: Political Parties Today
- Reading: Party Organization
- Reading: Party in Government

Take time to review and reflect on each of these activities in order to improve your performance on the assessment for this section.

158. B. Reading: Political Parties Today

Learning Objectives

After reading this section, you should be able to answer the following questions:

1. What are the characteristics of modern-day American political parties?
2. What are political party platforms?

Political parties play an important role in politics today. Whereas observers like the *Washington Post*'s David Broder could write a book in 1972 with the title *The Party's Over*, such eulogies were premature. Compared to the 1970s, party organizations today are larger, farther reaching, and better financed. Relations among party officials in Washington and the states have improved dramatically. Voters are still more likely to cast their votes along partisan lines than independently.

American political parties have a number of distinctive characteristics. The two major political parties have been dominant for a long period of time. The parties are permeable, meaning that people are able to join or leave the party ranks freely. The two major parties are ideologically ambiguous in that they are umbrella

organizations that can accommodate people representing a broad spectrum of interests.

Two-Party Domination

A two-party system is one in which nearly all elected offices are held by candidates associated with the two parties that are able to garner the vast majority of votes. The Republican Party and the Democratic Party are the major parties that have monopolized American politics since the early 1850s.¹ A major party runs candidates for local, state, and federal offices in a majority of states and holds one of the two largest blocs of seats in the US Congress.³

Many people consider the two-party system as a uniquely American phenomenon. Some scholars argue that this acceptance

1.²

2. William Nisbet Chambers and Walter Dean Burnham, eds., *The American Party Systems* (New York: Oxford University Press, 1975).

3.⁴

4. Steven J. Rosenstone, Roy L. Behr, and Edward H. Lazarus, *Third Parties in America*, 2nd ed. (Princeton, NJ: Princeton University Press, 2000), 9.

of the two-party norm is a result of Americans' aversion to radical politics and their desire to maintain a stable democratic political system.⁵ Having too many parties can destabilize the system by confusing voters and allowing parties who take extreme ideological positions to become prominent in government, much like Madison feared at the founding.

Ideological Ambiguity

Rather than assuming strong, polarizing ideological alignments, the two major parties represent the core values of American culture that favor centrist positions inherent in the liberal tradition of liberty, democracy, and equal opportunity.⁷ These values appeal to the majority of Americans, and political parties can advocate them without losing followers.

Former Democratic Speaker of the House Thomas P. “Tip” O’Neill was fond of saying, “In any other country, the Democratic Party

5. ⁶

6. Clinton Rossiter, *Parties and Politics in America* (Ithaca, NY: Cornell University Press, 1960).

7. ⁸

8. John Gerring, *Party Ideologies in America, 1828–1996* (New York: Cambridge, 1998).

would be five parties.”⁹ O’Neill was referring to the fact that the Democratic Party has no clear ideological identity and instead accommodates interests from across the liberal-conservative spectrum. Groups who both favor and oppose gun control can find a home in the Democratic Party. The Democratic Party is loosely associated with a liberal attitude toward politics, which proposes that government should take a more active role in regulating the economy, provide a social safety net, and ensure equality in society through programs like affirmative action.

Similar things have been said about the Republican Party,¹¹ although the Republicans have a more unified message than the Democrats. The Republican agenda favors capitalism and limited government intervention in people’s lives. The Republican Party’s base includes fewer disparate groups than the Democratic base. The Republican Party is associated with a conservative outlook that advocates limited government intervention in society and a free-market economic system.

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10. Adam Clymer, “[Buoyed by Resurgence, G.O.P. Strives for an Era of Dominance](#),” *New York Times*, May 25, 2003, accessed March 23, 2011.

11. ¹²

12. Gerald M. Pomper, *Passions and Interests*(Lawrence: University Press of Kansas, 1992).

Party Platforms

Rather than developing distinct ideological positions, parties develop policy platforms. Policy platforms are plans outlining party positions on issues and the actions leaders will take to implement them if elected.¹³ Parties frequently assume middle-of-the-road positions or waffle on issues to avoid alienating potential supporters.¹⁵ For example, party platforms may oppose abortion—except in cases of rape or incest.¹⁷

Some scholars contend that American parties have become more ideologically distinct over the last three decades. Party leaders are expressing polarized opinions on issues, especially at the national level. These differences can be seen in the highly partisan debate over the health-care system. Democrats in Congress support

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14. Leon D. Epstein, *Political Parties in the American Mold* (Madison: University of Wisconsin Press, 1986); Gerald M. Pomper, *Passions and Interests* (Lawrence: University Press of Kansas, 1992).

15.¹⁶

16. Anthony Downs, *An Economic Theory of Democracy* (New York: Harper, 1957).

17.¹⁸

18. John C. Green and Paul S. Herrnson, eds., *Responsible Partisanship?* (Lawrence: University Press of Kansas, 2002).

government involvement in the health-care system and worked to pass the Patient Protection and Affordable Care Act endorsed by President Obama in 2010. Republicans sought to repeal the act in 2011, arguing that it would cost people their jobs.

Permeability

Political parties in the United States are porous, decentralized institutions that can be joined readily by people who choose to adopt the party label, usually Democrat or Republican.¹⁹ American parties are not mass membership organizations that require people to pay dues if they want to belong, which is the case in many European democracies. Instead, party membership is very loosely defined often by state laws that are highly variable. In some states, citizens declare a party affiliation when registering to vote. People also can join a state or local party organization, or work for a candidate associated with a particular party.

Parties are umbrella organizations that accommodate labor and business federations, interest groups, racial and ethnic constituencies, and religious organizations. Traditionally, the Democratic Party has been home to labor unions, and the

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20. Leon D. Epstein, *Political Parties in the American Mold* (Madison: University of Wisconsin Press, 1986).

Republican Party has accommodated business interests, although these relationships are not set in stone.

The fact that groups seeking to achieve similar political goals are found in both parties is evidence of their permeability. Pro-choice and antiabortion forces exist within the two major parties, although the Democratic Party is far more accommodating to the pro-choice position while the Republican Party is overwhelmingly pro-life. The [WISH List](#) is a group supporting pro-choice Republican candidates. The Democratic counterpart supporting pro-choice women candidates is [Emily's List](#). [Democrats for Life of America](#) and [Republican National Coalition for Life](#) represent antiabortion constituencies.

Parties compete for the allegiances of the same groups in an effort to increase their bases of support. As the Latino population has swelled to over 35 million people, the Democratic and Republican parties have stepped up their efforts to attract Latino voters and organizations. Both parties have produced Spanish-language television ads and websites, tailored their messages about health care and education to appeal to this group, and recruited Latino candidates.²¹ The parties also have increased their appeals to Asian American voters.

21. ²²

22. Susan Milligan, "Midterms May Hinge on Votes of Latinos: Both Major Parties Tailoring Messages to Growing Minority," *Boston Globe*, October 31, 2002.

Key Takeaways

Political parties today are experiencing a period of renewal. They have strengthened their organizations, improved their fundraising techniques, and enhanced the services they offer to candidates and officeholders.

American parties have three major characteristics. Two parties, the Republicans and the Democrats, have dominated for over 150 years. These major parties are ideologically ambiguous in that they take middle-of-the-road rather than extreme positions on issues. Parties are permeable institutions that allow people and groups to move easily in and out of their ranks. Rather than having strong ideological predispositions, American parties devise broad platforms to outline their stances on issues.

159. C. Reading: Party Organization

Learning Objectives

After reading this section, you should be able to answer the following questions:

1. What is the organizational structure of American political parties?
2. How do national party organizations differ from state and local party organizations?
3. What functions do political parties perform?

The organizational structure of political parties consists of the machinery, procedures, and rituals party leaders and professionals employ so that parties operate effectively in the electoral and governing processes.¹ Party organizations establish connections between leaders and followers so that they can build and maintain

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2. V. O. Key Jr., *Politics, Parties, & Pressure Groups*, 5th ed. (New York: Thomas Y. Crowell Company, 1964).

a base of supportive voters they can count on during elections. Parties maintain permanent offices to assist their constituencies. They engage in party-building activities, including voter registration and get-out-the-vote drives. They provide candidate support, such as collecting polling data and running ads.³

Party organizations take many forms. National and state parties are large and complex organizations. They have permanent headquarters, chairpersons, boards of directors, and full-time employees with specialized responsibilities. They maintain lists of officers and members, operate under established bylaws and rules, and hold scheduled meetings and conventions. Local parties range from highly active, well-organized, professional structures to haphazard, amateur operations.⁵

3. ⁴

4. Samuel J. Eldersveld, and Hanes Walton Jr., *Political Parties in American Society*, 2nd ed. (Boston: Bedford/St. Martin's, 2000).

5. ⁶

6. Stephen E. Frantzich, *Political Parties in the Technological Age* (New York: Longman, 1989).

National Parties

National party committees today are the power centers of the Republican and Democratic parties. They are the ultimate authority in the parties' organizational hierarchy. The [Democratic National Committee](#) (DNC) and the [Republican National Committee](#) (RNC) are located in Washington, DC. The DNC and RNC chairs are the leaders of the party organization and are visible representatives of the parties in the press.

National organizations are responsible for putting on the nominating conventions where presidential candidates are selected every four years. Nominating conventions provide an opportunity to rally the troops and reward the party faithful by having them participate as delegates. They also provide an opportunity for parties to showcase their leaders and policies in front of a national television audience.

National parties adapted to the era of candidate-centered politics by becoming service-oriented organizations, providing resources for candidates and officeholders. They stepped up their fundraising activities, expanded their staffs, and established stronger linkages with state, local, and candidate campaign organizations. The DNC and the RNC have established multimedia strategies that include traditional mass media appeals through press releases and staged events. They also get their message out using sophisticated websites, Facebook pages, Twitter feeds, and YouTube channels. Party websites are a one-stop shop for information about candidates and officeholders, issue positions, and voting logistics. They also provide a gateway for people to become involved in politics by providing information about volunteer activities and offering opportunities to contribute to the party.

Legislative Campaign Committees

Legislative campaign committees finance and manage legislative elections. Members of Congress officially oversee the committee staffs. The [National Republican Congressional Committee](#), [National Republican Senatorial Committee](#), [Democratic Congressional Campaign Committee](#), and the [Democratic Senatorial Campaign Committee](#) help candidates for the House and Senate meet the demands of modern campaigning. They provide survey research to determine voters' candidate preferences and stands on issues. They recruit volunteers and raise funds for campaigns. These committees organize media appeals to promote the party's leaders and agenda through television advertising, press briefings, direct mail, e-mail solicitations, and social media.⁷

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8. John Kenneth White and Daniel M. Shea, *New Party Politics* (Boston: Bedford/St. Martin's, 2000).

State Parties

State party organizations operate in vastly different environments because of the political culture of individual states. There is fierce competition between parties in some states, while other states lean more favorably toward one party. Party competition, however, exists in every state. According to Gallup, the two parties were competitive in a majority of states in 2011. Only fourteen states were solidly Democratic and five states were solidly Republican.⁹

Party and election laws vary greatly among states. In Maryland, voters must register and declare their party identification twenty-nine days before a primary election in order to participate. In Massachusetts, independents can register with a party to vote in that party's primary on Election Day. In Wisconsin, party preference is part of the secret ballot.

Like their national counterparts, state parties provide candidates with services, such as volunteer recruitment and polling. They offer citizens access to government leaders and information about issues. State parties have become multimillion-dollar organizations, most of which own their headquarters, employ full-time staffs, and have operating budgets of over a half-million dollars. State legislative campaign committees assist in campaigns by dispensing funds to candidates.¹¹

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10. Jeffrey M. Jones, "[Number of Solidly Democratic States Cut in Half from '08 to '10](#)," *Gallup*, February 21, 2011, accessed March 26, 2011.

11.¹²

Local Parties

Local party organizations exist at the legislative district, county, city, ward, and precinct levels. Some local parties are extremely vital, providing the link between average people and parties. In addition to fulfilling the basic election functions, they sponsor public affairs programs, provide services to senior citizens and young people, and organize community events. Some local parties are less active because many community-level positions, like town council seats, are nonpartisan.

Key Takeaways

Party organization refers to the officials, activists, and members who set up the administration, make the rules, and carry out the collective goals and activities of the party. The Democratic and

12. Sarah M. Morehouse and Malcolm E. Jewell, "State Parties: Independent Partners in the Money Relationship," in *The State of the Parties*, ed. John C. Green and Rick Farmer (Lanham, MD: Rowman & Littlefield), 151–68.

Republican national party committees are the central authorities for the two major American parties. Party organizations at the state and local level are influenced by the political environment in which they are situated.

160. D. Reading: Party in Government

Learning Objectives

After reading this section, you should be able to answer the following questions:

1. What constitutes the party in government?
2. How do presidents use their position as symbolic leader of their political party?
3. What are legislative parties?
4. What is divided government, and what challenges does it pose for presidential leadership?

The party in government constitutes the organized partisans who serve in office, such as members of the Democratic and Republican parties in Congress. Parties provide an organizational structure for leaders in office, develop policy agendas, and ensure that majority and minority party opinions are voiced. The party in government seeks to represent its supporters, achieve policy objectives, and enhance the prospects for reelection. It is the center of democratic action. Party coalitions of many officeholders can be more powerful mechanisms for voicing opinions than individual leaders acting on

their own. Coalitions from opposing parties spar openly by taking different positions on issues.¹

Presidential Leadership

The president is the official and symbolic leader of his party. Presidents can use this position to rally members of Congress to push their agendas as President Franklin Roosevelt did to get his New Deal programs passed quickly with the help of congressional Democrats. President Ronald Reagan mobilized congressional Republicans to enact the so-called Reagan revolution of conservative policies, such as cutting taxes and increasing defense spending. Other presidents prefer to adopt a policy of triangulation, where they work both sides of the congressional aisle.³ President

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2. Samuel J. Eldersveld and Hanes Walton Jr., *Political Parties in American Society*, 2nd ed. (Boston: Bedford/St. Martin's, 2000).

3. ⁴

4. John Kenneth White and Daniel M. Shea, *New Party Politics* (Boston: Bedford/St. Martin's, 2000).

Barack Obama successfully encouraged Democrats and Republicans in Congress to pass a bill extending tax cuts to citizens.

A screenshot of the 2012 Barack Obama campaign website's donation form. The header features the slogan "YOU POWER this CAMPAIGN" on the left, a large "2012" logo in the center, and the website "BARACKOBAMA.COM" on the right. The form is divided into several sections: "Amount" with radio button options for \$18, \$25, \$58, \$188, \$258, \$1,888, \$2,488, and "Other:" followed by a "USD Amount" input field; "Personal Information" with fields for First Name, Last Name, Address, City, State (a dropdown menu), Zip, Email Address, and Phone Number; "Credit Card" with fields for Card Number, Expiration (Month and Year dropdowns), and radio button options for American Express, Discover, MasterCard, and Visa; "Employment" with fields for Employer and Occupation, preceded by a disclaimer about federal law requirements; and "Legal Compliance" with a checkbox to confirm the accuracy of the information and a list of seven legal disclaimers. A red "SUBMIT" button is located at the bottom right. On the left side of the form, there is a black and white portrait of Barack Obama smiling.

President Barack Obama's campaign organization, Organizing for America, continued to raise funds through its website following the 2008 election in anticipation of his reelection bid in 2012. Source: <http://www.barackobama.com/index.php>.

Since the 1990s, presidents have assumed a major responsibility for party fundraising. President Bill Clinton made fundraising a priority for the Democratic Party. He was the headliner at major events that drew big crowds and raised millions of dollars. President George W. Bush became the top fundraiser for the Republican Party, raising a record \$84 million in six months en route to achieving a \$170 million goal by the 2004 presidential election.⁵ During his campaign for the presidency, Barack Obama raised over \$600 million mostly through

5. ⁶

6. "Bush Campaign Has Raised Nearly \$84 Million Since Last Spring," *Washington Post*, October 14, 2003.

online appeals. Once in office, President Obama continued to raise funds for Democratic Party candidates through appearances at dinners and events as well as through his campaign organization's website, Organizing for America.⁷

Legislative Parties

Legislative parties are the internal party organizations within each house of Congress. The Speaker of the House and the Senate Majority Leader, the highest ranking leaders in Congress, are members of the majority party. They work closely with the majority leader, whip, chair of the policy committee, and chair of campaign committee in each body. The House and Senate minority leaders head a similar cast on the opposite side of the partisan fence. The Democratic Caucus and the Republican Conference, consisting of all members elected from a party, are the internal party organizations within each house of Congress. They oversee committee assignments and encourage party discipline by asking members to vote along party lines.

Party discipline can be difficult to enforce given the diversity of

7.⁸

8. Jose Antonio Vargas, "[Obama Raised Half a Billion Online](#)," *Washington Post*, November 20, 2008, accessed March 26, 2011.

constituency interests and personalities in Congress. The extent to which party members are willing to vote in a block varies over time. Party unity in congressional voting rose from 40 percent in the early 1970s to 90 percent or more since 2000.

Link: Congressional Voting Patterns

Congressional Quarterly, a Washington, DC-based publisher, has analyzed the voting patterns of members of Congress since 1953 and presents them in an interactive graphic [here](#).

Members of the same party in Congress are more similar ideologically in recent years than in the past. The Democratic Party in Congress contains few conservatives compared to the period before 1980, when conservative southern Democrats often disagreed with the liberal and moderate members of their party. Republicans in Congress today are more united in taking conservative positions than in the past.⁹

9.¹⁰

10. Larry Schwab, “The Unprecedented Senate: Political Parties in the Senate after the 2000 Election,” in *The*

Legislative parties like those in Congress are found in forty-nine of the fifty state legislatures. Nebraska, which has a nonpartisan, unicameral legislature, is the exception.

Divided Government

The American system of separation of powers and checks and balances devised by the framers presents some obstacles to elected officials using their party connections to wield power. Divided government, which occurs when the chief executive is of a different party from the majority in the legislature, is a common occurrence in American government. Divided government can get in the way of cooperative policymaking. Presidential vetoes of legislation passed by Congress can be more frequent during periods of divided government.¹¹

President Clinton faced the challenges of divided government beginning in 1994, when the Republicans took control of the House and Senate. Clinton did not use the veto power once when his

State of the Parties, ed. John C. Green and Rick Farmer (Lanham, MD: Rowman & Littlefield), 241–53.

11.¹²

12. Gary W. Cox and Samuel Kernell, *The Politics of Divided Government* (Boulder, CO: Westview Press, 1991).

Democratic Party controlled Congress between 1993 and 1994. After the Democrats lost fifty-two seats in Congress to Republicans as a result of the 1994 midterm elections, President Clinton used the veto to block legislation his party opposed, including tax bills that were central to the Republican Party's platform. From 1995 to 2000, he vetoed thirty-six bills.¹³ Democratic President Barack Obama was faced with divided government in 2010 when the Republican Party won the majority in the House of Representatives while the Democrats held the Senate by a small margin. Obama used the State of the Union address to call for the parties to work together on key issues, especially health care and the economy.¹⁵

13.¹⁴

14. Samuel B. Hoff, "Evaluating the Clinton Veto Record 1993–2001," unpublished paper, Delaware State University, 2003.

15.¹⁶

16. Mike Dorning, "[Obama Ushers in Era of Divided Government with Appeal for Unity, Progress](#)," *Bloomberg*, January 26, 2011, accessed March 26, 2011.

Key Takeaways

The party in government constitutes the organized partisans who serve in office, such as members of the Democratic and Republican parties in Congress. The president is the symbolic leader of his political party and can use this position to urge party members to achieve policy goals. Legislative parties seek to impose discipline on party members in Congress, which is not always easily accomplished because members represent vastly different constituencies with particular needs. Divided government—periods when the president is of a different party from the majority in Congress—can create challenges for presidents seeking to enact their policy agendas.

161. Party Identification

Identify elements influencing party identification

Learning Activities

The learning activities for this section include:

- Reading: Party Identification

Take time to review and reflect on this activity in order to improve your performance on the assessment for this section.

162. E. Reading: Party Identification

Learning Objectives

After reading this section, you should be able to answer the following questions:

1. How do Americans affiliate with a political party?
2. What are partisan coalitions?
3. What happens during a partisan realignment or dealignment?

People who identify with a political party either declare their allegiance by joining the party or show their support through regular party-line voting at the polls. People can easily switch their party affiliation or distance themselves from parties entirely. However, people who do not declare a partisan affiliation when they register to vote lose the opportunity to participate in primary election campaigns in many states.

Partisan Identification

A person's partisan identification is defined as a long-term attachment to a particular party.¹ Americans are not required to formally join party organizations as is the case in other democracies. Instead people self-identify as Republicans, Democrats, or members of minor parties. They also can declare themselves independent and not aligned with any political party.³

Since the 1960s there has been a gradual decline in identification with political parties and a rise in the number of independents. In 2000, more people identified as independents (40 percent of the voting population) than affiliated with either the Democratic (34 percent) or Republican (24 percent) parties for the first time in history.⁵ The proportion of people registering as independents

1. ²
2. Angus Campbell, Philip E. Converse, Warren E. Miller, and Donald E. Stokes, *The American Voter* (New York: John Wiley and Sons, 1960).
3. ⁴
4. Donald Green, Bradley Palmquist, and Eric Schickler, *Partisan Hearts and Minds* (New Haven, CT: Yale University Press, 2002).
5. ⁶ . Two percent of the sample consider themselves “apolitical.”
6. Data computed using the [American National Election Studies](#)

increased 57 percent between 1990 and 1998, while those registering as Democrats declined by 14 percent and as Republicans by 5 percent. In 2011, 31 percent of the population identified as Democrats, 29 percent as Republican, and 38 percent as independents.⁷

Link: Trends in Party Identification

Trends in party identification from 1932 to the present have been compiled by the Pew Research Center in this [interactive graph](#).

As voter identification with political parties has declined, so has dedication to the two-party system. According to a national survey, citizens have more trust in product brands, such as Nike, Levis, Honda, and Clorox, than in the Democrats and Republicans.⁹ Since

7.⁸

8. Jeffrey M. Jones, “[Democratic Party ID Drops in 2010, Tying 22-Year Low](#),” *Gallup*, January 5, 2011, accessed March 26, 2011.

9.¹⁰

10. Patricia Winters Lauro, “According to a Survey, the

the 1980s, Americans have become skeptical about the two major parties' ability to represent the public interest and to handle major issues facing the country, such as crime, the environment, and saving Social Security. At the same time, support for third parties, like the Tea Party, has increased over the last decade.¹¹ Still, the two-party system continues to dominate the political process as a viable multiparty alternative has not emerged.

Party Coalitions

Party coalitions consist of groups that have long-term allegiances to a particular political party. Regions of the country establish loyalties to a specific party as a result of the party's handling of a war, a major social problem, or an economic crisis. Social, economic, ethnic, and racial groups also become aligned with particular parties. Catholics and labor union members in the Northeast form a part of the Democratic coalition. White fundamentalist Protestants are a

Democratic and Republican Parties Have Brand-Name Problems," *New York Times*, November 17, 2000.

11.¹²

12. Diana Owen and Jack Dennis, "Antipartyism in the USA and Support for Ross Perot," *European Journal of Political Research* 29: 383–400.

component of the Republican coalition.¹³ Parties count on coalition members to vote for them consistently in elections.

A major, enduring shift in coalition loyalties that results in a change in the balance of power between the two major parties is called a realignment.¹⁵ Realignments can be sparked by critical elections, where a minority party wins and becomes the majority party in government following an election, and remains dominant for an extended period of time. American parties realign about once every thirty or forty years. A critical election in 1932 brought the Democrats and President Franklin Roosevelt to power after a period of Republican domination dating from the 1890s. This New Deal coalition was based on an alliance of white Southerners and liberal Northerners who benefited from the social welfare policies of the Democratic administration during the Great Depression. The election of Ronald Reagan in 1980 marked the beginning of a realignment favoring the Republicans. In this coalition, white Southerners moved away from the Democratic Party as they favored the more conservative values espoused by the Republicans.¹⁷

13.¹⁴

14. Paul Allen Beck, "A Tale of Two Electorates: The Changing American Party Coalitions, 1952–2000," in *The State of the Parties*, 4th ed., ed. John C. Green and Rick Farmer (Lanham, MD: Rowman & Littlefield, 2003), 38–53.

15.¹⁶

16. V. O. Key Jr., "A Theory of Critical Elections," *Journal of Politics* 21: 198–210.

17.¹⁸

18. Walter Dean Burnham, "Realignment Lives: The 1994

Partisan dealignment occurs when party loyalty declines and voters base their decisions on short-term, election-specific factors, such as the leadership qualities of a candidate.¹⁹ The inclination of people to identify as independents rather than as partisans is evidence that a dealignment is occurring.²¹ A partisan dealignment may be occurring today, as more people are identifying as independents and more voters select their candidates on the basis of personal traits, such as honesty. Mass media can contribute to partisan realignment by focusing attention on candidates' personalities and scandals, which are short-term factors that can influence vote choice.

Earthquake and Its Implications,” in *The Clinton Presidency: First Appraisals*, ed. Colin Campbell and Bert A. Rockman (Chatham, NJ: Chatham House, 1996), 363–95.

19.²⁰

20. Walter Dean Burnham, *Critical Elections and the Mainsprings of American Politics* (New York: Norton, 1970).

21.²²

22. Paul Allen Beck, “A Tale of Two Electorates: The Changing American Party Coalitions, 1952–2000,” in *The State of the Parties*, 4th ed., ed. John C. Green and Rick Farmer (Lanham, MD: Rowman & Littlefield, 2003), 38–53.

Key Takeaways

People indicate their identification with a political party either by declaring their allegiance to a particular party or by regularly supporting that party at the polls. Societal groups that gravitate toward particular political parties can form partisan coalitions. These coalitions can shift during critical elections, which result in a minority party becoming the majority party in government.

163. Third Parties

Identify the function and place of “third parties” in the American political system

Learning Activities

The learning activities for this section include:

- Reading: Minor Parties
- Video: Third Parties Are the Underpants Gnomes of American Politics

Take time to review and reflect on each of these activities in order to improve your performance on the assessment for this section.

164. F. Reading: Minor Parties

Learning Objectives

After reading this section, you should be able to answer the following questions:

1. What is a minor party, also known as a third party?
2. What are the types of minor parties in American politics?
3. What difficulties do minor parties face in winning elections?

A minor party, or third party, is an organization that is not affiliated with the two major American parties—the Democrats or Republicans. Minor parties run candidates in a limited number of elections and they do not receive large pluralities of votes. They arise when the two major parties fail to represent citizens' demands or provide the opportunity to express opposition to existing policies. Citizens often form a minor party by uniting behind a leader who represents their interests.

Functions of Minor Parties

Minor parties raise issues that the Democrats and Republicans ignore because of their tendency to take middle-of-the road positions. As a result, minor parties can be catalysts for change.¹ The Progressive Party backed the women's suffrage movement in the early twentieth century, which led to the passage of the Nineteenth Amendment. Child labor laws, the direct election of U.S. senators, federal farm aid, and unemployment insurance are policies enacted as a result of third-party initiatives.³

More recently, the Tea Party has raised issues related to the national debate, government bailouts to failing industries, and the health care system overhaul. The Tea Party is a conservative-leaning grassroots political movement that emerged in 2009 when the Young Americans for Liberty in the state of New York organized a protest against state government "tax and spend" policies. The Tea Party-themed protest recalled events in 1773, when colonists dumped tea into Boston Harbor to demonstrate their opposition to paying a mandatory tax on tea to the British government. Subsequent Tea Party protests took place in states across the country. Tea Party supporters participated in national protests in Washington, DC, which drew thousands of supporters.

1. ²

2. Daniel A. Mazmanian, *Third Parties in Presidential Elections* (Washington, DC: Brookings Institution, 1974).

3. ⁴

4. Micah L. Sifry, *Spoiling for a Fight* (New York: Routledge, 2003).

Video Clip: CNBC's Rick Santelli's Chicago Tea Party



One or more interactive elements has been excluded from this version of the text. You can view them online

here: <https://library.achievingthedream.org/herkimeramericangovernment/?p=190#oembed-1>

The national protests were prompted by a video of a rant by CNBC editor Rick Santelli opposing government subsidies of mortgages that went viral after being posted on the Drudge Report.

Santelli called for a “Chicago Tea Party” protest, which ignited the movement. The Tea Party’s efforts were publicized through new media, including websites such as [Tea Party Patriots](#), [Facebook pages](#), [blogs](#), and [Twitter feeds](#).

Minor parties can invigorate voter interest by promoting a unique or flamboyant candidate and by focusing attention on a contentious issue.⁵ Voter turnout increased in the 1992 presidential contest for the first time in over two decades in part because of minor-party candidate Ross Perot.⁷ Perot, a wealthy businessman, was

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6. Daniel A. Mazmanian, *Third Parties in Presidential Elections* (Washington, DC: Brookings Institution, 1974).

7.⁸

a candidate for president in 1992 for the minor party, United We Stand America, receiving nearly twenty million votes. He ran again in 1996 as a member of the Reform Party and earned nearly eight million votes.⁹ Perot supporters were united in their distrust of professional politicians and opposition to government funding of social welfare programs.

Minor party candidates can be spoilers in elections by taking away enough votes from a major party candidate to influence the outcome without winning. Minor parties collectively have captured over 5 percent of the popular vote in every presidential election since 1840, although individual minor parties may win only a small percentage of votes.¹¹ Green Party candidate Ralph Nader was considered by some analysts to be a spoiler in the 2000 presidential campaign by taking votes away from Democratic contender Al Gore in Florida. George W. Bush received 2,912,790 votes in Florida

8. Diana Owen and Jack Dennis, "Antipartyism in the USA and Support for Ross Perot," *European Journal of Political Research* 29 (1996): 383-400.

9.¹⁰

10. John C. Green and William Binning, "Surviving Perot: The Origins and Future of the Reform Party," in *Multiparty Politics in America*, ed. Paul S. Herrnson and John C. Green (Lanham, MD: Rowman & Littlefield, 1997), 87-102.

11.¹²

12. Steven J. Rosenstone, Roy L. Behr, and Edward H. Lazarus, *Third Parties in America*, 2nd ed. (Princeton, NJ: Princeton University Press, 2000).

compared to Al Gore's 2,912,253 votes.¹³ If 540 of Nader's 96,837 votes had gone to Gore, Gore might have ended up in the White House.¹⁵

Types of Minor Parties

Minor parties can be classified as enduring, single-issue, candidate-centered, and fusion parties.

13.¹⁴

14. Committee for the Study of the American Electorate, "[Votes Cast for Presidential Candidates](#)," accessed March 26, 2011.

15.¹⁶

16. Micah L. Sifry, *Spoiling for a Fight* (New York: Routledge, 2003).

Enduring Minor Parties

Some minor parties have existed for a long time and resemble major parties in that they run candidates for local, state, and national offices. They differ from major parties because they are less successful in getting their candidates elected.¹⁷

The Libertarian Party, founded in 1971, is an enduring minor party, which is a type of minor party that has existed for a long time and regularly fields candidates for president and state legislatures. The Libertarians are unable to compete with the two major parties because they lack a strong organizational foundation and the financial resources to run effective campaigns. The party also holds an extreme ideological position, which can alienate voters. Libertarians take personal freedoms to the extreme and oppose government intervention in the lives of individuals, support the right to own and bear arms without restriction, and endorse a free and competitive economic market.¹⁹

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18. Steven J. Rosenstone, Roy L. Behr, and Edward H. Lazarus, *Third Parties in America*, 2nd ed. (Princeton, NJ: Princeton University Press, 2000).

19.²⁰

20. Terry Savage, "The Libertarian Party: A Pragmatic Approach to Party Building," in *Multiparty Politics in America*, ed. Paul S. Herrnson and John C. Green (Lanham, MD: Rowman & Littlefield, 1997), 141–45.

Single-Issue Minor Parties

Sometimes called ideological parties, single-issue minor parties exist to promote a particular policy agenda. The Green Party is a product of the environmental movement of the 1980s. It advocates environmental issues, such as mandatory recycling and strong regulations on toxic waste.²¹

Candidate-Centered Minor Parties

Candidate-centered minor parties form around candidates who are able to rally support based on their own charisma or message. Former World Wrestling Federation star Jesse “The Body” Ventura was elected governor of Minnesota in 1998 under the Independence

21.²²

22. Greg Jan, “The Green Party: Global Politics at the Grassroots,” in *Multiparty Politics in America*, ed. Paul S. Herrnson and John C. Green (Lanham, MD: Rowman & Littlefield, 1997), 153–57.

Party label, an offshoot of the Reform Party. The plainspoken, media savvy Ventura made the need for an alternative to two-party domination a core theme of his campaign:

It's high time for a third party. Let's look at Washington. I'm embarrassed. We've got a lot of problems that the government should be dealing with, but instead, for the next nine months, the focus of this nation will be on despicable behavior by career politicians. If this isn't the right time for a third party, then when?²³

Fusion Minor Parties

Fusion minor parties, also known as alliance parties, are enduring or single-issue minor parties that engage in the practice of cross endorsement, backing candidates who appear on a ballot under more than one party label. Fusion parties routinely endorse candidates who have been nominated by the two major parties and support their causes. Cross endorsement allows minor parties to contribute to the election of a major-party candidate and thus gain access to officeholders. In addition to giving a major-party

23. ²⁴

24. Micah L. Sifry, *Spoiling for a Fight* (New York: Routledge, 2003).

candidate an additional ballot position, fusion parties provide funding and volunteers.

Only eight states permit the practice of cross endorsement. The most active fusion parties are in New York. The Liberal Party and the Democratic Party cross endorsed Mario Cuomo in the 1990 New York governor's race, leading him to defeat his Republican Party and Conservative Party opponents handily. The Conservative Party and the Republican Party cross endorsed George Pataki in the 2000 governor's race, leading him to victory.²⁵ During the 2010 midterm elections, the Tea Party cross endorsed several successful candidates running in the primary under the Republican Party label, upsetting mainstream Republican candidates. Some of the Tea Party-endorsed candidates, such as U.S. Senate candidate Rand Paul in Kentucky, went on to win the general election.

Comparing Content: The Tea Party

There has been almost as much discussion about media coverage of the Tea Party as there has been about the organization's issue

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26. J. David Gillespie, *Politics at the Periphery* (Columbia: University of South Carolina Press, 1993).

positions, candidate endorsements, and protest activities. Tea Party activists, such as former Alaska governor and Republican vice presidential candidate Sarah Palin, have lambasted the traditional news media for being tied to special interests and irrelevant for average Americans. Instead, Tea Party leaders have embraced social media, preferring to communicate with their supporters through Facebook and Twitter.

Early Tea Party protests against government economic policies received little mainstream press attention. Media coverage increased as the Tea Party staged rowdy protests against government health care reform, and public interest in the movement grew. Stories by major news organizations focused on the evolution of the Tea Party, its positions on issues, its membership, and its most vocal spokespersons. Tea Party rallies garnered extensive attention from mainstream media as well as political bloggers. The Tea Party received the lion's share of media coverage on election

night in 2010, as the mainstream press framed the election results in terms of public dissatisfaction with the political status quo as evidenced by victories by Tea Party-backed candidates.²⁷



Tea Party signs at a rally. Media coverage of Tea Party rallies focused on racially charged signs prompting the movement's leaders to decry the mainstream press.

Coverage of the Tea Party differs widely by media outlet. CNN reports of a Tea Party protest in Chicago featured on-site reporters aggressively interviewing average citizens who were participating in the event, challenging them to defend the Tea Party's positions on issues. CNN and network news outlets reported that members of Congress had accused Tea Party protestors of anti-Obama racism based on racially charged statements and signs held by some protestors. Fox News, on the other hand, assumed the role of Tea Party cheerleader. Fox analyst Tobin Smith took the stage at a Tea Party rally in Washington, DC, and encouraged the protestors. Reporting live from a Boston Tea Party protest, Fox Business anchor Cody Willard encouraged people to join the movement, stating, "Guys, when are we going to wake up and start fighting the fascism that seems to be permeating this country?"²⁹

28. Brian Stelter, "In News Coverage, Tea Party and Its 'New Personalities' Hold the Spotlight," *New York Times*, November 3, 2010.

29.³⁰

30. Tony Rogers, "[Both Fox News and CNN Made Mistakes in Tea Party Protest Coverage](#)," About.com Journalism, accessed March 26, 2011.

Studies of mainstream press coverage of the Tea Party also vary markedly depending on the source. A 2010 report by the

conservative Media Research Center found that the press first ignored and then disparaged the Tea Party. The report alleged that ABC, CBS, NBC, and CNN framed the Tea Party as a fringe or



Signs oppose the press. The majority of Tea Party signs at rallies state issue positions without racially charged messages.

extreme racist movement.

Conversely, a 2010 survey conducted by the mainstream newspaper the *Washington Post* found that 67 percent of local Tea Party organizers felt that traditional news media coverage of their groups was fair, compared to 23 percent who considered it to be unfair. Local organizers also believed that news coverage improved over time as reporters interviewed Tea

31. ³²

32. Rich Noyes, "[TV's Tea Party Travesty](#)," Media Research Center, April 15, 2010, accessed March 26, 2011.

Party activists and supporters
and gained firsthand
knowledge of the group and
its goals.³³ Both reports were
debated widely in the press.

Challenges Facing Minor Parties

A minor-party candidate has never been elected president. In the past five decades, minor parties have held few seats in Congress or high-level state offices. Few minor party candidates have won against major-party candidates for governor, state representative,

33.³⁴

34. Amy Gardner, "[Tea Party Groups Say Media Have Been Fair, Survey Finds](#)," *Washington Post*, October 26, 2010, accessed March 26, 2011.

or county commissioner in the past two decades. Minor-party candidates have better luck in the approximately 65,000 nonpartisan contests for city and town offices and school boards in which no party labels appear on the ballot. Hundreds of these positions have been filled by minor-party representatives.³⁵

A majority of the public favors having viable minor-party alternatives in elections.³⁷ Why, then, are minor parties unable to be a more formidable presence in American politics?

Winner-Take-All Elections

One major reason for two-party dominance in the United States is the prominence of the single-member district plurality system of elections,³⁹ also known as winner-take-all elections. Only the

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36. Micah L. Sifry, *Spoiling for a Fight* (New York: Routledge, 2003), 45.

37.³⁸

38. Micah L. Sifry, *Spoiling for a Fight* (New York: Routledge, 2003), 45.

39.⁴⁰

highest vote getter in a district in federal and most state legislative elections gains a seat in office. Candidates who have a realistic chance of winning under such a system are almost always associated with the Democratic and Republican parties, which have a strong following among voters and necessary resources, such as funding and volunteers to work in campaigns.

In contrast, proportional representation (PR) systems, such as those used in most European democracies, allow multiple parties to flourish. PR systems employ larger, multimember districts where five or more members of a legislature may be selected in a single election district. Seats are distributed according to the proportion of the vote won by particular political parties. For example, in a district comprising ten seats, if the Democratic Party got 50 percent of the vote, it would be awarded five seats; if the Republican Party earned 30 percent of the vote, it would gain three seats; and if the Green Party earned 20 percent of the vote, it would be granted two seats.⁴¹ PR was used for a short time in New York City council elections in the 1940s but was abandoned after several communists and other minor-party candidates threatened the Democratic Party's stronghold.⁴³

40. Maurice Duverger, *Party Politics and Pressure Groups* (New York: Thomas Y. Crowell, 1972).

41.⁴²

42. Douglas J. Amy, *Real Choices/New Voices* (New York: Columbia University Press, 1993).

43.⁴⁴

44. Clinton Rossiter, *Parties and Politics in America* (Ithaca, NY: Cornell University Press, 1960).

Legal Obstacles

Minor parties are hindered by laws that limit their ability to compete with major parties. Democrats and Republicans in office have created procedures and requirements that make it difficult for minor parties to be listed on ballots in many states. In Montana, Oklahoma, and several other states, a candidate must obtain the signatures of least 5 percent of registered voters to appear on the ballot. A presidential candidate must collect over one million signatures to be listed on the ballot in every state. This is an insurmountable barrier for most minor parties that lack established organizations in many states.⁴⁵

Campaign finance laws work against minor parties. The 1974 Federal Election Campaign Act and its amendments provide for public financing of presidential campaigns. Rarely has a minor-party candidate been able to qualify for federal campaign funds as the party's candidates must receive 5 percent or more of the popular vote in the general election. Similar barriers hinder state-level minor-party candidates from receiving public funding for taxpayer-financed campaigns, although some states, such as Connecticut, are debating plans to rectify this situation.

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46. Steven J. Rosenstone, Roy L. Behr, and Edward H. Lazarus, *Third Parties in America*, 2nd ed. (Princeton, NJ: Princeton University Press, 2000).

Lack of Resources

The financial disadvantage of minor parties impedes their ability to amass resources that are vital to mounting a serious challenge to the two major parties. They lack funds to establish and equip permanent headquarters. They cannot hire staff and experienced consultants to conduct polls, gather political intelligence, court the press, generate new media outreach, or manage campaigns.⁴⁷

Lack of Media Coverage

Minor parties rarely receive significant media coverage except when they field a dynamic or outlandish candidate, such as Jesse Ventura, or when they are associated with a movement that taps into public concerns, such as the Tea Party. The dominant horserace frame employed by the media focuses on who is ahead and behind in an election and usually tags minor-party candidates as losers early

47.⁴⁸

48. Steven J. Rosenstone, Roy L. Behr, and Edward H. Lazarus, *Third Parties in America*, 2nd ed. (Princeton, NJ: Princeton University Press, 2000).

in the process. Media treat minor parties as distractions and their candidates as novelty acts that divert attention from the main two-party attractions.

Minor parties often are unable to air televised campaign ads because they lack funds. Even in the digital era, television advertising is an essential part of campaigns because it allows candidates to control their own message and reach large numbers of voters. Minor-party candidates have difficulty gaining publicity and gaining recognition among voters when they cannot advertise.

Minor-party candidates routinely are excluded from televised debates in which major-party candidates participate.⁴⁹ By being allowed to participate in the 1992 presidential debates, Reform Party candidate Ross Perot achieved national visibility and symbolic equality with incumbent president George W. Bush and Democratic candidate Bill Clinton.

Video Clip: Giant Sucking Sound: Ross Perot 1992 Presidential Debate



One or more interactive elements has been excluded from this version of the text. You can view them online

49.⁵⁰

50. Steven J. Rosenstone, Roy L. Behr, and Edward H. Lazarus, *Third Parties in America*, 2nd ed. (Princeton, NJ: Princeton University Press, 2000).

here: <https://library.achievingthedream.org/herkimeramericangovernment/?p=190#oembed-2>

Perot received significant press coverage from his debate performance. Minor-party candidates rarely have the opportunity to participate in televised presidential debates. An exception was Reform Party candidate Ross Perot, whose campaign was bolstered by his inclusion in the 1992 presidential debate with Republican George W. Bush and Democrat Bill Clinton.

These benefits were denied Ralph Nader when he was excluded from the presidential debates in 2000 because the Commission on Presidential Debates ruled that Nader did not have enough voter support to warrant inclusion.

Absorption by Major Parties

When a minor-party movement gains momentum, the Republican and Democratic parties move quickly to absorb the minor party by offering enticements to their members, such as support for policies that are favored by the minor party. Major-party candidates appeal to minor-party supporters by arguing that votes for minor-party

candidates are wasted.⁵¹ Major parties are often successful in attracting minor-party voters because major parties are permeable and ambiguous ideologically.⁵³

After the Democrats in Congress were instrumental in passing the Voting Rights Act in 1964, the Republican Party absorbed the southern Dixiecrats, a Democratic Party faction opposed to the legislation. The two major parties tried to attract Ross Perot's Reform Party supporters after his 1992 presidential bid, with the Republican Party succeeding in attracting the lion's share of votes. The Republican Party's position against big government appealed to Perot supporters.⁵⁵ Even though the Tea Party gravitates toward the Republican Party, Republicans have not universally accepted it.

51. ⁵²

52. Clinton Rossiter, *Parties and Politics in America* (Ithaca, NY: Cornell University Press, 1960).

53. ⁵⁴

54. J. David Gillespie, *Politics at the Periphery* (Columbia: University of South Carolina Press, 1993).

55. ⁵⁶

56. Ronald B. Rapoport and Walter J. Stone, "Ross Perot Is Alive and Well and Living in the Republican Party: Major Party Co-optation of the Perot Movement and the Reform Party," in *The State of the Parties*, 2nd ed., ed. John C. Green and Rick Farmer (Lanham, MD: Rowman & Littlefield, 2003), 337-53.

Key Takeaways

Minor parties offer an alternative to the dominant Republican and Democratic parties, but they have difficulty surviving. They arise to challenge the two major parties when people feel that their interests are not being met. There are four major types of minor parties: enduring, single-issue, candidate-centered, and fusion parties. Minor parties have difficulty winning high-level office but are able to fill seats at the county and local level. There are numerous challenges faced by minor parties in American politics, including winner-take-all elections, legal obstacles, lack of resources, and limited media coverage.

165. Video: Third Parties Are the Underpants Gnomes of American Politics

Could a third party fix the mess that is the United States Congress? Ezra Klein explains in the video below.



One or more interactive elements has been excluded from this version of the text. You can view them online

here: <https://library.achievingthedream.org/herkimeramericangovernment/?p=191#oembed-1>

166. Types of Interest Groups

Identify the main types of interest groups

Learning Activities

The learning activities for this section include:

- Reading: The Interest Group System

Take time to review and reflect on this activity in order to improve your performance on the assessment for this section.

167. G. Reading: The Interest Group System

Learning Objectives

After reading this section, you should be able to answer the following questions:

1. What are interest groups?
2. What are the main types of interest groups?
3. What are the most important elements of interest groups?
4. What incentives encourage interest group membership?
5. How do interest groups recruit members?
6. How do the media portray unions and union activity?
7. How do interest groups influence elections?

Interest groups are intermediaries linking people to government, and lobbyists work for them. These groups make demands on government and try to influence public policies in their favor. Their most important difference from political parties is that they do not seek elective office. Interest groups can be single entities, join associations, and have individual members. The [University of Texas at Austin](#) is an educational institution. Its main purposes are teaching and research. Like other educational institutions, it is an interest group when it tries to influence government policies. These policies include government funding for facilities and student

grants, loans, and work study. It may also try to influence laws and court decisions applying to research, admissions, gender equality in intercollegiate sports, and student records. It may ask members of Congress to earmark funds for some of its projects, thereby bypassing the normal competition with other universities for funds based on merit.¹

Single entities often join forces in associations. Associations represent their interests and make demands on government on their behalf. The University of Texas belongs to the Association of American Universities. General Electric (GE) belongs to over eighty trade associations, each representing a different industry such as mining, aerospace, and home appliances.³

Many interest groups have individuals as members. People join labor unions and professional organizations (e.g., associations for lawyers or political scientists) that claim to represent their interests.

1.²

2. James D. Savage, *Funding Science in America: Congress, Universities, and the Politics of the Academic Pork Barrel* (New York: Cambridge University Press, 1999); and Jeffrey Brainard and J. J. Hermes, "Colleges' Earmarks Grow, Amid Criticism," *Chronicle of Higher Education*, March 28, 2008.

3.⁴

4. Kay Lehman Schlozman and John T. Tierney, *Organized Interests and American Democracy* (New York: Harper & Row, 1986), 72–73.

Types of Interest Groups

Interest groups can be divided into five types: economic, societal, ideological, public interest, and governmental.

Economic Interest Groups

The major economic interest groups represent businesses, labor unions, and professions. Business interest groups consist of industries, corporations, and trade associations. Unions usually represent individual trades, such as the International Brotherhood of Teamsters. Most unions belong to an association, the [American Federation of Labor-Congress of Industrial Organizations](#) (AFL-CIO).

Economic interest groups represent every aspect of our economy, including agriculture, the arts, automobiles, banking, beverages, construction, defense, education, energy, finance, food, health, housing, insurance, law, media, medicine, pharmaceuticals, sports, telecommunications, transportation, travel, and utilities. These groups cover from head (i.e., the Headwear Institute of America) to toe (i.e., the American Podiatric Medical Association) and from soup

(i.e., the Campbell Soup Company) to nuts (i.e., the Peanut Butter and Nut Processors Association).⁵

Societal Interest Groups

Societal interest groups focus on interests based on people's characteristics, such as age, gender, race, and ethnicity, as well as religion and sexual preference. The [National Association for the Advancement of Colored People](#) (NAACP) is one of the oldest societal interest groups in the United States.

5.⁶

6. Jeffrey H. Birnbaum, *The Lobbyists: How Influence Peddlers Work Their Way in Washington* (New York: Times Books, 1993), 36.

Ideological Interest Groups

Ideological interest groups promote a reactionary, conservative, liberal, or radical political philosophy through research and advocacy. Interest groups that take stands on such controversial issues as abortion and gun control are considered ideological, although some might argue that they are actually public interest groups.

Public Interest Groups

Public interest groups work for widely accepted concepts of the common good, such as the family, human rights, and consumers. Although their goals are usually popular, some of their specific positions (e.g., environmental groups opposing offshore drilling for oil) may be controversial and challenged.

Government Interest Groups

Government interest groups consist of local, state, and foreign governments. They seek to influence the relevant policies and expenditures of the federal government.

Life Stages of Interest Groups

Interest groups commonly experience a life cycle of creation (or birth), growth and change (or evolution), and sometimes death.

Creation

As the United States has become more complex with new technologies, products, services, businesses, and professions, the US government has become more involved in the economy and society. People with common interests organize to solicit support

and solutions to their problems from government. Policies enacted in response to the efforts of these groups affect other people, who then form groups to seek government intervention for themselves. These groups may give rise to additional groups.⁷

Some interest groups are created in reaction to an event or a perceived grievance. The [National Right to Life Committee](#) (NRLC) was founded in 1973 in response to the U.S. Supreme Court's *Roe v. Wade* decision earlier that year legalizing abortion. However, groups may form long after the reasons for establishing them are obvious. The NAACP was not founded until 1909 even though segregation of and discrimination against black people had existed for many years.

7.⁸

8. This is known as disturbance theory. It was developed by David B. Truman in *The Governmental Process: Political Interests and Public Opinion*, 2nd ed. (New York: Alfred A. Knopf, 1971), chap. 4; and it was amplified by Robert H. Salisbury in "An Exchange Theory of Interest Groups," *Midwest Journal of Political Science* 13 (1969): 1–32.

Link: Oral Arguments in *Roe v. Wade*

Listen to oral arguments in *Roe v. Wade* [here](#).

Interest group entrepreneurs usually are important in the creation of groups. Often they are responding to events in their lives. After a drunk driver killed one of her daughters, Candy Lightner founded [Mothers Against Drunk Driving](#) (MADD) in 1980. She thereby identified latent interests: people who could be grouped together and organized to pursue what she made them realize was a shared goal, punishing and getting drunk drivers off the road. She was helped by widespread media coverage that brought public attention to her loss and cause.

Evolution and Demise

Interest groups can change over time. The [National Rifle Association](#) (NRA) started out as a sports organization in the late nineteenth century dedicated to improving its members' marksmanship. It became an advocate for law and order in the 1960s, until its official support for the 1968 Gun Control Act brought dissension in its ranks. Since the election of new leaders in 1977, the NRA has focused

on the Second Amendment right to bear arms, opposing legislation restricting the sale or distribution of guns and ammunition.⁹

Interest groups can also die. They may run out of funds. Their issues may lose popularity or become irrelevant. Slavery no longer exists in the United States and thus neither does the American Anti-Slavery Society.

How Interest Groups Are Organized

Interest groups have leaders and staff. They control the group, decide its policy objectives, and recruit and represent members.

9.¹⁰

10. Scott H. Ainsworth, *Analyzing Interest Groups: Group Influence on People and Policies* (New York: W. W. Norton, 2002), 87–88.

Leaders and Staff

Leaders and top staff usually run the interest group. They do so because they command its resources and information flow and have the experience and expertise to deal with public policies that are often complex and technical. Almost a century ago, Robert Michels identified this control by an organization's leaders and staff and called it "the iron law of oligarchy."¹¹

This oligarchy, or rule by the few, applies to single-entity interest groups and to most associations. Their leaders are appointed or elected and select the staff. Even in many membership organizations, the people who belong do not elect the leaders and have little input when the leaders decide policy objectives.¹³ Their participation is limited to sending in dues, expressing opinions and, if membership is voluntary, leaving when dissatisfied.

11.¹²

12. Robert Michels, *Political Parties: A Sociological Study of the Oligarchical Tendencies of Modern Democracy* (New York: Dover Publications, 1959; first published 1915 by Free Press).

13.¹⁴

14. Scott H. Ainsworth, *Analyzing Interest Groups: Group Influence on People and Policies* (New York: W. W. Norton, 2002), 114–15.

Voluntary Membership

People join membership interest groups voluntarily or because they have no choice.

When membership is voluntary, interest groups must recruit and try to retain members. Members help fund the group's activities, legitimize its objectives, and add credibility with the media.

Some people may not realize or accept that they have shared interests with others on a particular issue. For example, many young adults download music from the Internet, but few of them have joined the [Future of Music Coalition](#), which is developing ways to do this legally. Others may be unwilling to court conflict by joining a group representing oppressed minorities or espousing controversial or unpopular views even when they agree with the group's views.¹⁵

People do not need to join an interest group voluntarily when they can benefit from its activities without becoming a member. This is the problem of collective goods. Laws successfully lobbied for by environmental organizations that lead to cleaner air and water benefit members and nonmembers alike. However, the latter get a free ride.¹⁷

15.¹⁶

16. Scott Sigmund Gartner and Gary M. Segura, "Appearances Can Be Deceiving: Self Selection, Social Group Identification, and Political Mobilization," *Rationality and Society* 9 (1977): 132–33.

17.¹⁸

There are three types of incentives that, alone or in combination, may overcome this free-rider problem. A purposive incentive leads people voluntarily to join and contribute money to a group because they want to help the group achieve its goals. Membership in the [American Civil Liberties Union](#) (ACLU) increased by one hundred thousand in the eighteen months following the 9/11 attacks as the group raised concerns that the government's antiterrorism campaign was harming civil liberties.¹⁹ In addition, people may join groups, such as the [Union of Concerned Scientists](#), because of a solidarity incentive. The motivation to join the group stems from the pleasure of interacting with like-minded individuals and the gratification of publicly expressing one's beliefs.

People may also join groups to obtain material incentives available only to members. [AARP](#), formerly the American Association of Retired Persons, has around thirty-five million members. It obtains this huge number by charging a nominal annual membership fee and offering such material incentives as health insurance and reduced prices for prescription drugs. The group's magazine is sent to members and includes tax advice, travel and vacation information, and discounts.

18. See Mancur Olson Jr., *The Logic of Collective Action: Public Goods and the Theory of Groups* (Cambridge, MA: Harvard University Press, 1965).

19.²⁰

20. Eric Lichtblau, "[F.B.I. Leader Wins a Few at Meeting of A.C.L.U.](#)," *New York Times*, June 14, 2003, accessed March 23, 2011.

Recruitment

One way interest groups recruit members is through media coverage. The appealingly named [Center for Science in the Public Interest](#) (CSPI) is a consumer organization that focuses on food and nutrition issues, produces quality research, and has media savvy. It is a valuable source of expertise and information for journalists. The frequent and favorable news coverage it receives brings the group and its activities to the public's attention and encourages people to support and join it.

News coverage of an interest group does not always have to be favorable to attract members. Oftentimes, stories about the NRA in major newspapers are negative. Presenting this negative coverage as bias and hostility against and attacks on gun owners, the group's leaders transform it into purposive and solidarity incentives. They use e-mail "to power membership mobilization, fund raising, single-issue voting and the other actions-in-solidarity that contribute to [their] success."²¹

Groups also make personalized appeals to recruit members and solicit financial contributions. Names of people who might be sympathetic to a group are obtained by purchasing mailing lists from magazines, other groups, and political parties. Recruitment letters and e-mails often feature scare statements, such as a claim that Social Security is in jeopardy.

Interest groups recruit members, publicize their activities, and

21. ²²

22. Brian Anse Patrick, *The National Rifle Association and the Media: The Motivating Force of Negative Coverage*(New York: Peter Lang, 2002), 9.

pursue their policy objectives through the new media. The [Save Our Environment Action Center](#) consists of twenty national environmental groups pooling their databases of supporters and establishing a website. Through this network, people can receive informational newsletters via e-mail, sign petitions, and contact their representatives.

Required Membership

Employment in most automobile plants requires that workers are members of the [International Union, United Automobile, Aerospace and Agricultural Implement Workers of America](#) (UAW). Workers fought to establish unions to improve their wages, working conditions, and job opportunities. One way of achieving these objectives was to require all workers at a plant to be union members. But union membership has plummeted as the United States has moved from a manufacturing to a service economy and employers have effectively discouraged unionization. Many jobs do not have unions for workers to join whether they want to or not. Today only about 12 percent of workers belong to a union compared to a high of 35.5 percent in 1945. Only 7 percent of private sector workers belong to a union. A majority of union members now work for the government.

Media Depictions of Unions

One reason for the decline of unions is their mainly negative portrayal in the mass media.²³ There are hardly any labor-beat reporters in the news media, so union officials are infrequently used as sources and are consequently unable to frame union news to their advantage.

Strikes are the union action most often shown in the news. These are usually framed not as legitimate collective tactics to improve wages and working conditions, but as hurting or inconveniencing consumers by disrupting services (e.g., suspending classes in elementary and high schools) and causing the cancellation of events (e.g., professional sporting games).²⁵

Unions are rare in movies. *Norma Rae* (1979), *Matewan* (1987), and the documentary *Harlan County, USA* (1977), favorably portray workers' struggles to organize and strike for better working conditions, wages, and security, against exploiting employers. But in the classic union film, the Academy Award-winning *On the Waterfront* (1954), the union is corrupt, violent, and linked to

23. ²⁴

24. William J. Puette, *Through Jaundiced Eyes: How the Media View Organized Labor* (Ithaca, NY: ILR Press, 1992).

25. ²⁶

26. For an exception, see Deepa Kumar, *Outside The Box: Corporate Media, Globalization, and the UPS Strike* (Urbana: University of Illinois Press, 2007).

organized crime; the union leaders exploit members to enrich themselves.

Representation

Groups claim to represent the interests of their members or constituents, but these interests may conflict. In an extensive study, Dara Z. Strolovitch found that civil rights organizations prioritized the interests of their middle-class members over the interests of the poor and working class. For example, they pushed for affirmative action rather than welfare and antipoverty policies.²⁷

A problem for AARP is that, aside from being fifty or over, its members may have little in common. In 1988, AARP supported legislation setting up a catastrophic health insurance plan in Medicare to provide insurance for elderly people faced with huge medical bills for major illnesses. After the plan went into effect, many seniors objected to the increase in their Medicare premiums and an annual surtax of as high as \$800. Their complaints were widely covered in the media. Congress repealed the program the next year.

27.²⁸

28. *Affirmative Advocacy: Race, Class, and Gender in Interest Group Politics* (Chicago: University of Chicago Press, 2007).

Even when members share a group's general goals they may reject some of its policy proposals or tactics. In 2009, Apple quit the U.S. Chamber of Commerce because the chamber opposed global-warming legislation.

Interest Groups and Elections

Interest groups become involved in elections to influence policymakers. They may contribute funds, make independent expenditures, advocate issues, and mobilize voters. Wealthy groups help pay for the presidential nominating conventions and the presidential inauguration. They give funds to political parties because “by helping party leaders retain or regain control of the House or Senate, policymaking rewards . . . follow.”²⁹

29.³⁰

30. Michael M. Franz, *Choices and Changes: Interest Groups in the Electoral Process* (Philadelphia, PA: Temple University Press, 2008), 7.

Endorsing Candidates

Interest groups may endorse candidates for office and, if they have the resources, mobilize members and sympathizers to work and vote for them. President Bill Clinton blamed the NRA for Al Gore losing the 2000 presidential election because it influenced voters in several states, including Arkansas, West Virginia, and Gore's home state of Tennessee. Had any of these states gone for Gore, he would have won the election.

Interest groups can promote candidates through television and radio advertisements. During the 2004 presidential election, the NRA ran a thirty-minute infomercial in battleground states favoring President George W. Bush and calling his opponent “the most anti-gun presidential nominee in United States history.” In 2008, the NRA issued ads endorsing Republican presidential candidate John McCain and his running mate, Sarah Palin.

Endorsements do carry risks. If the endorsed candidate loses, the unendorsed winner is likely to be unsympathetic to the group. Thus relatively few interest groups endorse presidential candidates and most endorsements are based on ideology.

Funding Candidates

Made possible by the 1971 Federal Election Campaign Act (FECA), political action committees (PACs) are a means for organizations,

including interest groups, to raise funds and contribute to candidates in federal elections. Approximately one-third of the funds received by candidates for the House of Representatives and one-fifth of funds for Senate candidates come from PACs.

However, in January 2010 the Supreme Court ruled that the government cannot ban political spending by corporations in candidate elections. The court majority justified the decision on the grounds of the First Amendment's free speech clause. The dissenters argued that allowing unlimited spending by corporations on political advertising would corrupt democracy.³¹

Many interest groups value candidates' power above their ideology or voting record. Most PAC funds, especially from corporations, go to incumbents. Chairs and members of congressional committees and subcommittees who make policies relevant to the group are particularly favored. The case of Enron, although extreme, graphically reveals such funding. Of the 248 members of Congress on committees that investigated the 2002 accounting scandals and collapse of the giant corporation, 212 had received campaign contributions from Enron or its accounting firm, Arthur Andersen.³³

31. ³²

32. The case is *Citizens United v. Federal Election Commission*, No. 08-205. See also Adam Liptak, "[Justices, 5-4, Reject Corporate Spending Limit](#)," *New York Times*, January 21, 2010, accessed March 23, 2011.

33. ³⁴

34. Don Van Natta Jr., "[Enron's Collapse: Campaign Finance: Enron or Andersen Made Donations to Almost All Their](#)

Some interest groups do fund candidates on the basis of ideology and policy preference. Ideological and public interest groups base support on candidates' views even if their defeat is likely. Pro-life organizations mainly support Republicans; pro-choice organizations mainly support Democrats.

The interest group-candidate relationship is a two-way street. Many candidates actively solicit support from interest groups on the basis of an existing or the promise of a future relationship. Candidates obtain some of the funds necessary for their campaigns from interest groups; the groups who give them money get the opportunity to make their case to sympathetic legislators. A businessman defending his company's PAC is quoted as saying, "Talking to politicians is fine, but with a little money they hear you better."³⁵

Much better. The [Center for Responsive Politics](#) shows correlations between campaign contributions and congressional voting. After the House of Representatives voted 220-215 in 2003 to pass the Medicare drug bill, the organization reported that "lawmakers who voted to approve the legislation have raised an average of roughly twice as much since 1999 from individuals and PACs associated with health insurers, HMOs [Health Maintenance Organizations] and pharmaceutical manufacturers as those who voted against the bill."³⁷

[Congressional Investigators](#)," *New York Times*, January 25, 2002, accessed March 23, 2011.

35.³⁶

36. Mark Green, "Political PAC-Man," *New Republic* 187, no. 24 (December 13, 1982): 18.

37. Center for Responsive Politics, "[Money and Medicare](#):"

Key Takeaways

Interest groups are diverse in membership and purpose. They are created, may evolve in composition and goals, and sometimes die out. Interest group entrepreneurs may be integral to the creation of interest groups. Different types of incentives encourage interest group membership, and organizations use various methods to recruit new members. The media are particularly critical of labor unions. Interest groups try to influence elections in order to advance their policy objectives.

[Campaign Contributions Correlate with Vote,”](#)

OpenSecrets Blog, November 24, 2003.

168. Lobbying

Explain the nature and role of lobbying in the political system

Learning Activities

The learning activities for this section include:

- Reading: Lobbying: The Art of Influence

Take time to review and reflect on this activity in order to improve your performance on the assessment for this section.

169. H. Reading: Lobbying: The Art of Influence

Learning Objectives

After reading this section, you should be able to answer the following questions:

1. What is lobbying?
2. How do lobbyists gain access to public officials?
3. What is grassroots lobbying?
4. How do lobbyists attempt to influence Congress, the president, the bureaucracy, and the courts?
5. How is lobbying regulated?

Interest groups employ lobbyists to protect and advance their interests. Lobbyists do this through lobbying: informing, persuading, and pressuring policymakers to support the group's objectives.

The more policies the government proposes, the more lobbyists become involved. In response to the greatest financial crisis since the Great Depression of the 1930s, the Obama administration proposed to overhaul the regulation and increase oversight of the financial system. This generated a bonanza of business for lobbyists. Lobbyists represented banks, mutual funds, hedge funds, and credit

card companies as well as companies in manufacturing, retail, and service who could be affected by changes in the laws.

The Lobbyists

There are as many as eighty thousand lobbyists in Washington, DC.¹ Some of them go through a revolving door between government service and lobbying. Former presidential aides are prominent and powerful among them. More than two hundred lobbyists are former members of Congress. Others have worked for congressional committees or the agencies they now lobby. These former public servants have expertise, access, and contacts among policymakers.

This move from public service to private enrichment, cashing in on connections, is grist for the news media. The *New York Times* reported that Wall Street's financial firms had more than 125 former members of Congress and congressional aides working to limit the policies proposed by the Obama administration and the Democratic majority in Congress to overhaul and intensify regulation of the industry. They included Richard H. Baker, a former chairman of a subcommittee of the House Financial Services Committee. As president of the hedge funds' Managed Funds Association, Baker

1. ²

2. John R. Wright, *Interest Groups and Congress* (Boston: Allyn and Bacon, 1996), 9–10.

led the fight to prevent government oversight of hedge funds. The association spent \$3.7 million in 2009 lobbying federal officials.³

The *Times* later reported that the government agencies (such as the Securities and Exchange Commission, the Commodity Futures Trading Commission, the Office of Thrift Supervision, and the Federal Reserve) that were deciding on the at least 243 regulations to implement the new, 2,300-page banking law were being lobbied by 148 of their former employees, who had recently been hired away from the agencies. Asked by the *Times*' reporter if he had an edge in lobbying, one of them replied, "The answer is yes, it does. If it didn't, I wouldn't be able to justify getting out of bed in the morning and charging the outrageous fees that we charge our clients, which they willingly pay."⁵

Lobbyists also take positions in the federal government. They bring expertise from their jobs and usually take a pay cut. They are familiar with and may be sympathetic to their industry's policy agenda. Before he became President George W. Bush's chief of staff, Andrew Card was General Motors' chief lobbyist in Washington, DC.

3. ⁴

4. Eric Lichtblau, "[Lawmakers Regulate Banks, Then Flock to Them](#)," *New York Times*, April 13, 2010, accessed March 23, 2011.

5. ⁶

6. Eric Lichtblau, "[Ex-Regulators Get Set to Lobby on New Financial Rules](#)," *New York Times*, July 27, 2010, accessed on March 23, 2011.

What Lobbyists Do

Lobbying is done by members of the group's or association's staff, a law or lobbying firm that specializes in representing clients before government, or both. In addition to lobbying, firms may offer such services as public relations, research, polling, direct-mail, and grassroots campaigns.⁷

Gaining Access

Lobbyists need access to policymakers in order to make their cases. But public officials are not obliged to meet with lobbyists, take their telephone calls, or look at their e-mail messages. Access is granted when the policymaker has received campaign contributions from the group, is sympathetic to its interests, or the group's policy objectives are important to constituents back home.

Ensuring access often involves building relationships. Lobbyists attend elected officials' fund-raisers and receptions and hand over

7. The Center for Responsive Politics has compiled a comprehensive database of lobbyist activities. "[Lobbying Database](#)," Center for Responsive Politics, accessed March 23, 2011.

campaign checks from their groups. They meet policymakers informally at dinners, golf games, sporting events, parties, and weddings. They enable lawmakers to fly on corporate jets at discounted rates and then join them for the ride. However, legislation has limited some of these benefits.

Providing Information

After being granted access, lobbyists try to convince public officials to support or accept or, at least, not oppose the interest group's policy positions. They provide three types of information. First, they provide information about current or proposed laws and regulations that are relevant to the group's interests. Second, they supply political information about whether the policymakers' constituents would be affected by a new policy and whether public opinion would support or oppose a policy change. Third, they offer technical information about the implications and possible effects of policy proposals.

Lobbying Congress

Some interest groups encourage their members and others to contact their legislators on behalf of a policy position the group advocates. This is called grassroots lobbying. Hired firms use data banks, telephone banks, and direct mail to contact people likely to be responsive to the group. Messages are crafted through focus groups and surveys. All this costs money. So grassroots lobbying is mainly done by amply funded interest groups on major public policy issues like the minimum wage.

Lobbyists may have extensive involvement with members of Congress and their staff in personal, committee, and leadership offices. Some lobbyists intervene from the start of the congressional policymaking process, encourage or discourage the introduction of proposed legislation, and try to influence its contents. They may draft a bill and work with congressional staff to sign up cosponsors. They may help organize congressional hearings, decide on the timing of the hearings, identify people to testify, write testimony for some of them, and provide questions for legislators to ask witnesses.⁸

Lobbyists may be involved with the subcommittee or committee markup of a bill. They may attempt to modify its language, add amendments, and work to have the bill approved or defeated by

8. ⁹

9. Rogan Kersh, "Corporate Lobbyists as Political Actors: A View from the Field," in *Interest Group Politics*, 6th ed., ed. Allan J. Cigler and Burdett A. Loomis (Washington, DC: CQ Press, 2002), 227.

subcommittee or committee vote. They try to persuade members to vote for or against the bill on the floor.

These activities take place in both the House of Representatives and the Senate, as well as the House-Senate conference committee held to reconcile and resolve differences between bills passed by each chamber, and in the final House and Senate votes.

Lobbyists can also try to influence the amount of money Congress appropriates for agencies and programs. After the U.S. Department of Justice brought an antitrust lawsuit against Microsoft in October 1997, the company called upon lawmakers to approve the lowest possible budget for the department. Its objectives were to punish the Justice Department and reduce its enforcement funds.

Lobbying the President

Depending on personal preferences, ideological inclinations, and political needs, the president may be in contact with business, industry, labor, and other interest group leaders. Normally, however, communications with interest groups are made on the president's behalf by individual members of the White House staff and by the White House Office of Public Engagement and, on occasion, Office of Management and Budget (OMB).

Presidents can cater to interest groups they favor or that have supported them or whose support they seek by pushing policies the interest groups desire. Usually, these are policies the president favors anyway. For example, President George W. Bush imposed restrictions on stem cell research, while President Barack Obama removed these restrictions shortly after taking office.

Interest groups supporting a presidential proposal can try to convince members of Congress with whom they have influence to vote in its favor. The White House may solicit such support as the George W. Bush administration did to gain the endorsement of AARP (formerly the American Association of Retired Persons) and an expensive advertising campaign in support of the bill adding drug coverage to Medicare. But interest groups may not be permanent or even reliable allies. For example, in 2005 AARP opposed President Bush's proposal to "reform" Social Security.

Lobbying Governmental Agencies

Bureaucrats are important to interest groups because they usually have leeway to decide what laws mean and how to administer and implement them. For example, the guidelines bureaucrats issued to carry out the Medicare drug benefit determined which drugs and medical devices would be covered. Lobbyists for doctors, hospitals, insurers, drug companies, pharmacies, and medical equipment manufacturers contacted bureaucrats directly about these decisions.¹⁰

10.¹¹

11. Robert Pear, "[Medicare Law Prompts a Rush for](#)

In a dramatic example of the importance of regulators' discretion and the influence of groups, Toyota saved roughly \$100 million by negotiating with regulators at the National Highway Traffic Safety Administration (NHTSA) to limit the recall of 2007 Toyota Camry and Lexus ES models for sudden acceleration. Toyota was allowed to recall the floor mats it claimed could become lodged under the accelerator pedal.¹²

Lobbying the Courts

Interest groups are affected by court decisions. It matters to them who the judges are in terms of their legal philosophy, policy preferences, and partisan affiliation. Interest groups who have the attention of the White House seek to influence the president's selection of federal judges by suggesting candidates and screening those on the short list.

Groups for or against nominees lobby senators to approve, delay,

[Lobbyists](#),” *New York Times*, August 23, 2005, accessed March 23, 2011.

12.¹³

13. Micheline Maynard, “[House Panel Says Toyota Misled Public on Safety](#),” *New York Times*, February 23, 2010, accessed March 23, 2011.

or reject confirmation. Media-oriented tactics include testifying at hearings of the Senate Judiciary Committee, feeding negative or positive information about nominees to senators and reporters, sponsoring radio and television advertisements, and organizing grassroots campaigns.¹⁴

Interest groups pursue their goals in court.¹⁶ They may challenge a policy, appeal adverse decisions by other branches of government, and file suits against public officials to require them to take or refrain from taking some action. The U.S. Chamber of Commerce's National Chamber Litigation Center represents the interests of business before the courts.

Certain interest groups use the courts as the main way to try to achieve their objectives. For example, the American Civil Liberties Union (ACLU) often brings cases before the courts to assert and protect constitutional rights. During the 1970s the ACLU's Women's Rights Project, headed by Ruth Bader Ginsburg (later to be appointed to the Court by President Clinton), filed the majority of cases that challenged discrimination against women and were heard by the Supreme Court.

Interest groups may also go to court when they lack influence in the legislative and executive branches. The National Association for the Advancement of Colored People (NAACP) mounted a litigation

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15. Lauren Cohen Bell, *Warring Factions: Interest Groups, Money, and the New Politics of Senate Confirmation* (Columbus: Ohio State University Press, 2002).

16.¹⁷

17. For the advantages and disadvantages of going to the courts, see Julianna S. Gonen, *Litigation as Lobbying* (Columbus: Ohio State University Press, 2003).

campaign against segregation laws, culminating in its notable victory in the Supreme Court's 1954 unanimous school desegregation decision of *Brown v. Board of Education*.

Link: *Brown v. Board of Education*

Find more information on *Brown v. Board of Education* [here](#).

Regulation of Lobbying

As the opening anecdote from *The Simpsons* illustrates, interest groups in general and lobbyists in particular receive bad press. The media send out a drumbeat of criticism featuring stories of corruption and scandals in the relations of policymakers and lobbyists.

The media's negative depictions of lobbying and the concern of members of Congress to refute accusations of being beholden to "special interest groups" (a derogatory term) have produced

proposals to regulate lobbyists and lobbying. These are designed to correct abuses, placate the media, and reassure the public. They increase the amount of information about and the visibility of lobbying, eliminate the appearance of corruption, and may reduce lobbyists' influence over the policymaking process.

Comparing Coverage: Jack Abramoff

Jack Abramoff's meteoric rise began in 1995, soon after the Republicans took over Congress and interest groups and lobbying firms hired lobbyists connected to Republican legislators and conservative organizations. His lobbying successes started with keeping the government of the Northern Mariana Islands, an American territory in the Pacific, exempt from American labor laws; the islands' factories could pay their workers a pittance yet still label their products "Made in America." Then he saved a Native American tribe, the Mississippi Band of Choctaws, hundreds of millions in possible taxes by helping defeat a proposal to tax casino revenues. Other Native American tribes hired him, as he worked to defeat legislation to subject them to state taxes.

Initial media coverage of Abramoff was favorable. On July 3, 2000, the *Wall Street Journal* published a front-page story describing his

“money, methods and results” as “exceptional.”¹⁸ On April 2002 the *New York Times* published a similar front-page story, with quotes such as “I call Jack Abramoff, and I get results” and, from the lobbyist himself, “All of my political work . . . is driven by philosophical interests, not by a desire to gain wealth.”²⁰ Both stories included criticisms of the lobbyist but depicted the man and his power and accomplishments positively overall.

On February 22, 2004, a front-page story in the *Washington Post* exposed Abramoff in the first of a series of investigative reports that would continue over three years.²² According to an article in *Vanity Fair*, “Abramoff believes the media’s negative coverage, leading to his downfall, began with competing Republican lobbyists who coveted his clientele and fed damaging information about him to the newspaper.”²⁴

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19. Jim VandeHei, “Rain Dance: Mississippi Choctaw Find an Unlikely Ally In a GOP Stalwart...,” *Wall Street Journal*, July 3, 2000.

20.²¹

21. David E. Rosenbaum, “[At \\$500 an Hour, Lobbyist’s Influence Rises with G.O.P.](#),” *New York Times*, April 3, 2002, accessed March 23, 2011.

22.²³

23. Susan Schmidt, “[A Jackpot from Indian Gaming Tribes](#),” *Washington Post*, February 22, 2004, accessed March 23, 2011.

24.²⁵

The stories revealed that Abramoff had exploited the Native American tribes. Casino-rich tribes had paid him and a public relations firm more than \$45 million over three years. Abramoff had used some of the money to bribe members of Congress, make campaign contributions, hold fundraising events, and provide lavish trips, seats in sports boxes, and dinners for members of Congress as well as jobs for their relatives.

Adding to Abramoff's woes, Republican Senator John McCain held several days of media-covered hearings in 2004 and 2005 exposing his activities. According to Abramoff, McCain's aides heightened the negative media coverage by doling out embarrassing e-mails to the press in which the lobbyist ridiculed his Native American clients as "morons" and "monkeys" and threatened to crush rival lobbyists like bugs.²⁶

On January 3, 2006, Abramoff pled guilty to fraud, tax evasion, and conspiracy to bribe public officials.

The first comprehensive lobbying regulation was enacted in 1946. The Legislative Reorganization Act required lobbyists to register their affiliation and record their finances.²⁸ Later, the [1995](#)

25. David Margolick, "Washington's Invisible Man," *Vanity Fair*, April 2006, 247.

26.²⁷

27. David Margolick, "Washington's Invisible Man," *Vanity Fair*, April 2006, 200.

28.²⁹

29. US Government Printing Office, "[Legislative Reorganization Acts: Provisions of the Legislative](#)

[Lobbying Disclosure Act](#) required lobbying firms and lobbyists to register with Congress and file reports twice per year listing their compensation, clients, lobbying expenses, and issues they are following for each of their clients.³⁰ Only trivial gifts from lobbyists to legislators are allowed.³²

In 2006, a series of corruption scandals contributed to the Republicans losing control of Congress. During the election Democrats pledged to reform the culture of Washington, DC. In 2007, the Democrat-controlled Congress passed and President George W. Bush signed a law establishing new ethics and lobbying rules for Congress. Its main provisions bar members from accepting gifts, meals, or trips from lobbyists or the organizations that employ them, requires the filing of lobbying reports on the Internet, and increases the civil and criminal penalties for failing to comply with lobbying laws.

When Barack Obama became president in 2009, he issued an executive order forbidding appointees in every executive agency from accepting gifts, participating for two years on any matter they had worked on in prior employment, lobbying Congress for two years after leaving the administration, and ever lobbying the Obama

[Reorganization Acts of 1946 and 1970 Applicable to Both Houses](#),” accessed April 4, 2011.

30.³¹

31. US House of Representatives, Office of the Law Revision Counsel, “[2 USC Chapter 26: Disclosure of Lobbying Activities](#),” accessed April 4, 2011.

32.³³

33. Lobbying Disclosure Act of 1995, Pub. L. No. 104-65, 109 Stat. 691-706 (December 19, 1995).

administration.³⁴ However, the manipulation of legal loopholes and a lack of stringent enforcement can undermine the effectiveness of any lobbying regulations.

Key Takeaways

Interests groups use lobbyists to influence public officials. Lobbyists seek access to public officials in all government branches. Lobbyists try to influence government officials by providing information regarding their group's interests and through grassroots lobbying. Many lobbyists are former public officials. The media are often critical of lobbying, and various attempts have been made to regulate lobbyists and lobbying. The manipulation of legal loopholes and the lack of stringent enforcement sometimes undermine lobbying regulations.

34.³⁵

35. "[Executive Order—Ethics Commitments by Executive Branch Personnel](#)," January 21, 2009.

170. Influencing Policy

Describe the nature of interest groups' influence on policymaking

Learning Activities

The learning activities for this section include:

- Reading: Interest Groups and the Political System
- Video: Martin Gilens and Benjamin Page Interview
- Reading: Interest Groups in the Information Age

Take time to review and reflect on each of these activities in order to improve your performance on the assessment for this section.

171. I. Reading: Interest Groups and the Political System

Learning Objectives

After reading this section, you should be able to answer the following questions:

1. What factors determine an interest group's success?
2. What are the levels of influence that interest groups can possess in their relations with policymakers?
3. What is pluralism?
4. What are the strengths and weaknesses of business interest groups?

In the book *The Israel Lobby and U.S. Foreign Policy*, John J. Mearsheimer and Stephen M. Walt argue that the activities of interest groups, notably the [American Israel Public Affairs Committee](#), are one reason why, since World War II, the United States has provided more direct economic and military support to Israel than any other ally and pursues a policy of preserving and

enhancing Israel's security.¹ This raises the question of why interest groups succeed or fail to achieve their policy objectives.

Why Interest Groups Are (or Are Not) Successful

The main factors determining an interest group's effectiveness are its assets, objectives, alliances, the visibility of its involvement in

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2. John J. Mearsheimer and Stephen M. Walt, *The Israel Lobby and U.S. Foreign Policy* (New York: Farrar, Straus & Giroux, 2007). See also the critique by Robert C. Lieberman, "The 'Israel Lobby' and American Politics," *Perspectives on Politics* 7, no. 2 (June 2009): 235–57; the rebuttal by John J. Mearsheimer and Stephen M. Walt, "The Blind and the Elephant in the Room: Robert Lieberman and the Israel Lobby," *Perspectives on Politics* 7, no. 2 (June 2009): 259–73; and the rejoinder by Robert Lieberman, "Rejoinder to Mearsheimer and Walt," *Perspectives on Politics* 7, no. 2 (June 2009): 275–81.

policy decisions, and its responses to political change and crises, plus, of course, the media's depiction of it.

Assets

Successful interest groups have prestige, respected leadership, political skills, and ample finances. The Business Roundtable, composed of the chief executives of the two hundred leading corporations, has them all and thus has access to and influence on policymakers. Monetary assets allow groups to contribute to political campaigns through their political action committees (PACs).

The status and distribution of an interest group's members also contribute to its success. Automobile dealers are influential and live, as do their employees, in congressional districts across the country. After President Barack Obama proposed putting automobile loans under the oversight of a new federal consumer authority aimed at protecting borrowers from abusive lender, the dealers' lobbying arm, the [National Automobile Dealers Association](#), organized opposition, including trips to Washington for some of the eighteen thousand dealers to meet and plead their case with their legislators.³ Congress exempted auto dealers from the regulation.

3.⁴

4. Eric Lichtblau, "[Auto Dealers Campaign to Fend Off](#)

Objectives

The ease or difficulty of achieving a group's goals can determine its success. Preventing legislation from being enacted is usually easier than passing it. In a comprehensive study of interest group activities during the last two years of the Clinton administration and the first two years of the George W. Bush administration, researchers found that although some advocates succeed eventually in changing policy, "[t]he vast bulk of lobbying in Washington has to do not with the creation of new programs, but rather with the adjustment of existing programs or with the maintenance of programs just as they are."⁵

Moreover, legislation enacted over the opposition of powerful interest groups, tends to be watered down. Or the political costs

[Regulation](#)," *New York Times*, May 16, 2010, accessed March 23, 2011.

5.⁶

6. Frank R. Baumgartner, Jeffrey M. Berry, Marje Hojnacki, David C. Kimball, and Beth L. Leech, *Lobbying and Policy Change: Who Wins, Who Loses, and Why* (Chicago: University of Chicago Press, 2009), 240. See also R. Kenneth Godwin and Barry J. Seldon, "What Corporations Really Want from Government: The Public Provision of Private Goods," in *Interest Group Politics*, 6th ed., ed. Allan J. Cigler and Burdett A. Loomis (Washington, DC: CQ Press, 2002), 205–224.

of its passage are so heavy that its proponents in the presidential administration and Congress are discouraged from challenging the groups again.

Alliances

Interest groups sometimes cooperate with other groups to help them achieve a policy objective they could not accomplish alone. A coalition expands resources, broadens expertise, and adds to the credibility of the policy objectives. Alliances are often of natural allies such as the [National Restaurant Association](#), the [American Nursery and Landscape Association](#), and the [National Council of Agricultural Employers](#), who united to oppose restrictions on immigration and penalties on businesses that employ illegal immigrants. But they can be made up of strange bedfellows, as when the American Civil Liberties Union (ACLU) and the National Rifle Association (NRA) allied to oppose the U.S. Department of Justice putting raw, unsubstantiated data into a national computer network. For the ACLU, it was a violation of people's right to privacy; for the NRA, it was a move toward denying people the right to bear arms.⁷

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8. Jeffrey M. Berry, and Clyde Wilcox, *The Interest Group Society*, 3rd. ed. (New York: Longman, 2008), 188–190.

Visibility of Policy Involvement

Interest groups are often most successful when their activities are unreported by the media, unscrutinized by most policymakers, and hidden from the public. Opposition to a group's activities is difficult when they are not visible. As one lobbyist observed, "A lobby is like a night flower, it thrives in the dark and dies in the sun."⁹

In what are called iron triangles, or subgovernments, policy on a subject is often made by a relatively few people from Congress, the bureaucracy, and interest groups. A classic iron triangle has been veterans' affairs policy. Members of Congress chairing the relevant committees and subcommittees and their aides, key agency administrators from the U.S. Department of Veterans Affairs, and representatives from interest groups such as the American Legion and the Veterans of Foreign Wars (VFW) have interacted and dominated policymaking.¹¹ This policymaking has taken place with low visibility and very little opposition to the benefits provided for veterans. In general, the news media pay little attention to iron

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10. Jeffrey Goldberg, "[Real Insiders](#)," *New Yorker*, July 4, 2005, accessed March 23, 2011.

11.¹²

12. J. Leiper Freeman, *The Political Process: Bureau-Legislative Committee Relations*, rev. ed. (New York: Random House, 1965).

triangles in the absence of conflict and controversy, and interest groups are likely to achieve many of their objectives.

Political Change and Crises

Whether interest groups defend what they have or go on the offense to gain new benefits often depends on who is in control of the government. Some interest groups' goals are supported or opposed far more by one political party than another. A new president or a change in party control of Congress usually benefits some groups while putting others at a disadvantage. The Republican takeover of the House of Representatives in the 2010 election put a brake on new regulation of business by Congress, reduced funds for regulators to hire staff and enforce regulation, and limited investigations of industry practices.

Crises, especially ones extensively depicted by the media, often involve politicians and interest groups trying to achieve or prevent policy changes. Looking to exploit the horrific BP (British Petroleum) oil spill of 2010 in the Gulf of Mexico (which was widely covered in the media and replete with images of the oil-infested waters and oil-coated beaches and wildlife), environmentalists and their congressional allies worked for “measures to extend bans on new offshore drilling, strengthen safety and environmental safeguards, and raise to \$10 billion or more the cap on civil liability

for an oil producer in a spill.”¹³ Opposing them were the oil and gas industry, which, according to the Center for Responsive Politics, spent \$174.8 million on lobbying in 2009, and its allies in Congress from such oil states as Texas and Louisiana.

Relations between Interest Groups and Policymakers

When viewed overall, there is a hierarchy in the influence of relations between interest groups and policymakers.¹⁵

- At the top, the interest group makes policy. This is uncommon.

13.¹⁴

14. Eric Lichtblau and Jad Mouawad, “[Oil Companies Weigh Strategies to Fend Off Tougher Regulations](#),” *New York Times*, June 2, 2010, accessed March 23, 2011.

15.¹⁶

16. These categories come from Samuel J. Eldersveld, “American Interest Groups,” in *Interest Groups on Four Continents*, ed. Henry W. Ehrmann (Pittsburgh, PA: University of Pittsburgh Press, 1958), 187.

- More common, the group maintains close political relations with policymakers.
- The group has an unchallengeable veto status over some governmental decisions, for example, over a presidential appointment.
- The group receives some attention from policymakers but mainly has a pressure relationship with them.
- The group has only a potential reprisal relationship with policymakers; it can threaten to oppose a member of Congress at the next election.
- At the bottom of the ladder, rejected by policymakers, the group is left to agitate and resist; its public demonstrations usually signify its inability to achieve its objectives by less visible means.

The relationships between interest groups and policymakers vary depending on the administration in power. Energy companies had a close political support and referral relationship with the George W. Bush administration but primarily a pressure relationship with the Obama administration. Relationships also vary by subject. For example, a Democratic president's choice to head the U.S. Department of Labor may have to be acceptable to the American Federation of Labor and Congress of Industrial Organizations (AFL-CIO), but the union organization has little influence over other cabinet appointments.

Who Benefits from Interest Groups?

In Federalist No. 10, James Madison warns of the dangers of factions: “[A] number of citizens, whether amounting to a majority or minority of the whole, who are united and actuated by some common impulse of passion, or of interest, adverse to the rights of other citizens, or to the permanent and aggregate interests of the community.”¹⁷¹⁸ Madison believed that factions were inevitable, because their causes were “sown in the nature of man.”²⁰

Madison’s factions are not exactly today’s interest groups. Indeed, interest groups, by representing diverse segments of society, offset one of Madison’s concerns—the domination of the majority. Nonetheless, his warning raises important questions about the effects of interest groups.

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19. James Madison, “Federalist #10,” in Clinton Rossiter, ed., *The Federalist Papers* (New York: New American Library, 1961), 78; see also Library of Congress, THOMAS, “[Federalist No. 10](#),” accessed April 4, 2011.

20. ²¹

21. James Madison, “Federalist #10,” in *The Federalist Papers*, ed. Clinton Rossiter (New York: New American Library, 1961), 79.

Pluralism: Competition among Groups

Briefly stated, pluralism is the theory that competition among interest groups produces compromise and balance among competing policy preferences. For pluralists, the abundance of interest groups, the competition between them, and their representation of interests in society are inherent in American democracy. Bargaining between groups and ever-changing group alliances achieve a desirable dispersion of power or at least an acceptable balancing of the various interests in society.²²

Pluralists acknowledge that some groups might dominate areas where their interests are paramount. But they believe two factors rectify this situation. In overlapping membership, people belonging to several interest groups encourage negotiation and compromise. And underrepresented people will in time establish groups to assert their interests.

22.²³

23. See Robert A. Dahl, *A Preface to Democratic Theory* (Chicago: University of Chicago Press, 1956); also Arthur F. Bentley, *The Process of Government: A Study of Social Pressures* (Chicago: University of Chicago Press, 1908); and William P. Browne, *Groups, Interests, and U.S. Public Policy* (Washington, DC: Georgetown University Press, 1998).

The Advantage of Business

An argument against pluralism is that business has an advantage over other segments of society, particularly the poor and the working class. These Americans lack the disposable income and political skills to organize. The issues that concern them are often absent from the policy agenda.²⁴ Business sponsors political advertisements, gives campaign contributions through PACs, donates to political parties, hires law and public relations firms, and funds research advocacy groups promoting free-market economics. A corporation can deploy multiple lobbyists and obtain access to various policymakers by joining several trade groups, belonging to business associations such as the U.S. Chamber of Commerce, and using its CEO and other personnel from headquarters to lobby.²⁶

Business and trade associations make up approximately 70 percent of the organizations with representation in Washington, DC.²⁸ Add interest groups representing professionals, and they

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25. Frank R. Baumgartner, Jeffrey M. Berry, Marje Hojnacki, David C. Kimball, and Beth L. Leech, *Lobbying and Policy Change: Who Wins, Who Loses, and Why* (Chicago: University of Chicago Press, 2009), 254–55.

26.²⁷

27. Jeffrey M. Berry, and Clyde Wilcox, *The Interest Group Society*, 3rd. ed. (New York: Longman, 2008), 221.

28.²⁹

account for approximately 85 percent of total spending on lobbying.³⁰

Quite often a policy appears only to affect specific corporations or industries and therefore does not receive much media or public attention.³² The Walt Disney Company's copyright on [Mickey Mouse](#) was due to expire in 2003 and those on Pluto, Goofy, and Donald Duck would expire soon after. In 2000, after lobbying and well-placed campaign contributions by Disney, Congress extended all copyrights for twenty more years.³⁴

Business is not monolithic. Interests conflict between and among industries, individual corporations, and organizations representing professionals. Large businesses can have different objectives than

29. Kay Lehman Schlozman and John T. Tierney, *Organized Interests and American Democracy* (New York: Harper & Row, 1986), 67.

30. ³¹ The figure is for 1996.

31. Frank R. Baumgartner and Beth L. Leech, "Interest Niches and Policy Bandwagons: Patterns of Interest Group Involvement in National Politics," *Journal of Politics* 63, no. 4 (November 2001): 1197.

32. ³³

33. Mark A. Smith, *American Business and Political Power: Public Opinion, Elections, and Democracy* (Chicago: University of Chicago Press, 2000).

34. ³⁵

35. James Surowiecki, "[Righting Copywrongs](#)," *New Yorker*, January 21, 2002, accessed March 23, 2011.

small businesses. The interests of manufacturers, distributors, and retailers can clash. Moreover, even when business is united, its demands are not necessarily gratified immediately and absolutely, especially when the issue is visible and the demands provoke opposition.

Negative Depictions of Business

The media often depict business interest groups negatively, which can limit the groups' influence. Witness, for example, stories about the dubious dealings and bankruptcy of corporations such as Enron, the trials of corporate leaders who have pillaged their companies, and the huge salaries and bonuses paid in financial and related business sectors.

Corporations and their executives are commonly the villains in popular films including *RoboCop* (1987), *Wall Street* (1987), *The Naked Gun 2 and ½: The Smell of Fear* (1991), and the documentaries of Michael Moore, particularly *Roger and Me* (1989). Television news stories oftentimes portray the big business sector as buying access and favors with lavish campaign contributions and other indulgences, wielding undue influence on the policy process, and pursuing its interests at the expense of the national interest.³⁶

Newspapers similarly frame business interest groups and their lobbyists as involved in dubious activities and exercising power for private greed. Typical is the *New York Times*' headline: "Vague Law and Hard Lobbying Add Up to Billions for Big Oil."³⁸

These stories could frame business interest groups more positively. They could point out that business lobbyists favor essential and deserving objectives, present information and valid arguments to policymakers, and make their proposals in a political arena (i.e., Congress) in competition with other groups. However, the negative view of business is incarnated in the [enduring image](#) of the chairman of the seven leading tobacco companies testifying before Congress.

37. Lucig H. Danielian and Benjamin Page, "The Heavenly Chorus: Interest Group Voices on TV News," *American Journal of Political Science* 38, no. 4 (November 1994): 1056.

38.³⁹

39. Edmund L. Andrews, "[Vague Law and Hard Lobbying Add Up to Billions for Big Oil](#)," *New York Times*, March 27, 2006, accessed March 23, 2011.

Big Tobacco Testifies Before Congress

On April 14, 1994, the chief executives of the leading tobacco companies stood up, raised their right hands, and swore before members of the subcommittee on Health and the Environment of the House of Representatives' Committee on Energy and Commerce that nicotine was not addictive. The photograph of this moment, prominently featured in the U.S. and foreign media, has become an enduring image of business executives who place the interests and profits of their corporations above the public interest even if it requires them to engage in self-deception, defy common sense about the dangers of their products, and give deceptive testimony under oath.

Had one sat through the several hours of hearings, watched them on television, or read the transcript, the executives would have come across as less defiant and more reasonable. They agreed to give Congress unpublished research documents, acknowledged that cigarettes may cause various health problems including cancer and heart disease, and admitted that they would prefer that their children not smoke.⁴⁰ But the photo and its brief explanatory caption, not the complicated hearings, are the enduring image.

Why does this image of venal, almost criminal, tobacco executives

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41. For an account of the hearing, see Philip J. Hilts, "[Tobacco Chiefs Say Cigarettes Aren't Addictive](#)," *New York Times*, April 15, 1994, accessed on March 23, 2011.

endure? Simply put, television news' continuing coverage of the litigation by state attorneys general against the tobacco companies required vivid video to illustrate and dramatize an otherwise bland story. What better choice than the footage of the seven tobacco executives? Thus the image circulated over and over again on the nightly news and is widely available on the Internet years later.

Key Takeaways

Numerous factors determine the success or failure of interest groups in achieving their policy objectives. These include their assets, objectives, alliances, visibility of their involvement in policy decisions, responses to political change and crises, and depictions in the media. Relatedly, there is a hierarchy of interest groups' relations with policymakers. Pluralists regard interest groups as essential to American democracy; critics, however, believe that business interest groups are too dominant. Business interest groups have several advantages enabling them to achieve their policy objectives but also several disadvantages, including negative media depictions.

172. Video: Martin Gilens and Benjamin Page Interview

Watch the [Martin Gilens and Benjamin Page extended interview](#) on *The Daily Show with Jon Stewart*.

173. Reading: Interest Groups in the Information Age

Learning Objectives

After reading this section, you should be able to answer the following questions:

1. How do interest groups interact with the media?
2. How do the media depict interest groups?
3. What are the consequences of these depictions?

Media Interactions

Many business interest groups try not to interact with the news media at all. They avoid media attention, particularly when it is likely to be negative. They prefer to pursue their policy preferences out of the media's and the public's sight and scrutiny.

Public Relations

Other interest groups have the need or the resources to strive for a favorable image and promote themselves and their policy preferences. One way is through advertising. They place advertisements on the television networks' evening news shows in policymakers' constituencies, such as Washington, DC, and New York, where opinion leaders will see them and in prominent newspapers, such as the *New York Times*, *Washington Post*, and *Wall Street Journal*. Even media outlets with tiny audiences may be suitable for advertisements. The Lockheed Martin Corporation has advertised in the policy-oriented *National Journal* in order to reach Washington insiders and policymakers.

Some interest groups engage in public relations campaigns. Walmart paid \$10 million annually in order to counter lobbying groups that were funded by two unions. These unions were critical of the retail giant's low wages, inadequate health care, and discrimination against women. The public relations campaign promoted the company's positive activities and responded to criticisms.¹

Public relations is not confined to American interest groups. Approximately 160 foreign governments have US public relations consultants or lobbyists representing them in communicating with the US media, policymakers, and the public. The firms instruct their clients on how to deal with the media, arrange meetings for them with journalists, set up editorial briefings, pitch stories to reporters

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2. Jeffrey Goldberg, "[Selling Wal-Mart](#)," *New Yorker*, April 2, 2007, accessed March 23, 2011.

and editors, and try to create newsworthy events. These tactics usually succeed in increasing and improving the countries' news coverage and images.³

Occasionally, the media expose this public relations activity. The *New York Times* revealed that, in part because fifteen of the nineteen terrorists involved with the attacks on 9/11 were Saudi Arabian, the Saudi "government has spent millions of dollars on well-connected lobbyists and national television advertisements since 9/11 in a drive to improve its image among Americans."⁵

3. ⁴

4. Jarol B. Manheim, *Strategic Public Diplomacy and American Foreign Policy* (New York: Oxford University Press, 1994); also Jarol B. Manheim and Robert B. Albritton, "Changing National Images: International Public Relations and Media Agenda Setting," *American Political Science Review* 78, no. 3 (September 1984): 641–57; and Pat Choate, *Agents of Influence: How Japan's Lobbyists in the United States Manipulate America's Political and Economic System* (New York: Knopf, 1990).

5. ⁶

6. Christopher Marquis, "[Worried Saudis Pay Millions to Improve Image in the U.S.](#)," *New York Times*, August 29, 2002, accessed March 23, 2011.

Advocacy Campaigns

A few interest groups engage in advocacy campaigns through the media. A notable example took place during the 1994 attempt by the Clinton administration to change the U.S. health-care system. Some \$60 million was spent on advertising, with opponents outspending supporters two to one.

The Health Insurance Association of America (now named [America's Health Insurance Plans](#)), representing small to medium-sized insurance companies, waged the most effective public campaign. Under the appealing name of the Coalition for Health Insurance Choices, it spent around \$14 million creating and showing television ads in which a woman (Louise) and her spouse (Harry) critically comment on alleged defects in the president's health-care proposal. "Having choices we don't like is no choice at all," says Louise in one ad. No direct reference was made to the health insurance industry behind the ad.

The ads were aimed at members of Congress and thus aired mostly in Washington, DC, and on CNN. They attracted news coverage, which amplified awareness about, attributed influence to, and enhanced their effects. This attention increased even more when the Clintons made a parody version of the ad. By framing the administration's proposal in terms of high cost and big government, the ads contributed to its defeat in Congress. It would not be until 2010 that reform of health care would be achieved.

Attracting Media Attention

Most interest groups do not engage in advocacy campaigns. Indeed, they lack sufficient funds to advertise at all. Yet coverage in the news media is essential, especially for many public interest groups, if they are to recruit members, raise funds, improve their access to policymakers, and obtain public support for their objectives.⁷ So they hold news conferences, issue press releases, release research studies, give interviews to journalists, and try to have their spokespeople appear on talk radio and television public affairs shows. Their problem is that there are far more groups seeking news coverage than the media can or do accommodate.

Interest groups deploy several techniques to attract media coverage. Among them are the catchy phrase, the telling statistic, the scorecard, and the poll. Charlton Heston embodied the catchy phrase. While he was president and spokesperson of the National Rifle Association (NRA), he held up a musket during its annual meeting and told members that the only way he would give up his gun is when they pry it “from my cold dead hands.”

This media-attention-getting phrase became his trademark, which he repeated with other guns at subsequent conventions. They were

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8. Kay Lehman Schlozman and John T. Tierney, *Organized Interests and American Democracy* (New York: Harper & Row, 1986), chap. 10; also Ken Kollman, *Outside Lobbying: Public Opinion & Interest Group Strategies* (Princeton, NJ: Princeton University Press, 1998).

the last words he uttered before he officially stepped down from the NRA's presidency in 2003.

Another technique is the telling statistic. A report titled *City Slickers: How Farm Subsidy Checks End Up in Big Cities* from the Environmental Working Group achieved widespread and prominent publicity when it revealed that \$1.2 million per year in agricultural subsidies was going to people living in the 90210 zip code, which is, as most Americans know from the television show of the same name, urban and affluent Beverly Hills.⁹ Because farm subsidies are traditionally justified as preserving and protecting family farms, the report persuasively reframed the issue as government subsidies of wealthy corporate farm interests.¹¹

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10. Ken Cook, Clark Williams, Andrew Art, and Chris Campbell, [*City Slickers: How Farm Subsidy Checks End Up in Big Cities*](#), March 1995, accessed April 4, 2011.

11.¹²

12. Jeffrey M. Berry and Clyde Wilcox, *The Interest Group Society*, 3rd. ed. (New York: Longman, 2008), 235–36.

Link: The *City Slickers* Report

Read [City Slickers: How Farm Subsidy Checks End Up in Big Cities](#) in its entirety.

Some interest groups issue scorecards that enable journalists easily to report how policymakers have voted on issues of concern to the group's members and the public. The [League of Conservation Voters](#) has released a list to the press during election years of the “Dirty Dozen” members of Congress with the supposedly worst records on the environment. The legislators targeted are usually in close races and some 60 percent of them have been defeated.

Interest groups also pay for or conduct public opinion polls, sometimes with questions that frame the issue to push the public toward their point of view. During the California water shortage of 2001, the [California Farm Bureau](#) released a poll showing that 71 percent of those polled believed “that the federal government has a financial responsibility to help keep California’s farmers in agriculture production.” The actual question asked about “California family farmers” (the word “family” encouraged a positive response), the phrase “financial responsibility” is quite vague, and the 71 percent figure was achieved by adding the 44 percent “definite yes” response to the 27 percent “probably yes” response.¹³

13. ¹⁴

14. California Farm Bureau Federation, “Farm leader calls for Federal action on farm crisis,” May 8, 2001.

Disproportionate Coverage

Most news coverage of societal and public interest groups goes only to a few. According to an article by Lucig H. Danielian and Benjamin Page, “The media seize upon a few prominent individuals or groups to speak for broad sets of interests.”¹⁵

Witness a study of 244 interest groups in fourteen major newspapers, two news magazines, and the top three television networks.¹⁷ The single most-covered group in each of four policy areas received around 40 percent of all the coverage in that area. These were the [Sierra Club](#) on the environment, the [Council on Foreign Relations](#) on national security and foreign policy, the [American Civil Liberties Union](#) (ACLU) for civil rights, and the [Christian Coalition of America](#) on broad matters of public policy. The figure reaches approximately 68 percent when the number of groups is raised to twelve (5 percent of the total number) to include the [National Association for the Advancement of Colored People](#)

15.¹⁶

16. Lucig H. Danielian and Benjamin Page, “The Heavenly Chorus: Interest Group Voices on TV News,” *American Journal of Political Science* 38, no. 4 (November 1994): 1069.

17.¹⁸

18. A. Trevor Thrall, “The Myth of the Outside Strategy: Mass Media News Coverage of Interest Groups,” *Political Communication* 23, no. 4 (2006): 407–20.

(NAACP), [Greenpeace](#), and a few others. In contrast, 34 percent of the interest groups did not appear in a single story.

The larger a group's budget, the more likely it is to be covered. These groups have staff to communicate with the media, hold regular press conferences, provide the press with dependable information, stage events with dramatic visuals and symbolism, and make news by suing the government. They also are covered because reporters return repeatedly to sources that are familiar to them and their audiences.

Most news organizations are not inclined to incur the expense of investigating interest groups' organization and claims of accomplishments. Nor are they able to obtain easy access to the groups' records. For ten years, the Christian Coalition was the most prominent interest group of the religious right. Journalists took the claims of its leaders at face value. Only later did former national leaders who had left the group reveal to the press that the number of members had been inflated.¹⁹

19.²⁰

20. Laurie Goodstein, "Debt and Leadership Turmoil Sap Christian Coalition's Political Strengths," *International Herald Tribune*, August 3, 1999, 3.

Media Consequences

Media depictions matter. Favorable coverage of public interest groups seeking to protect the environment and consumers has helped get their issues on the policy agenda and some of their proposals enacted.²¹ The breast cancer lobby is far more successful at shaping media coverage and thus influencing public opinion and determining public policy (including government funding) than the prostate cancer lobby, even though the diseases have almost identical morbidity and mortality rates.²³

Disproportionate coverage of a few societal and public interest groups enhances their importance and the impression that each one represents a policy area. Instead, there is often a spectrum of interest groups across areas. Sparse or nonexistent coverage of these interest groups means that the media do not bring their demands, activities, and policy perspectives to the attention of policymakers and the public.

Unfavorable media depictions of labor unions reinforce their negative stereotypes. This coverage reduces public support for

21. ²²

22. Jeffrey M. Berry, *The New Liberalism: The Rising Power of Citizen Groups* (Washington, DC: Brookings Institution Press, 2000).

23. ²⁴

24. Karen M. Kedrowski and Marilyn Stine Sarow, *Cancer Activism: Gender, Media, and Public Policy* (Urbana: University of Illinois Press, 2007).

unions' organizing efforts and discourages people from voluntarily joining unions. It discredits striking as a desirable or even appropriate way for unions to achieve their objectives.

Media coverage of business interest groups conveys their power. It limits this power by framing it as excessive and adverse to the public interest and by exposing some of it as greed and exploitation. This coverage affects public opinion. Of the people polled about "the power of different groups in influencing government policy, politicians, and policymakers in Washington" and which groups had "too much" influence, 86 percent selected "big companies," 83 percent chose "political action committees which give money to political candidates," and 71 percent picked "political lobbyists."²⁵²⁶²⁷ In November 2005, 90 percent of respondents to a Harris poll (up from 83 percent the previous year) said big companies had too much influence on government.

No wonder interest groups become issues in elections. Each party accuses the other of being beholden to "special interests" and of unsavory relationships with lobbyists. The media pursue stories about interest group contributions and of lobbyists holding prominent staff positions in candidates' campaigns. Democratic presidential candidate Barack Obama refused in the 2008 presidential election to accept contributions from registered lobbyists and political action committees (PACs). Republican

25.

26. ²⁸ Overwhelmingly, people have the impression that government is run by a few big interests. ²⁹

27.

28. The Harris Poll, April 26–May 5, 2001.

29. 1995 poll cited in Jeffrey M. Berry and Clyde Wilcox, *The Interest Group Society*, 3rd. ed. (New York: Longman, 2008), 19.

nominee John McCain established a conflict-of-interest policy that resulted in the resignation or dismissal of several members of his campaign staff who were registered as lobbyists.

Key Takeaways

Interest groups use a variety of techniques to interact with the news media and obtain favorable coverage. These include advertising, public relations, and advocacy. Despite the vast number of interest groups in existence, the news media tend to cover the activities of only a few leading organizations. Media depictions of interest groups can have a significant impact on public opinion about them and support for or opposition to their policy preferences. The media often depict big business groups negatively, while they usually portray other groups such as environmental organizations more positively. The overall effect of the media's depictions of interest groups is to give people the impression that government is run by a few big interests.

174. Putting It Together

Summary

Political parties are an essential component of democracy. Two parties dominate American politics: the Republicans and the Democrats. These major parties are ideologically ambiguous in that they take middle-of-the-road rather than extreme positions on issues.

Societal groups that gravitate toward particular political parties can form partisan coalitions. The weight of these coalitions can shift during critical elections, resulting in an emergent majority that dominates the system for as long as the new coalition holds together.

Third parties offer an alternative to the dominant Republican and Democratic parties, but they have difficulty surviving. They arise to challenge the two major parties when people feel that their interests are not being met. There are numerous challenges faced by third parties in American politics, including winner-take-all elections, legal obstacles, lack of resources, and limited media coverage.

Interest groups are another important component in the political system. Interest groups use lobbyists to influence public officials in all government branches.

Numerous factors determine the success or failure of interest groups in achieving their policy objectives. These include their assets, objectives, alliances, visibility of their involvement in policy decisions, responses to political change and crises, and depictions in the media.

Relatedly, there is a hierarchy of interest groups' relations with policy makers. Pluralists regard interest groups as essential to American democracy; critics, however, believe that business interest groups are too dominant. Business interest groups have

several advantages that enable them to achieve their policy objectives but also several disadvantages, including negative media depictions.

PART XII

CH. 8 - ELECTIONS

175. Why It Matters

Describe and assess the nature and role of elections in the American political system



Introduction

Elections are the moment of truth in a democracy. Through the vote, The People choose their leaders and thereby signal which policies and programs they want to live under.

At least that's the ideal.

Just how true is it? How meaningful are elections in the American political system? Do our election processes and practices match up well with our broader democratic ideals and our commitment to political equality? What are the consequences of our elections? Does the vote produce policies that reflect the preferences of the average citizen?

As you work through the material in this section, consider how you might answer the above questions.

176. Organizing and Funding Elections

Summarize the nature of campaign finance of U.S. elections

Learning Activities

The learning activities for this section include:

- Reading: Election Campaigns
- Reading: Vox Cards: The Citizens United Era of Money in Politics
- Reading: Vox Cards: The 2014 McCutcheon v. FEC Case

Take time to review and reflect on each of these activities in order to improve your performance on the assessment for this section.

177. A. Reading: Election Campaigns

Learning Objectives

After reading this section, you should be able to answer the following questions:

1. How are American election campaigns organized?
2. How are campaigns funded? What are the regulations that guide campaign fundraising and spending?
3. What strategies do candidates use when pursuing elected office?

This section covers campaign organization, funding, and strategy. Getting elected often requires defeating opponents from the same political party in a primary election in order to become that party's nominee. One party's nominee must defeat the candidates from

other parties in the general election. Election campaigns require organization, funding, and strategy. Legal guidelines, especially for campaign finance, influence the environment within which elections take place.

Campaign Organization

It takes the coordinated effort of a staff to run a successful campaign for office. The staff is headed by the campaign manager who oversees personnel, allocates expenditures, and develops strategy. The political director deals with other politicians, interest groups, and organizations supporting the candidate. The finance director helps the candidate raise funds directly and through a finance committee. The research director is responsible for information supporting the candidate's position on issues and for research on the opponents' statements, voting record, and behavior, including any vulnerabilities that can be attacked.

The press secretary promotes the candidate to the news media and at the same time works to deflect negative publicity. This entails briefing journalists, issuing press releases, responding to reporters' questions and requests, and meeting informally with journalists. As online media have proliferated, the campaign press secretary's job has become more complicated, as it entails managing the information that is disseminated on news websites, such as blogs like the Huffington Post, and social media, such as Facebook. Campaigns also have consultants responsible for media strategy, specialists on political advertising, and speech writers.

Pollsters are essential because campaigning without polls is like “flying without the benefit of radar.”¹ Polls conducted by campaigns, not to be confused with the media’s polls, can identify the types of people who support or oppose the candidate and those who are undecided. They can reveal what people know and feel about the candidates, the issues that concern them, and the most effective appeals to win their votes. Tracking polls measure shifts in public opinion, sometimes daily, in response to news stories and events. They test the effectiveness of the campaign’s messages, including candidates’ advertisements.

Relatedly, focus groups bring together a few people representative of the general public or of particular groups, such as undecided voters, to find out their reactions to such things as the candidate’s stump speech delivered at campaign rallies, debate performance, and campaign ads.

The image shows a clipboard with a questionnaire titled "VOTER NEWS SERVICE" and "DEMOCRATIC PRIMARY". The questionnaire is divided into several sections with multiple-choice questions. The questions cover demographics (age, gender, race, ethnicity, education), political attitudes (approval of Bill Clinton, political affiliation, liberal/conservative/moderate), and financial information (family income). At the bottom, there is a note to "Please fold the questionnaire and put it in the box. Thank you." and a small logo for "VOTER NEWS SERVICE".

VOTER NEWS SERVICE
abc AP CBS CNN
 THE NUMBERS ARE CONFIDENTIAL
DEMOCRATIC PRIMARY

(A) Are you:
☐ Male ☐ Female

(B) Are you:
☐ White ☐ Asian
☐ Black ☐ Other
☐ Hispanic/Latino

(C) In today's Democratic presidential primary, did you just vote for:
☐ Bill Clinton
☐ Other: Who?

(D) Do you approve or disapprove of the way Bill Clinton is handling his job as President?
☐ Approve
☐ Disapprove

(E) What was the last grade of school you completed?
☐ Did not complete high school
☐ High school graduate
☐ Some college, but no degree
☐ College graduate
☐ Postgraduate study

(F) Are you:
☐ Protestant ☐ Jewish
☐ Catholic ☐ Something else
☐ Other Christian ☐ None

(G) Do you approve or disapprove of the way Hillary Rodham Clinton is handling her role as first lady?
☐ Approve ☐ Disapprove

(H) To which age group do you belong?
☐ 17-24 ☐ 25-29 ☐ 30-39 ☐ 40-49
☐ 50-59 ☐ 60-64 ☐ 65 or over

(I) Do you think Bill Clinton's positions on the issues are:
☐ Too liberal
☐ Too conservative
☐ About right

(J) No matter how you voted today, do you usually think of yourself as a:
☐ Democrat ☐ Independent
☐ Republican ☐ Something else

(K) On most political matters, do you consider yourself:
☐ Very liberal
☐ Somewhat liberal
☐ Moderate
☐ Somewhat conservative
☐ Very conservative

(L) 1996 total family income:
☐ Under \$15,000 ☐ \$15,000-\$24,999
☐ \$25,000-\$34,999 ☐ \$35,000-\$49,999
☐ \$50,000-\$64,999 ☐ \$65,000-\$99,999 ☐ \$100,000 or more

Please fold the questionnaire and put it in the box. Thank you.

VOTER NEWS SERVICE © 1996

Outside the polls, some voters answer questions on exit polls that are used in media reports.

1. ²

2. Paul S. Herrnson, *Congressional Elections: Campaigning at Home and in Washington*, 5th ed. (Washington, DC: CQ Press, 2007), 75.

Funding Campaigns

“Money is the mother’s milk of politics,” observed the longtime and powerful California politician Jesse Unruh. The cost of organizing and running campaigns has risen precipitously. The 2008 presidential and congressional elections cost \$5.3 billion dollars, a 25 percent increase over 2004.³ Around 60 percent of this money goes for media costs, especially television advertising. The [Campaign Finance Institute](#) has a wealth of information about funding of American election campaigns.

Limiting Contributions and Expenditures

In an episode of *The Simpsons*, Homer’s boss tells him, “Do you realize how much it costs to run for office? More than any honest

3. ⁴

4. Brody Mullins, “Cost of 2008 Election Cycle: \$5.3 Billion,” *Wall Street Journal*, October 23, 2008.

man could afford.”⁵ Spurred by media criticisms and embarrassed by news stories of fund-raising scandals, Congress periodically passes, and the president signs, laws to regulate money in federal elections.

The Federal Election Campaign Act (FECA) of 1971, amended in 1974, limited the amount of money that individuals, political parties, and political groups could contribute to campaigns and provided guidelines for how campaign funds could be spent. The FECA also provided a system of public financing for presidential campaigns. It required that campaigns report their financial information to a newly established enforcement institution, the Federal Elections Commission (FEC), which would make it public.

Opponents challenged the constitutionality of these laws in the federal courts, arguing that they restrict political expression.⁷ In the 1976 case of *Buckley v. Valeo*, the Supreme Court upheld the limits on contributions and the reporting requirement but overturned all limits on campaign spending except for candidates who accept public funding for presidential election campaigns.⁹ The Supreme

5. ⁶

6. “Two Cars in Every Garage, Three Eyes on Every Fish,”
The Simpsons, November 1990.

7. ⁸

8. See Bradley A. Smith, *Unfree Speech: The Folly of Campaign Finance Reform* (Princeton, NJ: Princeton University Press, 2001); and John Samples, *The Fallacy of Campaign Finance Reform* (Chicago: University of Chicago Press, 2006).

9. ¹⁰

10. *Buckley v. Valeo*, 424 US 1 (1976).

Court argued that campaign spending was the equivalent of free speech, so it should not be constrained.

This situation lasted for around twenty years. “Hard money” that was contributed directly to campaigns was regulated through the FECA. However, campaign advisors were able to exploit the fact that “soft money” given to the political parties for get-out-the-vote drives, party-building activities, and issue advertising was not subject to contribution limits. Soft money could be spent for political advertising as long as the ads did not ask viewers to vote for or against specific candidates. Nonparty organizations, such as interest groups, also could run issue ads as long as they were independent of candidate campaigns. The Democratic and Republican parties raised more than \$262 million in soft money in 1996, much of which was spent on advertising that came close to violating the law.¹¹

11.¹²

12. Dan Froomkin, “Special Report: Campaign Finance: Overview Part 4, Soft Money—A Look at the Loopholes,” *Washington Post*, September 4, 1998.



Republican National Committee Ad Featuring Presidential Candidate Bob Dole. The Republican National Committee used “soft money” to produce an ad that devoted fifty-six seconds to presidential candidate Bob Dole’s biography and only four seconds to issues. Similarly, the Democratic National Committee used “soft money” on ads that promoted candidate Bill Clinton. These ads pushed the limits of campaign finance laws, prompting a call for reform.

Congress responded with the Bipartisan Campaign Reform Act (BCRA) of 2002, better known by the names of its sponsoring senators as McCain-Feingold. It banned soft-money contributions by political committees and prohibited corporations and labor unions from advocating for or against a candidate via broadcast, cable, or satellite prior to presidential primaries and the general election. A constitutional challenge to the law was mounted by Senate Majority Whip Mitch McConnell, who believed that the ban on advertising violated First Amendment free-speech rights. The

law was upheld by a vote of 5–4 by the Supreme Court.¹³ This decision was overruled in 2010 when the Supreme Court ruled that restricting independent spending by corporations in elections violated free speech.¹⁵ The case concerned the rights of Citizens United, a conservative political group, to run a caustic ninety-minute film, *Hillary: The Movie*, on cable television to challenge Democratic candidate Hillary Rodham Clinton as she ran in the 2008 primary election campaign. The 5–4 decision divided the Supreme Court, as justices weighed the interests of large corporations against the Constitutional guarantee of free speech.¹⁷

13. ¹⁴

14. *McConnell v. Federal Election Commission*, 540 US 93 (2003).

15. ¹⁶

16. *Citizens United v. Federal Election Commission*, 130 S.Ct. 876 (2010).

17. ¹⁸

18. Adam Liptak, “Justices 5–4, Reject Corporate Spending Limit,” *New York Times*, January 21, 2010.

Video Clip: *Hillary: The Movie* Trailer



One or more interactive elements has been excluded from this version of the text. You can view them online

here: <https://library.achievingthedream.org/herkimeramericangovernment/?p=204#oembed-1>

In April 2011 comedic news anchor Stephen Colbert announced his intention to form a “super PAC” to expose loopholes in the campaign finance laws that allow corporations to form political actions committees, which can spend unlimited amounts of money in elections on advertising. Colbert testified in front of the FEC and was granted permission to form his PAC, which would be funded by Viacom, the media corporation that owns Comedy Central, which hosts *The Colbert Report*. The decision sparked concern that media organizations would be free to spend unlimited amounts of money in campaigns; however, the FEC’s decision imposed the strict limitation that Colbert could only show the ads on his program. Colbert announced the FEC’s decision to allow him to form a PAC to raise and spend funds in the 2012 election in [this video](#).

Sources of Funding

There are six main sources of funding for federal elections. These sources include individuals, political action committees, public funding, candidates' contributions to their own campaigns, political party committees, and advocacy organizations or "527 committees." Individuals contribute the most to election campaigns. Individual donations amounted to \$1,330,861,724¹⁹ for the 2008 presidential election cycle. People can give up to \$2,300 to candidates for each primary, runoff, and general election; \$28,500 annually to national political parties and \$10,000 to each state party; \$2,300 to a legal compliance fund; and as much as they want to a political action committee (PAC) and advocacy organizations. PACs were developed by business and labor to fund candidates. Politicians have also created PACs. They can give up to \$5,000 per candidate per election. In 2008, they gave the second-largest amount: \$5,221,500.

Presidential candidates can opt for public funding of their election campaigns. The funds come from an income tax check-off, where people can check a box to contribute \$3 to a public funding account. To qualify for public funding, candidates must have raised \$100,000 in amounts of \$250 or less, with at least \$5,000 from each of twenty states. The first \$250 of every individual contribution is matched with public funds starting January 1 of the election year.

19. ²⁰

20. Campaign finance data for the 2008 campaign are available at the Federal Election Commission, "[Presidential Campaign Finance: Contributions to All Candidates by State.](#)"

However, candidates who take public funds must adhere to spending limits.



Presidential Candidate John McCain on the Campaign Trail in 2008. In 2008, Republican candidate John McCain criticized his Democratic opponent, Barack Obama, for failing to use public financing for his presidential bid, as he had promised. McCain felt disadvantaged by taking public funds because the law limits the amount of money he could raise and spend, while Obama was not subject to these restrictions.

Party committees at the national, state, and local level, as well as the parties' Senate and House campaign committees, can give a Senate candidate a total of \$35,000 for the primary and then general election and \$5,000 to each House candidate. There is no limit on how much of their own money candidates can spend on their campaigns. Neither John McCain nor Barack Obama used personal funds for their own campaigns in 2008. Self-financed presidential candidates do not receive public funds.

Known as "527 committees" after the Internal Revenue Service regulation authorizing them, advocacy groups, such as the pro-

Democratic MoveOn.org and the pro-Republican Progress for America, can receive and spend unlimited amounts of money in federal elections as long as they do not coordinate with the candidates or parties they support and do not advocate the election or defeat of a candidate. They spent approximately \$400 million in all races in the 2008 election cycle. In the wake of the Supreme Court decision supporting the rights of Citizens United to air *Hillary: The Movie*, spending by independent committees grew tremendously. The 527 committees spent \$280 million in 2010, an increase of 130 percent from 2008.²¹

Campaign Strategy

Most campaigns have a strategy to win an election by raising funds, recruiting volunteers, and gaining votes. Campaign strategies take into account voters' party identification, the candidate's image, and issues. Candidates carry out their strategy through retail politics and the media.

In retail politics, also known as field operations, candidates engage in person-to-person campaigning. They speak at rallies, visit

21. ²²

22. Campaign Finance Institute, "Non-Party Spending Doubled in 2010 But Did Not Dictate the Results" press release, November 5, 2010.

voters in their homes, and put in appearances at schools, religious institutions, and senior-citizen centers. They greet workers outside factories and in eateries and hold town-hall meetings. The campaign distributes posters, lawn signs, T-shirts, baseball caps, and buttons.

If the campaign has sufficient funds, retail politics involves microtargeting, using computers and mathematical models to identify people's vote preferences on the bases of the magazines they read, credit card purchases, and the cars they own.²³ This information is used to woo undecided voters and ensure that supporters are registered and cast their ballot. Microtargeting has become more common and efficient in the information age.

Party Identification

Candidates have a base of support, usually from people who are registered with and consistently vote for the candidate's party. For a candidate whose party has a majority of the people registered to vote in an electoral district, all it takes to win the election is getting enough of them out to vote. This may be easier said than done.

Party identification seldom decides elections alone, although it

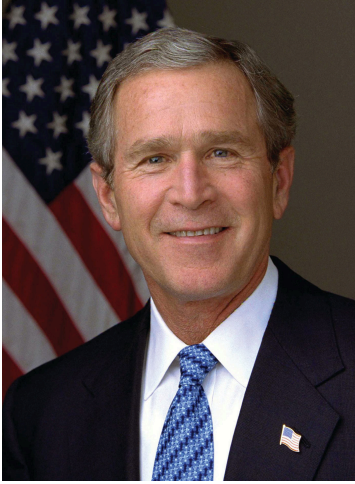
23. ²⁴

24. Leslie Wayne, "Democrats Take Page from Their Rival's Playbook," *New York Times*, October 31, 2008.

is a strong predictor of a person's vote choice. A candidate's image and her position on issues are also important, particularly when independents and undecided voters hold the balance. It does not apply in a primary when all the candidates are of the same party.

Candidate Image

Candidate image consists of the background, experiences, and personal qualities of people running for elected office. Campaigns strive to present an image of their candidate that fits the public's expectations of the office sought, especially in comparison with the opponent, who is portrayed as less qualified. Voters expect the president to have leadership skills and to be principled, decisive, and honest. Other qualities, such as military service and compassion, may be deemed by the public and the media to be important as well.



George W. Bush and Al Gore in the 2000 Presidential Election. The media's depictions of presidential candidates Republican George W. Bush and Democrat Al Gore during the 2000 presidential election influenced public perceptions. Bush was depicted as being unintelligent by news organizations that compiled lists of his gaffes and malapropisms. Gore was construed as being dishonest for allegedly claiming that he invented the Internet.

Images are not entirely malleable. Age, gender, race, and military service cannot be changed willy-nilly. But they can be manipulated by selective accounting and shrewd presentation of the facts. Images are easiest to create early in a campaign when many people may not know much about a candidate. Which of a candidate's possible images the public accepts often depends on the media's depictions.

Issues

Issues, subjects, and public-policy positions on matters of concern are central to campaigns. Candidates take positions on issues that are designed to increase their chances of election. Issues raised during campaigns are often based on voters' concerns that are identified by polls. The media can make issues a prominent part of the election agenda, which can work for or against a candidate.

Many candidates have past records indicating their stands on issues, leaving them little choice about how to manage some issues. Incumbents claim credit for their accomplishments. Challengers blame the incumbent for the country's problems. Moreover, each party is associated with certain issues. Democrats are seen as the party to protect social security, improve the economy by creating jobs, increase the minimum wage, and expand health care coverage. Republicans are viewed as the party to strengthen national defense, cut taxes, and be tough on crime.

Wedge issues are issues that cut across party lines. A candidate can increase her vote by splitting off some of the people who usually support the other party and its candidates.²⁵ Republicans have employed affirmative action as a wedge issue in order to siphon off from the Democrat's base working-class white men who oppose it. Democrats have used abortion rights to appeal to some conservative Republican women.

25.²⁶

26. D. Sunshine Hillygus and Todd G. Shields, *The Persuadable Voter: Wedge Issues in Presidential Campaigns* (Princeton, NJ: Princeton University Press, 2008).

Staying on Message

Implementing strategy effectively requires staying on message. Candidates are like barkers at a fairground, each promoting his or her own show. At every opportunity they repeat their message, which is sometimes abbreviated into a slogan. In 1992 the main message of Bill Clinton's presidential campaign was "It's the economy, stupid," which was aimed at blaming President George H. W. Bush for the country's economic problems. Barack Obama's campaign slogan in 2008, "Change we can believe in," was a fresh take on a familiar call for change in American politics.



Barack Obama's Campaign Slogan. Presidential candidate Barack Obama reinforced his campaign slogan, "Change we can believe in," during his campaign trail appearances in 2008.

Staying on message is not easy. Campaigns constantly have to react to unexpected events and to the other side's statements and actions—all in a twenty-four-hour news cycle. They usually respond rapidly to new subjects and issues, deflecting, reframing, or exploiting them.

Key Takeaways

Elections are crucial in a representative democracy like the United States. They enable people to choose their leaders and thereby influence public policy. They endow elected officials with legitimacy. There are two main types of elections: primary and general elections. Candidates from the same political party contest for the party's nomination in primary elections. Candidates from different parties run in the general election, which decides who will take office.

Campaign finance is an integral element of American elections. Individuals, PACs, public funds, political parties, candidates themselves, and 527 committees fund campaigns. Campaign finance laws have shaped the way that candidates raise and spend money in elections, especially presidential candidates who accept public funding.

Candidates engage in retail politics by meeting with voters on the campaign trail. Campaigns employ strategies that take into account party identification, candidate image, issues, and message cohesion.

178. Reading: Vox Cards: The Citizens United Era of Money in Politics

What is the impact of Citizens United on U.S. politics and elections? Investigate this question by reading through the Vox “cards” [here](#).

179. Reading: Vox Cards: The 2014 *McCutcheon v. FEC* Case

What is the *McCutcheon v. FEC* ruling and what were its effects? Investigate these and other questions by reading through the Vox “cards” [here](#).

180. Media Coverage

Explain the role of media coverage and advertising in political campaigns

Learning Activities

The learning activities for this section include:

- Reading: Media and Election Campaigns

Take time to review and reflect on this activity in order to improve your performance on the assessment for this section.

181. B. Reading: Media and Election Campaigns

Learning Objectives

After reading this section, you should be able to answer the following questions:

1. How do candidates present and use political advertising in their campaigns?
2. How do candidates manage campaign debates? How do media influence debates?
3. What is the nature of campaign media coverage? How do campaigns attempt to influence election coverage?

Campaigns want to influence media coverage in their candidate's favor. They seek to dominate the election agenda, frame and prime issues, and have the media transmit their message of the day. The proliferation and diversity of modes of communication makes this complicated. Campaigns attempt to control their political advertisements and influence debates. They try to set the news-media agenda, but the relationship is uncertain at best.¹

1. ²

Political Advertisements

Television and radio advertisements are essential elements of election campaigns.³ Ads capitalize on people's beliefs and values. They are often designed to arouse emotions, such as anxiety and fear, hope and enthusiasm.⁵ They attract attention with dramatic visuals, sounds, and slogans. They sometimes exaggerate, even distort, information.

Candidate advertising in the information age has become more complex as campaigns seek to disseminate their ads through multiple platforms. Candidates release ads on candidate and

2. For an award-winning study of media in the 1992 presidential election, see Marion R. Just, Ann N. Crigler, Dean E. Alger, Timothy E. Cook, Montague Kern, and Darrell M. West, *Crosstalk: Citizens, Candidates, and the Media in a Presidential Campaign* (Chicago: University of Chicago Press, 1996).

3.⁴

4. See Edwin Diamond and Stephen Bates, *The Spot* (Cambridge, MA: MIT Press, 1992); and Kathleen Hall Jamieson, *Packaging the Presidency*, 3rd ed. (New York: Oxford University Press, 1996).

5.⁶

6. Ted Brader, *Campaigning for Hearts and Minds* (Chicago: University of Chicago Press, 2006).

political-party websites and on video-sharing platforms, such as YouTube and Hulu. Ads also are posted or linked on news sites and blogs.

Ad Formats

Ads come in many formats, but even now when glitzy techniques are available, the talking head, in which the candidate speaks directly to the audience, is common. Other formats are testimonials from people enthusiastically supporting the candidate and documentary ads utilizing footage of the candidate campaigning. Ads that utilize a “self-incrimination” of the opponent can be devastating. In 1992, the Clinton campaign ran an effective ad juxtaposing President George H. W. Bush’s positive comments about the economy with data showing its decline.

Ads can use a panoply of visual and sound techniques. Distance (tight close-ups can be unflattering), angles (camera shots that look up make an individual seem more powerful), movement (slow motion suggests criminality), editing (people looking at a candidate with adoration or disgust)—all these techniques influence viewers’ reactions. Color also influences perceptions: blue reassures, red threatens. Candidates often are shown in flattering color while the opponent is depicted in sinister black and white. Morphing, electronically changing and blending photographs and other visuals, can identify candidates with unpopular figures, such as Adolf Hitler.

Attack Ads

Attack ads denounce elements of the opponent's record, image, and issue positions.⁷ They have been criticized as “the crack cocaine of politics” and for being demeaning and misleading. They also have been praised as “political multivitamins,” providing voters with pertinent and substantial evidence-backed information about policies they would otherwise not encounter. Attack ads can allow voters to contrast candidate's qualifications and issue stance.⁹ They

7.⁸

8. For a discussion of how candidates go negative as circumstances warrant or allow, see Emmett H. Buell Jr. and Lee Sigelman, *Attack Politics: Negativity in Presidential Campaigns since 1960* (Lawrence: University Press of Kansas, 2008).

9.¹⁰

10. See Michael M. Franz, Paul B. Freedman, Kenneth M. Goldstein, and Travis N. Ridout, *Campaign Advertising and American Democracy* (Philadelphia, PA: Temple University Press, 2008); and John G. Geer, *In Defense of Negativity: Attack Ads in Presidential Campaigns* (Chicago: University of Chicago Press, 2006). “Multivitamin” quote is from Michael M. Franz, Paul B. Freedman, Kenneth M. Goldstein, and Travis N. Ridout, *Campaign Advertising and American Democracy* (Philadelphia: Temple University Press, 2008), 143 and

can mark memorable moments in campaigns, such as the “[Daisy Ad](#)” attacking Republican presidential candidate Senator Barry Goldwater in 1964.

Attack ads employ a number of techniques to convey their points. They can point out “flip-flops,” exposing apparent contradictions in the opponent’s voting record and public statements. They can chastise the opponent for “not being on the job” and missing votes. Ads can convey “guilt by association,” linking the opponent to unpopular individuals and organizations. Candidates can attempt to refute attack ads with denials, explanations, rebuttals, and apologies. However, many attack ads are effective in generating negative impressions of candidates. Rebuttals tend to repeat the original charge and prolong the ad’s visibility.¹¹ The [Wisconsin Advertising Project](#) provides information and research about candidate, political-party, and interest-group advertising.

Enduring Image: The Daisy

“crack” quote by Senator Tom Daschle is from John G. Geer, *In Defense of Negativity: Attack Ads in Presidential Campaigns* (Chicago: University of Chicago Press, 2006),

1.
11. ¹²

12. Michael Pfau and Henry C. Kenski, *Attack Politics* (New York: Praeger, 1990), 53.

Ad

The Daisy ad, an enduring attack ad, was designed for the 1964 election campaign of Democratic president Lyndon Johnson. It exploited the fear that Johnson's Republican opponent, Senator Barry M. Goldwater of Arizona, was willing to use nuclear weapons.

The ad shows a little girl plucking the petals from a daisy as she counts down out of order from ten. A doomsday-sounding male voice takes over the countdown. At zero, there is a nuclear explosion, and the girl's face turns into a mushroom cloud that fills the screen.

Over the roar of the cloud, President Johnson intones, "These are the stakes. To make a world in which all of God's children can live, or to go into the dark." The word *stakes*, with its suggestion of being burnt at the stake, fits the Johnson campaign slogan, which ends the ad: "Vote for President Johnson on November 3. The stakes are too high for you to stay home."

The ad, which only ran once on television, never mentions Goldwater's name. It was not necessary. People were soon informed by the news media that it referred to him. Outraged Republican leaders unintentionally publicized the ad, which only was aired once by the Johnson campaign. The news media replayed the ad, increasing its visibility and the negative effect it had on the Goldwater candidacy.

Video Clip: The Daisy Ad

Below is the classic attack ad from President Lyndon Johnson's 1964 campaign in which it is implied that Republican challenger Senator Barry Goldwater, whose name is never mentioned, is prepared to use nuclear weapons.



One or more interactive elements has been excluded
from this version of the text. You can view them online

here: [https://library.achievingthedream.org/
herkimeramericangovernment/?p=208#oembed-1](https://library.achievingthedream.org/herkimeramericangovernment/?p=208#oembed-1)

Link: Political Advertising Archives

The [Living Room Candidate](#) is a rich archive of campaign advertising dating back to the 1952 presidential election.

The [Wisconsin Advertising Project](#) provides data and research on ads in addition to copies of historic ads.

Ad Watches

Some newspapers, a few television stations, and websites, such as FactCheck.org, analyze ads and point out their inaccuracies. These ad watches may limit the deceptiveness of ads in an election. But they may boomerang by showing the ads to people who might not otherwise have seen them.

Toward the end of a campaign, ad checks have trouble standing out amid the clutter of so many ads for so many candidates. People also can ignore them, skip over them with remotes, and delete them with a keyboard stroke.

Link: Ensuring Accuracy

[FactCheck.org](https://www.factcheck.org/) is a project of the Annenberg Public Policy Center, which checks ads and news stories for inaccuracies on a continuing basis.

Debates

Debates between candidates running for office have become a campaign ritual. They allow voters to assess how candidates respond to questions and think on their feet. Debates also provide an opportunity for voters to directly compare candidates' stands on issues. While television is the most popular medium, voters can tune into debates via a wide range of platforms, including radio and Internet sites. YouTube debates have been held where candidates answer questions that are submitted on video by average citizens.

Candidates seek to influence their debates by negotiating with the sponsoring organization and their opponents.¹³ They negotiate over who will participate, the number and timing of debates, the subjects that will be addressed, and who will be the moderators and questioners. No detail is left out, including whether questions can be followed-up, the type of audience involvement, the length of answers, the height of the podia behind which the candidates will stand, whether and how much the candidates can move about the stage, and whether the camera can cut away from the speaker to an opponent.

13.¹⁴

14. On debates, see Alan Schroeder, *Presidential Debates: Fifty Years of High-Risk TV*, 2nd ed. (New York: Columbia University Press, 2008); and Newton N. Minow and Craig L. LaMay, *Inside the Presidential Debates: Their Improbable Past and Promising Future* (Chicago: University of Chicago Press, 2008).



The Televised Kennedy-Nixon Debate. Vice President Richard Nixon, confident about his debating skills, underestimated the importance of appearance. He was wan and sweating in contrast to his assured opponent, Senator John F. Kennedy, during the first televised debate of the 1960 presidential election.

In the first-ever televised presidential debate, the Kennedy-Nixon debate in 1960, the camera cut away to show Vice President Richard Nixon, who was recovering from the flu and wearing heavy pancake makeup, sweating while his opponent, Senator John F. Kennedy (D-MA), coolly answered questions. Viewers who saw the debate on television declared Kennedy the debate winner. However, people who listened to the debate on radio were turned off by Kennedy's heavy Boston accent and felt that Nixon had won the debate.

Link: 1960 Kennedy-Nixon Debate (Part I) (1960)

Watch a video of the Kennedy-Nixon Debate, 1960 [here](#).

Candidates are coached for debates. They prepare answers to anticipated questions that can be designed to catch them off guard, which might result in a gaffe. They memorize words and phrases from their campaign strategists that have been tested in focus groups and polls. They try to project leadership, appear likeable and sincere, stay on message, emphasize issues that favor them, be critical of, but not nasty toward, their opponent, and avoid gaffes.

Video Clip: Clinton vs. Bush in 1992 Debate

In the video below, President Bush checks his watch during a presidential debate in 1992.



One or more interactive elements has been excluded

from this version of the text. You can view them online here: <https://library.achievingthedream.org/herkimeramericanangovernment/?p=208#oembed-2>

The campaigns spin the media before and after the debates. Predebate, they lower expectations about the debating skill of the candidate and raise them for the opponent. Campaign supporters try to convince journalists that their candidate won the debate. This spin is essential because journalists' judgments, more than the substance of the debate, influence public opinion.¹⁵ Journalists and pundits, in their instant analysis and polls of viewers, frame debates in terms of who won or lost. They focus on "defining moments," identifying memorable lines and gaffes. In his debate with Jimmy Carter in 1976, President Gerald Ford, trying to make a statement about the spirit of the East Europeans, said that the Soviet Union did not dominate Eastern Europe. Although people watching the debate registered little reaction, reporters picked up on this apparent blunder and hounded Ford for days. Public opinion swung from seeing the debate as essentially a tie to seeing it as a crippling loss for Ford.

15.¹⁶

16. Diana Owen, "The Debate Challenge," in *Presidential Campaign Discourse*, ed. Kathleen E. Kendall (Albany: State University of New York Press, 1995), 135–55.

News Media

The speed of the twenty-four-hour news cycle and the range of media outlets make it difficult for campaigns to control what the news media report. Still, they try to stick to one message each day, embellishing it with sound bites to appeal to the attending reporters. They stage events and photo opportunities, or photo ops, with carefully selected locations, backdrops, and crowds. Staging can backfire. To show that he was strong on defense, Democratic presidential candidate Michael Dukakis appeared in a tank during the 1988 campaign. The press reported that his helmet made him look like the comic book character Snoopy.

Reporters and editors have the final say over the subjects and frames of campaign news. Bill Clinton's campaign manager, James Carville, described the power of the news media as "staggering" and said that his staff dubbed them "The Beast."¹⁷

Horse race coverage focuses on which candidate is leading and which is trailing based on their standing in the polls, and it dominates campaign news. Coverage also focuses heavily on the campaign process and strategies, including the actions, decisions, and conflicts of the candidate's staff. The press highlights candidates' attacks on one another, as well as conflicts, controversies, blunders, and gaffes. Scandal, such as misconduct in office and illegal drug use, sometimes brought to reporters'

17. ¹⁸

18. Mary Matalin and James Carville, with Peter Knobler, *All's Fair: Love, War, and Running for President* (New York: Random House, 1994), 185.

attention by a candidate's opponents and spread on the Internet's rumor mills, is a news staple.¹⁹

Coverage of policy issues in the news is slight, even in presidential elections. Candidates focus on only a few policy positions, which they repeat throughout the campaign. Journalists have little reason to report them frequently. Besides, policies lack the excitement and drama of the horse race.

Key Takeaways

Candidates attempt to control their image, establish their campaign theme, and set the issue agenda through their campaign advertising. They design ads that will appeal to their supporters and reach out to undecided voters. Negative ads are prevalent in campaigns, as they can be effective in creating negative views of opponents and allowing voters to compare candidates.

19.²⁰

20. See Stephen J. Farnsworth and S. Robert Lichter, *The Nightly News Nightmare: Television's Coverage of U.S. Presidential Elections, 1988–2004*, 2nd ed. (Lanham, MD: Rowman & Littlefield, 2007) for an analysis and denunciation of the television news networks' coverage of presidential elections.

Debates allow voters to assess candidates one-on-one. Candidates seek to control debates by negotiating the logistics and engaging in intense preparation. Media engage in postdebate assessments of the candidates' performances.

News media focus heavily on the horse race and strategy elements of campaigns, especially who's ahead and who's behind in the polls. Candidate's messages are conveyed in short sound bites. Journalists pay more attention to a candidate's image, gaffes, and scandals than to issues.

182. Presidential Elections

Summarize the presidential election process

Learning Activities

The learning activities for this section include:

- Reading: Presidential Elections
- Video: Primary Elections Explained
- Video: How the Electoral College Works
- Video: The Trouble with the Electoral College
- Video: What If the Electoral College Is Tied?

Take time to review and reflect on each of these activities in order to improve your performance on the assessment for this section.

183. C. Reading: Presidential Elections

Learning Objectives

After reading this section, you should be able to answer the following questions:

1. How are political party nominees for president selected?
2. What is the purpose of presidential nominating conventions?
3. What is the Electoral College, and how does it work?

The presidential election gets the most prominent American campaign. It lasts the longest and receives far more attention from the media than any other election. The Constitution requires the president to be a natural-born U.S. citizen, at least thirty-five years old when taking office, and a resident of the United States for at least fourteen years. It imposed no limits on the number of presidential terms, but the first president, George Washington, established a precedent by leaving office after two terms. This stood until President Franklin D. Roosevelt won a third term in 1940 and a fourth in 1944. Congress then proposed, and the states ratified, the Twenty-Second Amendment to the Constitution, which limited the president's term of office to two terms.

Caucuses and Primaries

Becoming a political party's presidential nominee requires obtaining a majority of the delegates at the party's national nominating convention. Delegates are party regulars, both average citizens who are active in party organizations and officeholders, who attend the national nominating conventions and choose the presidential nominee. The parties allocate convention delegates to the states, the District of Columbia, and to U.S. foreign territories based mainly on their total populations and past records of electing the party's candidates. The Republican and Democratic nominating conventions are the most important, as third-party candidates rarely are serious contenders in presidential elections.

Most candidates begin building a campaign organization, raising money, soliciting support, and courting the media months, even years, before the first vote is cast. Soon after the president is inaugurated, the press begins speculating about who might run in the next presidential election. Potential candidates test the waters to see if their campaign is viable and if they have a chance to make a serious bid for the presidency.

Delegates to the party nominating conventions are selected through caucuses and primaries. Some states hold caucuses, often lengthy meetings of the party faithful who choose delegates to the party's nominating convention. The first delegates are selected in the Iowa caucuses in January. Most convention delegates are chosen in primary elections in states. Delegates are allocated proportionally to the candidates who receive the most votes in the state. New Hampshire holds the first primary in January, ten months before the general election. More and more states front-load primaries—hold them early in the process—to increase their influence on the presidential nomination. Candidates and the media focus on the early primaries because winning them gives a campaign momentum.

The Democrats also have super delegates who attend their nominating convention. Super delegates are party luminaries, members of the National Committee, governors, and members of Congress. At the 2008 Democratic convention they made up approximately 18 percent of the delegates.

The National Party Conventions

The Democratic and Republican parties hold their national nominating conventions toward the end of the summer of every presidential election year to formally select the presidential and vice presidential candidates. The party of the incumbent president holds its convention last. Conventions are designed to inspire, unify, and mobilize the party faithful as well as to encourage people who are undecided, independent, or supporting the other party to vote for its candidates.¹ Conventions also approve the party's platform containing its policy positions, proposals, and promises.

Selecting the party's nominees for president and vice president

1.²

2. Costas Panagopoulos, ed., *Rewiring Politics: Presidential Nominating Conventions in the Media Age* (Baton Rouge: Louisiana State University Press, 2007).

is potentially the most important and exciting function of national conventions. But today, conventions are coronations as the results are already determined by the caucuses and primaries. The last presidential candidate not victorious on the first ballot was Democrat Adlai Stevenson in 1952. The last nominee who almost lacked enough delegates to win on the first ballot was President Gerald Ford at the 1976 Republican National Convention.

Presidential candidates choose the vice presidential candidate, who is approved by the convention. The vice presidential candidate is selected based on a number of criteria. He or she might have experience that compliments that of the presidential nominee, such as being an expert on foreign affairs while the presidential nominee concentrates on domestic issues. The vice presidential nominee might balance the ticket ideologically or come from a battleground state with many electoral votes. The choice for a vice presidential candidate can sometimes be met with dissent from party members.

Modern-day conventions are carefully orchestrated by the parties to display the candidates at their best and to demonstrate enthusiasm for the nominee. The media provide gavel-to-gavel coverage of conventions and replay highlights. As a result, candidates receive a postconvention “bounce” as their standing in the polls goes up temporarily just as the general election begins.

The Electoral College

The president and vice president are chosen by the Electoral College as specified in the Constitution. Voters do not directly elect

the president but choose electors—representatives from their state who meet in December to select the president and vice president. To win the presidency, a candidate must obtain a majority of the electors, at least 270 out of the 538 total. The statewide winner-take-all by state system obliges them to put much of their time and money into swing states where the contest is close. Except for Maine and Nebraska, states operate under a winner-take-all system: the candidate with the most votes cast in the state, even if fewer than a majority, receives all its electoral votes.

Link: Electoral College Information

The U.S. National Archives and Records Administration has a resource for the Electoral College [here](#).

It is possible to win the election without winning the popular vote, as George W. Bush did in 2000 with about half a million fewer votes than Democrat Al Gore. The Electoral College decision depended on who won the popular vote in Florida, where voting was contested due to problems with ballots and voting machines. The voting in Florida was so close that the almost two hundred thousand ballots thrown out far exceeded Bush's margin of victory of a few hundred votes.

Key Takeaways

Presidential elections involve caucuses, primaries, the national party convention, the general election, and the Electoral College. Presidential hopefuls vie to be their party's nominee by collecting delegates through state caucuses and primaries. Delegates attend their party's national nominating convention to select the presidential nominee. The presidential candidate selects his vice presidential running mate who is approved at the convention. Voters in the general election select electors to the Electoral College who select the president and vice president. It is possible for a candidate to win the popular vote and lose the general election.

184. D. Video: Primary Elections Explained

How do parties select presidential candidates, and who gets to participate in that process? It's more complicated than you might think! Watch this short video for some of the details.



One or more interactive elements has been excluded from this version of the text. You can view them online

here: <https://library.achievingthedream.org/herkimeramericangovernment/?p=211#oembed-1>

185. E. Video: How the Electoral College Works

How does the electoral college work? Watch this brief video to understand the arcane manner by which we select the most powerful leader on the planet.



One or more interactive elements has been excluded from this version of the text. You can view them online

here: <https://library.achievingthedream.org/herkimeramericangovernment/?p=212#oembed-1>

186. F. Video: The Trouble with the Electoral College

Watch this video to understand some of the complaints about the electoral college. Should this process be scrapped? If so, what should replace it?



One or more interactive elements has been excluded from this version of the text. You can view them online

here: <https://library.achievingthedream.org/herkimeramericangovernment/?p=213#oembed-1>

187. G. Video: What If the Electoral College Is Tied?

What happens if the electoral college is tied? Watch this video to see how wild things could get!



One or more interactive elements has been excluded from this version of the text. You can view them online

here: <https://library.achievingthedream.org/herkimeramericangovernment/?p=214#oembed-1>

188. Congressional Elections

Compare and contrast the election process for the House and Senate

Learning Activities

The learning activities for this section include:

- Reading: Congressional and Other Elections
- Reading: Vox Cards: The Fight over Voting Rights
- Reading: Vox Cards: Gerrymandering
- Video: Gerrymandering Explained
- Video: How Politicians Rig Elections

Take time to review and reflect on each of these activities in order to improve your performance on the assessment for this section.

189. H. Reading: Congressional and Other Elections

Learning Objectives

After reading this section, you should be able to answer the following questions:

1. What are the differences between House and Senate elections?
2. What is the significance of midterm elections?
3. What is gerrymandering, and how can it influence the outcomes of campaigns?
4. What are ballot measures?

Every two years the entire House of Representatives and one-third of the Senate face election. Congressional elections command far less attention from the media and voters than do presidential campaigns. However, their outcomes can determine the partisan composition of Congress, which can influence the course of public policy for decades to come. Americans can have a direct say in state policy proposals, laws, and constitutional amendments through ballot measures. They also can remove an elected official from office through a recall election.

Congressional Elections

Congressional elections, in which all 435 House seats and one-third of Senate seats are contested, take place every two years, including years when there is a presidential election. Midterm elections occur in years when there is no presidential contest. Frequently, midterm elections are treated as referenda on the performance of the sitting president and can determine the balance of power in Congress. National issues, such as the economy and unemployment, can become prominent factors in midterm campaigns.

Since 1926, the president's party has lost an average of thirty seats in the House and four seats in the Senate during midterm elections. The 2010 midterm election resulted in a sixty-three-seat swing and a shift in power in the House of Representatives. The Democrats lost control, as their membership dropped from 256 to 193 members, and the Republicans gained the majority, moving from 179 to 242 members. The Democrats, with fifty-three seats, maintained control of the Senate, although they lost six seats to the Republicans, who have forty-six seats. One seat is held by an Independent.¹

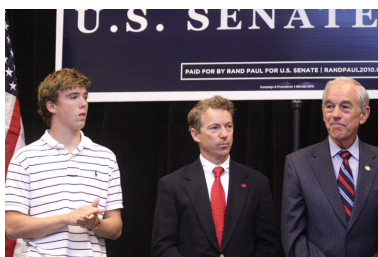
1. ²

2. Post Politics, "[Election 2010: Live Results](#)," Washington Post, December 28, 2010.

Link: Party Voting in Congressional Elections by State

Maps depicting congressional election results from 2010 and earlier can be found at Politico.com and WashingtonPost.com.

Local and regional media are in the best position to cover congressional elections, and they can set the agenda for national media. Typically, there is less media coverage of midterm elections compared with presidential campaigns. The 2010 midterm election received more coverage than usual, as voters expressed frustration with incumbent



Rand Paul at His Victory Celebration in 2010. Republican Rand Paul, an ophthalmologist, won the Senate race in Kentucky against Democrat Jack Conway, the state's attorney general, with the backing of the Tea Party.

president Barack Obama's performance in office. The Tea Party—a grassroots, conservative-leaning movement that opposed the government's taxing and spending policies—staged protests that brought media attention to the election. Some Tea Party-backed candidates garnered significant national press attention.

The Senate

There are one hundred senators in the U.S. Congress, two elected from each state, who serve six-year terms. One-third of Senate seats are up for election every two years. Senators are constitutionally required to be at least thirty years old and to have been a U.S. citizen for at least nine years when they take office.

Many Senate elections are competitive in both the primary and the general election. Having been in office for six or more years, incumbents have records, controversial votes, and may have upset some of their constituents. Their opponents may have name recognition, ample funding, and run an effective campaign using the new media and political advertising. Especially when the election is close, challengers receive almost as much visibility as incumbents. They are able to publicize their images, get some of their issues on the campaign agenda, and have attention paid to their attacks on their opponent.

Senate races in the 2010 midterm election were hotly contested. The majority of incumbents won, but many faced tough competition. Thirteen Democratic incumbents ran for reelection and three lost, while all eleven Republican incumbents seeking reelection won. Candidates spent record amounts of money contesting in Senate campaigns. Sharron Angle, who won the Nevada Republican Senate nomination with the backing of the grassroots Tea Party movement, spent ninety-seven dollars per vote in the general election, which she lost to Democrat Harry Reid, the majority leader of the Senate, who spent sixty-nine dollars per vote.³

The House of Representatives

There are 435 voting members of the House of Representatives elected in separate districts within states for two-year terms. Candidates must be at least twenty-five years old and need to have been a citizen for at least seven years.

Members of the House who are seeking reelection in districts designed to favor their party have an advantage. They usually have better organized campaigns, greater name recognition, far more funds, and more support from interest groups than their opponents. Since 1954, 93 percent of House incumbents have been elected. This rate dropped slightly in 2010, as 87 percent of incumbents were reelected, which is the lowest percentage since 1964.⁵

The media contribute to this incumbency advantage. Challengers often lack the funds to air political ads. News coverage of House elections favors incumbents. Local television coverage pays little attention to even to the most competitive House elections.⁷ Indeed,

4. T. W. Famam, “Angle, McMahon Led Way Spending \$97 Per Vote—and Lost,” *Washington Post*, November 9, 2010.

5.⁶

6. Benjamin Knoll, “[Incumbent Losses in the 2010 Midterms](#),” *Information Knoll*, November 4, 2010.

7.⁸

8. Darrell M. West and L. Sandy Maisel, “Conclusion: Discourse and Beyond,” in *Running on Empty? Political*

four thousand local television newscasts, in eleven major markets during the four weeks before the 2004 election, gave eight times as much air time to car crashes and other accidents than to House campaigns.⁹ The use of social media, such as Facebook and Twitter, can benefit challengers, especially if their messages are picked up by the mainstream press. However, many voters get most of the campaign information from television. Debates can sometimes improve a challenger's chances if they are televised and widely seen. But nearly 70 percent of debates held by House candidates are not televised.¹¹

Discourse in Congressional Elections (Lanham, MD: Rowman & Littlefield, 2004), 237.

9.¹⁰

10. ["Local TV News Largely Ignores Local Political Races, New Lear Study Finds,"](#) *Lear Center Local News Archive*, USC Annenberg School for Communication, February 15, 2005.

11. Committee for the Study of the American Electorate, press release, May 16, 2001.

Redistricting

Each state is awarded a number of seats in the House of Representatives based on its population as determined by the national census, which is taken every ten years as required by the Constitution. If the census reveals shifts in the size of the population within districts, state legislators redraw the district lines to equalize the number of people within each district.



Gerrymander (Gerry-Mander). In 1812, Massachusetts governor Elbridge Gerry pushed through electoral redistricting that ensured his Republican party's majority in the township of Marblehead would outweigh the Federal majority in eleven other townships. Artist Elkanah Tisdale drew a cartoon map of the salamander-shaped district for the Boston Gazette and coined the term "Gerry-mander" (now "gerrymander") that became a staple of political language. The visual and the term are therefore both media creations.

Redistricting is often a highly partisan and contentious activity because it can change the number of House seats each party wins in a state. The party in control of the state legislature can design districts so as to protect its incumbents and increase its House seats. The party in power can obtain more seats by having small but usually safe majorities in several districts and cramming large

numbers of the other party's voters into just a few districts. This is achieved through a gerrymander, drawing congressional district lines to give one party the advantage in electing its candidates to the House of Representatives.¹² Incumbents in gerrymandered districts are usually reelected.

Comparing Content: Candidates in Fiction and Documentary Films

There are two types of film about candidates: Hollywood fiction seen by millions of people and documentaries seen by far fewer.¹⁴

12.¹³

13. Mark S. Monmonier, *Bushmanders and Bullwinkles: How Politicians Manipulate Electronic Maps and Census Data to Win Elections* (Chicago: University of Chicago Press, 2001).

14.¹⁵

In Hollywood films the candidates are glamorous and charismatic. They run for high office, usually the presidency or Senate. The focus is on their character. Either they are cynical and hypocritical from the start (the presidential candidate played by John Travolta in *Primary Colors*, 1998), or they become cynical and compromise their ideals and principles over the course of their campaigns (the senatorial candidate played by Robert Redford in *The Candidate*, 1972), or they are disillusioned career politicians trying but failing to change a corrupt campaign process (Warren Beatty as the senator up for reelection in *Bulworth*, 1998). Their campaign consultants use whatever tactics and techniques will win the election. The candidates have an adversarial relationship with the news media.

Documentaries offer a wider range of candidates and circumstances. *The Perfect Candidate* (1996) covers Republican Oliver North's 1994 senatorial campaign in Virginia from the perspective of the candidate, his campaign manager, and a *Washington Post* reporter. The subject of *Taking on the Kennedys* (1996) is a Republican doctor running against Senator Edward Kennedy's son Patrick for an open House of Representatives' seat in Rhode Island. In *I'm a Candidate* (2001), two young men, one a black Republican in Georgia and the other a white Democrat in Cincinnati, challenge incumbent members of the House.

The candidates in the documentaries are idealists, even a bit naive. They have principles and policy preferences. Campaigning is an all-consuming activity requiring perseverance and the sacrifice of personal life. Money is crucial for their campaigns, and they spend a lot of time trying to raise it. They engage in retail politics:

15. Relevant is Bradley Hunt, "On the Campaign Trail: Depictions of Political Campaigns in Films," paper submitted to Paletz's "Politics and Media" seminar, April 16, 2001.

shaking hands, meeting people, visiting senior-citizen centers, and marching in parades. They struggle to break through to an indifferent electorate; yet, even after they have campaigned for several months, many people remain unaware of them. They are vulnerable to the news media, which defines and depicts them.

Hollywood movies and documentaries convey the drama and conflict of elections, the demands on the candidates, and the strategies required to have a chance of winning. But for the lived experience of a political campaign, watch the documentaries.

Ballot Measures

Many states offer people the opportunity to vote on ballot measures on proposed laws, ordinances, or constitutional amendments. Two types of ballot measures are the initiative and the referendum. In the 2010 midterm election, a total of 160 questions were considered on ballots in 37 states. Another type of ballot measure is the recall election, whereby voters can remove an elected official from office.

The Referendum

In a referendum, the state legislature refers a proposal to citizens who vote to either approve or reject the measure. In every state except Delaware, amendments to the state's constitution passed by the legislature go on the ballot automatically.¹⁶ State legislatures put other measures on the ballot to let voters make a choice or to avoid deciding a controversial issue. Referenda also can work as an end run around decisions made by a state governor.

The Initiative

The initiative is similar to the referendum except that voters propose and pass laws and present them to the state legislature. Citizens also can propose an amendment to the state constitution. In some states, the legislature can adopt the proposal outright. In

16.¹⁷

17. Matthew Mendelsohn and Andrew Parkin, eds., *Referendum Democracy: Citizens, Elites and Deliberation in Referendum Campaigns* (New York: Palgrave, 2001).

most cases, registered voters can place a proposal on the ballot, sometimes with a counterproposal from the state legislature. If the initiative wins a majority of the votes in an election, it goes into effect.

In recent years, initiatives have been passed to cap property taxes, curtail illegal immigration, and allow medicinal marijuana and euthanasia. California had sixteen initiatives on the ballot in 2004, including a proposal to spend \$3 billion for research on human embryonic stem cells, which passed with 59 percent of the vote. In six states, citizens' groups put on the ballot for a vote to an amendment to the state constitution that recognized marriage as between one man and one woman. In 2010, initiatives related to fiscal policy and taxes were most prevalent. The proposals differed vastly from lowering property taxes in Indiana to overturning a tax on soda in Washington.¹⁸

18.¹⁹

19. Pamela M. Prah, "[Guide to State Ballot Measures for 2010](#)," *Stateline.org*, November 12, 2010.

Link: State Ballot Measures in the 2010 Elections

Voters in states considered over 160 ballot initiatives in the 2010 midterm elections, which are described on [Stateline's website](#).

The initiative was originally designed to combat powerful interests such as those controlling the railroads in the nineteenth century.²⁰ Today, initiatives are sometimes a way for wealthy individuals or interest groups to put policies into effect while bypassing the state legislature. Consulting firms specializing in initiative campaigns are paid to collect the signatures required to put a measure on the ballot.²²

Critics attack initiatives for congesting ballots and confusing voters, and for their sometimes deceptive titles and descriptions. “Keep California Green” was the slogan for a proposition to keep taxes low on private golf courses. However, research shows that

20.²¹

21. For its history and an evaluation of the arguments for and against the initiative, see Joseph F. Zimmerman, *The Initiative: Citizen Law-Making* (Westport, CT: Praeger, 1999).

22.²³

23. For criticisms of the initiative see Richard J. Ellis, *Democratic Delusions: The Initiative Process in America* (Lawrence: University Press of Kansas, 2002).

“the initiative has a significant impact on state and local government and in doing so pushes policy in the direction a majority of people say they want to go.”²⁴

The Recall

Originally intended to root out corruption among elected officials, the recall allows voters to remove public officials from office through a direct election. A recall is initiated when a designated number of voters sign a petition requesting a special election. Fourteen state constitutions provide for recall elections for state officials, and many localities have provisions for the recall of lower-level elected officials.

24. ²⁵

25. John G. Matsusaka, *For the Many or the Few* (Chicago: University of Chicago Press, 2004), xi.



Movie action hero Arnold Schwarzenegger is elected governor of California in the recall election of 2003. This is a stellar example of how prominence in the entertainment media can be translated into visibility in the news media and victory in politics.

Until 2003, only one governor, North Dakota's Lynn J. Frazier in 1921, had been successfully recalled. In 2003, a California Republican congressman initiated and mainly funded the recall of California's Democratic governor Gray Davis for his alleged policy failings. Spurred by conservative talk-radio hosts, websites run by Republican operatives, disenchanted Democrats, and antitax organizations, and coordinated by e-mail, more than 900,000 eligible voters signed the petition to put the recall on the ballot. The ballot asked voters two questions: if the governor should be removed from office and who they would select from a list of candidates to replace him if the governor were recalled. The voters selected Republican Arnold Schwarzenegger to replace Governor Davis.

Key Takeaways

Congressional candidates run for either the Senate or the House of Representatives. There are no limits on the number of terms a member of Congress can serve. Senators are elected in states and Representatives in congressional districts in states. Congressional districts are based on the US census and are reconfigured periodically. Elections for the Senate tend to be more competitive than for the House, where incumbent officeholders have an advantage.

Ballot measures, consisting of the initiative and the referendum, are mechanisms that allow voters to have a more direct say in state laws, government proposals, and constitutional amendments. In certain states, voters can remove elected officials from office through a recall election.

190. I. Reading: Vox Cards: The Fight over Voting Rights

What is the fight over voting rights about and why should you care? Investigate these and other questions by reading through the Vox “cards” [here](#).

191. Reading: Vox Cards: Gerrymandering

What is gerrymandering and how does it happen? Investigate these and other questions by reading through the Vox “cards” [here](#).

192. Video: Gerrymandering Explained

Redrawing political boundaries is a huge deal. As populations grow, shift, and decline, representation in legislative bodies needs to shift, as well. Unfortunately, as this video about gerrymandering demonstrates, these moments provide opportunities for gaming the system. What's at stake with this kind of behavior, and what impact does it have on our democracy?



One or more interactive elements has been excluded from this version of the text. You can view them online

here: <https://library.achievingthedream.org/herkimeramericangovernment/?p=219#oembed-1>

193. Video: How Politicians Rig Elections

Most Americans think elections are rigged, and they're right. In the following video, Vox explains how gerrymandering works, and how to fix it.



One or more interactive elements has been excluded from this version of the text. You can view them online

here: <https://library.achievingthedream.org/herkimeramericangovernment/?p=220#oembed-1>

194. Putting It Together

Summary

Elections are crucial in a representative democracy like the United States. Ideally, they enable people to choose their leaders and thereby influence public policy, endowing elected officials with democratic legitimacy.

Campaign finance is an integral component of American elections, and the issue of big money and its influence have emerged as a critical issue for debate. Campaign finance laws have shaped the way that candidates raise and spend money in elections, though the Supreme Court has loosened those limitations in recent years.

Presidential elections involve caucuses, primaries, the national party convention, the general election, and the Electoral College. Presidential hopefuls vie to be their party's nominee by collecting delegates through state caucuses and primaries. The presidential candidate selects his vice presidential running mate, who is approved at the convention. Voters in the general election select electors to the Electoral College, who, in turn, select the president and vice president. It is possible for a candidate to win the popular vote and lose the general election.

Congressional candidates run for either the Senate or the House of Representatives. There are no limits on the number of terms a member of Congress can serve. Senators are elected in states and Representatives in congressional districts in states. Congressional districts are based on the U.S. census and are reconfigured periodically. Elections for the Senate tend to be more competitive than for the House, where incumbent officeholders have an advantage.

PART XIII
PUBLIC POLICY

195. Why It Matters

Summarize the major characteristics of economic, social, foreign, and environmental policy



Introduction

In this last section, you'll get a feel for the policy consequences of our political system. In particular, you'll get a sense of how the government maintains and regulates our capitalist economy, how it supports various groups through social spending, and the nature and character of American foreign policy. You'll also explore some of the serious environmental policy challenges facing the nation (and the world).

As you make your way through the range of materials in this

module, consider whether what you learn conforms to your assumptions going in. For example, if you were to list the economic challenges facing the country right now, what issues would make the cut? If you were to guess which groups receive the most help through the welfare system, which ones would you list? If you were to state the goals and nature of foreign policy as you understand them right now, what would they be? And so on . . .

Then, revisit your answers when you've worked through the materials. Think about whether you agree with your original responses or not. In this section, perhaps more than any other, you may need to remain flexible and be willing to adjust your views. The nature, shape, and logic of policy is often not what people expect.

196. Goals, Tools, and Trends

Identify the goals of economic policy

Learning Activities

The learning activities for this section include:

- Reading: Economic Policy
- Reading: Federal Spending: Where Does the Money Go?
- Video: Stop Freaking out About the Debt
- Reading: Vox Cards: The Fed and the 2008 Financial Crisis
- Reading: Vox Cards: Federal Taxes
- Video: Wealth Inequality in America
- Video: How Wealth Inequality Is Dangerous for America
- Video: The Most Important Chart of 2014
- Video: Jacob Hacker and Paul Pierson on Engineered Inequality
- Video: The Scariest Chart in America
- Video: Banned TED Talk: Nick Hanauer
- Video: Fred Block: The Tenacity of the Free Market Ideology
- Video: Mariana Mazzucato: The Entrepreneurial State
- Video: End This Depression Now!

Take time to review and reflect on each of these activities in order to improve your performance on the assessment for this section.

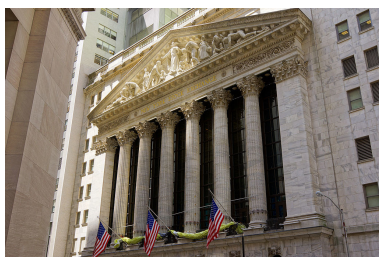
197. Reading: Economic Policy

Introduction

While the United States is accurately characterized as a capitalistic system in which the ups and downs of the market are largely dictated by the economic transactions of individuals and groups, the United States Government nonetheless plays a significant role in regulating the nation's economy. The government's economic policies can generally be broken down into two major categories: monetary policy and fiscal policy.

Monetary Policy

The Constitution grants Congress the authority to coin money and to establish its value. The federal government's monetary policies are aimed at managing the economy by regulating the money supply. By making monetary adjustments, the government attempts to keep inflation and unemployment under control. The primary mechanism used for this purpose is the Federal Reserve Board's control of the "discount rate" on which banks base



New York Stock Exchange. Stock prices (and the world economy) are sensitive to U.S. monetary and fiscal policy. What happens on Washington more often than not has a direct impact on Wall Street.

their interest rates. The Federal Reserve Board (often called the “Fed”) is a private–public banking regulatory body established in the early 1900s. During difficult economic times, the Federal Reserve will usually lower interest rates to encourage investment in the economy. When the economy is booming, the Fed will sometimes raise interest rates to keep inflation under control.

The Federal Reserve System

The Federal Reserve acts as an independent central bank—its decisions do not have to be affirmed by the president or the Congress. While the Congress retains ultimate authority to coin and print money and to set its value, it delegated this authority to the Federal Reserve Board with the Federal Reserve Act of 1913. Fearful that the Federal Reserve was growing too independent, the Congress passed the Humphrey-Hawkins Act of 1978 requiring the Federal Reserve to submit a report on the state of the economy to Congress twice a year. The report is presented by the Chairman of the Federal Reserve Board of Governors at hearings before committees in the U.S. Senate and House of Representatives.

The Federal Reserve System was explicitly empowered by the Congress “to provide for the establishment of Federal Reserve banks, to furnish an elastic currency, to afford means of rediscounting commercial paper, to establish a more effective supervision of banking in the United States, and for other purposes.”

The Federal Reserve System is made up of a Board of Governors and twelve regional Federal Reserve Banks located in major cities throughout the country. There are seven members that sit on the Board of Governors. Each member must be nominated by the president of the United States and confirmed by the Senate. Members are appointed to serve fourteen-year nonrenewable terms. The president also nominates members of the Board to serve

as Chair and Vice Chair for four-year renewable terms. These appointments must also be confirmed by the Senate.

The most important policy making body of the Federal Reserve System is the Federal Open Market Committee (FOMC). It is composed of the seven Governors, the president of the Federal Reserve Bank of New York, and four other Reserve Bank presidents that serve on a rotating basis.

The FOMC can effect monetary policy using the following three tools:

1. Open market operations—the buying and selling of U.S. government securities
2. Altering reserve requirements—the amount of funds that commercial banks must hold in reserve against deposits
3. Adjusting the discount rate—the interest rate charged to commercial banks

These tools can be used to tighten or expand the money supply. For example, if the FOMC wants to control inflation, it can restrict the nation's money supply by selling government securities and raising the amount of money that banks need to set aside for reserve requirements. Both of these actions would take money out of circulation. In theory, a smaller supply of money would lead to less spending which would lead to lower prices. The FOMC can also raise interest rates to help control inflation. By making money more expensive to borrow, consumers would be more likely to save money rather than spend it. This could also lead to lower prices.

The FOMC meets eight times during the year to consider economic developments and to vote on policy. In the year 2000 Federal Reserve officials raised interest rates several times. In May the committee voted to raise short-term interest rates by half of a percentage point to 6.5%, the highest level since 1991. This was done in an effort to slow the pace of the U.S. economy and keep inflation at a low, manageable level. By early 2001, however, the Federal Reserve cut interest rates to stimulate a stagnant economy.

“Forecasting the Fed”

One good indicator of the Fed’s likely actions is the “Beige Book” it releases two weeks before each of its policy meetings. The Beige Book is a survey of economic conditions across the country and is used as a reference for Fed officials when considering monetary policies, such as interest rate hikes. The Federal Reserve is primarily concerned about inflation and many speculate that higher inflation may lead to another increase in interest rates.

Fiscal Policy

Fiscal policy is established by the Congress and the president through the federal budget process. Through this process, the federal government determines who will be taxed, what types of income and activities will be taxed at what rates and what will be done with the money that is collected.

Taxation and Spending

Detailed information about the federal government’s spending is available in the [Federal Budget](#).

The table below provides an overview of the impact of the federal budget on the nation’s economy. The impact of government, however, is not limited to federal taxing and spending policies. Individuals and corporations are generally required to pay additional state and local income taxes. State and local governments also collect a variety of other taxes, most notably sales taxes and property taxes.

Federal Taxation and Spending

The table below summarizes federal government income and expenditures relative to the nation's Gross Domestic Product (GDP). GDP is a measure of the overall size of the nation's economy. Note that all figures are in billions of dollars.

The impact of federal government taxation and spending on the nation's economy is significant. Most obviously, the federal budget accounts for about 20% of the entire national economy. Also notice that expenditures exceed income for all years represented in the chart. While the federal government ran surpluses in the late 1990s, a sagging economy has led to lower tax revenues. Without corresponding cuts in spending, the government has returned to running deficits each year. As the economy rebounds, however, the deficit for 2005 is projected to be much smaller than originally anticipated. If the economy continues to grow, a return to annual budget surpluses is possible.

Federal Income, Expenditures, and GDP			
	2003	2004	2005*
GDP	\$10,828	\$11,466	\$12,042
Income	\$1,782	\$1,798	\$2,036
%GDP	16.5%	15.7%	16.9%
Expenditures	\$2,158	\$2,319	\$2,400
%GDP	19.9%	20.2%	19.9%
Balance	-\$376	-\$521	-\$364
%GDP	3.5%	4.5%	3.0%

*2005 amounts are estimated. [Source](#).

When taxes are discussed, much of the debate centers on tax “fairness.” How much should an individual or corporation be required to pay in taxes? Should wealthy people be required to pay a higher percentage of their income than those that are less well

off? Should the government redistribute income by taxing the rich and giving some of that money to the poor? None of these are easily answered questions, but they must be addressed and answered—at least tentatively—when the federal government establishes their taxation policies each year.

Some people believe a tax is fair when it is progressive, i.e. tax rates increase as income increases. For example, under a progressive tax system, an individual who earns \$20,000 a year would be taxed at a lower rate than would an individual who earns \$100,000 a year. Others believe that fairness means tax rates are “flat” or proportional, i.e. all individuals are required to pay the same percentage of their incomes, regardless of how much they earn each year. Over the past several years many politicians have called for a flat, or at least “flatter,” tax system in the United States.

While most Americans support either a progressive or proportional tax system, few if any are explicitly in favor of a regressive tax system, one in which individuals with lower incomes are taxed at higher rates than wealthier individuals.

There are, though, examples of such taxes in the American system. Local taxes on food, for example, tend to be regressive. Given a sales tax on food of 5% and an income of \$30,000, a family that spends \$4,000 a year on food would pay \$200 in food taxes a year, or .7% of its annual income. Comparatively, a wealthier family with an annual income of \$150,000 that spent \$8,000 a year on food would pay \$400 in food taxes, or .3% of its annual income. The wealthier family is effectively taxed at less than half the rate of the lower-income family. Many states that collect taxes on food offer tax credits or rebates to low-income families to mitigate the regressive nature of such taxes. Another example of a regressive tax in the United States is the payroll tax (FICA) because no social security taxes are assessed on income over \$80,400.

Terms and Concepts

- Fiscal policy: policies and programs establishing budgetary policy, including types and rates of taxation and types and amounts of spending.
- Flat tax: tax collected at the same rate or percentage regardless of income level.
- Monetary policy: policies aimed at controlling inflation and unemployment through manipulation of the money supply and interest rates. Primarily established by the Federal Reserve Board.
- Progressive tax: tax collected at increasingly higher rates or percentages as income level increases.
- Regressive tax: tax collected at increasingly lower rates or percentages as income level increases.

Think About It

- In your opinion, what kind of tax (progressive, regressive or proportional) is the most fair?
- Why is monetary policy controlled by an independent, nonpolitical body (the Federal Reserve Board) while fiscal policy is made by the president and Congress?

Read About Current Tax Policy Controversies

Budget surpluses and tax-cuts tax policies are almost always controversial. Policy makers in Washington constantly argue over the wisdom of cutting or raising taxes. If there are budget surpluses, should some of the money the government has raised be “refunded” to the people, or should be spent to reduce the debt and stabilize

Social Security and Medicare? Or should the government pursue both policies—cut taxes and set aside some of the surplus money for other purposes?

- [Tax Policy Center](#) Brookings Institution and the Urban Institute
- [Budget and Tax Policy](#) Cato Institute

Economic Policy Resources on the Web

- [Federal Reserve Board](#)
- [Internal Revenue Service](#)

198. Reading: Federal Spending: Where Does the Money Go?

Read “Federal Spending: Where Does the Money Go?” at the [National Priorities Project website](#). (Be sure to read the entire page, all the way down through the section entitled “Spending in the Tax Code.”)

199. Video: Stop Freaking out About the Debt

The following video explains—in under two minutes—why the national debt isn't as scary as you think.



One or more interactive elements has been excluded from this version of the text. You can view them online

here: <https://library.achievingthedream.org/herkimeramericangovernment/?p=227#oembed-1>

200. Reading: Vox Cards: The Fed and the 2008 Financial Crisis

What role did the Fed play in the financial crisis of 2008? Investigate this question by reading through the Vox “cards” [here](#).

201. Reading: Vox Cards: Federal Taxes

What are federal taxes and why do we have them? Investigate these and other questions by reading through the Vox “cards” [here](#).

202. Video: Wealth Inequality in America

The following video provides infographics on the distribution of wealth in America, highlighting both the inequality and the difference between our perception of inequality and the actual numbers. The reality is often not what we think it is.



One or more interactive elements has been excluded from this version of the text. You can view them online

here: <https://library.achievingthedream.org/herkimeramericangovernment/?p=230#oembed-1>

203. Video: How Wealth Inequality Is Dangerous for America

The top 1% of the population controls 40% of the wealth in the U.S. In the following video, Vox explains why that might not be such a healthy state for the nation.



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here: <https://library.achievingthedream.org/herkimeramericangovernment/?p=231#oembed-1>

204. Video: The Most Important Chart of 2014

This chart, below, from Pavlina Tcherneva is a shocking illustration of how the U.S. economy is broken. In the following video, Matt Yglesias explains in 45 seconds.



One or more interactive elements has been excluded from this version of the text. You can view them online

here: <https://library.achievingthedream.org/herkimeramericangovernment/?p=232#oembed-1>

205. Video: Jacob Hacker and Paul Pierson on Engineered Inequality

Moyers & Company dives into one of the most important and controversial issues of our time: How Washington and Big Business colluded to make the super-rich richer and turn their backs on the rest of us.

Bill's guests, Jacob Hacker and Paul Pierson (authors of *Winner-Take-All Politics: How Washington Made the Rich Richer—and Turned Its Back on the Middle Class*), argue that America's vast inequality is no accident, but in fact has been politically engineered.¹

Watch the video [here](#).

1. Quoted on [Moyers & Company website](#).

206. Video: The Scariest Chart in America

The American economy is in much better shape than it was five years ago. But there's still a major problem when it comes to unemployment. In the following video, Matthew Yglesias explains.



One or more interactive elements has been excluded from this version of the text. You can view them online

here: <https://library.achievingthedream.org/herkimeramericangovernment/?p=234#oembed-1>

207. Video: Banned TED Talk: Nick Hanauer

As the war over income inequality wages on, super-rich Seattle entrepreneur Nick Hanauer has been raising the hackles of his fellow 1-percenters, espousing the contrarian argument that rich people don't actually create jobs. The position is controversial—so much so that TED is refusing to post a talk that Hanauer gave on the subject. National Journal reports today that TED officials decided not to put Hanauer's March 1 speech up online after deeming his remarks "too politically controversial" for the site . . .
.—Reported by *Business Insider*

Hear what Hanauer has to say in the video below.



One or more interactive elements has been excluded
from this version of the text. You can view them online

here: [https://library.achievingthedream.org/
herkimeramericangovernment/?p=235#oembed-1](https://library.achievingthedream.org/herkimeramericangovernment/?p=235#oembed-1)

208. Video: Fred Block: The Tenacity of the Free Market Ideology

In the following video, Fred Block discusses his book *The Power of Market Fundamentalism*, which extends the work of the great political economist Karl Polanyi to explain how free market dogma recovered from disrepute after the Great Depression and World War II to become the dominant economic ideology of our time.



One or more interactive elements has been excluded from this version of the text. You can view them online

here: <https://library.achievingthedream.org/herkimeramericangovernment/?p=236#oembed-1>

209. Video: Mariana Mazzucato: The Entrepreneurial State

Mariana Mazzucato is a Professor in Economics at the University of Sussex, where she holds the RM Phillips Chair in Science and Technology Policy. She is interested in the interactions between technological change, economic growth, and the ways that industries are structured. Her recent work has looked at the leading role of the State in fostering innovation, and hence the implications of “austerity” for Europe’s ability to be an “Innovation Union.” In her last book, *The Entrepreneurial State*—which she discusses in the following video—she argues that active State investment has been the secret behind most radical innovations and that this requires economists to analyze the State as market “maker” and market “shaper,” not just as market “fixer.”



One or more interactive elements has been excluded from this version of the text. You can view them online

here: <https://library.achievingthedream.org/herkimeramericangovernment/?p=237#oembed-1>

210. Video: End This Depression Now!

In the following video, Nobel Prize-winning economist Paul Krugman discusses themes in his recent work and proposes solutions for the current economic depression.

https://youtu.be/_1mlvqrVhxc

2II. Social Welfare

Compare and contrast various major welfare policies

Learning Activities

The learning activities for this section include:

- Reading: Major Domestic Policies
- Reading: Contrary to ‘Entitlement Society’ Rhetoric
- Reading: 20,000 Leagues Under the State
- Reading: Vox Card: Are Entitlement Cuts the Same As Austerity
- Reading: Vox Cards: Health-Care Spending
- Reading: Vox Cards: Everything You Need to Know About Obamacare
- Reading: Vox Cards: The Battle over Medicaid Expansion
- Video: We Know How to End Poverty
- Video: As if Teachers’ Jobs Aren’t Hard Enough

Take time to review and reflect on each of these activities in order to improve your performance on the assessment for this section.

212. Reading: Major Domestic Policies

Learning Objectives

After reading this section, you should be able to answer the following questions:

1. What were the main changes in welfare policy?
2. What are the main problems with Social Security, and what are the proposals to rectify them?
3. What are the strengths and weaknesses of No Child Left Behind?
4. What are the differences between Medicare and Medicaid?
5. What are the significant provisions of the health-care law enacted in 2010?

We now describe the development and current condition of four of the federal government's main domestic policies: welfare, social security, education, and health care.

Welfare Policies

The services and benefits governments provide through their social policies vary widely. Scandinavian countries, such as Norway, establish a safety net from the cradle to the grave. Americans rely more on employment and private sources (insurance policies) than the government for their income and to protect them against economic misfortune.

For some American policymakers, poverty stems in part from the failure of the economic system to provide enough jobs at a living wage and from racism and sexism. They support policies to alleviate poverty's causes (e.g., increasing the minimum wage or lengthening the period of unemployment compensation). From this perspective, people are not much to blame for needing public assistance (welfare).

An alternative view blames people for their fate. Public assistance violates the American values of individual enterprise and responsibility. It is believed that recipients would rather collect government handouts than work. No wonder welfare is one of the most reviled social programs. It is often given grudgingly and with stringent conditions attached.

Aid to Families with Dependent Children (AFDC)

Title IV of the Social Security Act of 1935 provided funds for the states to help the destitute elderly, the blind, and children. Its primary purpose was to assist poverty-stricken families with children during the heart of the Great Depression. Over time, it became [Aid to Families with Dependent Children](#) (AFDC), granting financial assistance to low-income mothers and their children.¹

With expansion came criticisms, often conveyed and amplified by the media. The program was seen as supporting “unwed motherhood, idleness, and dishonesty.”³ It was disparaged for providing aid to individuals without requiring anything in return. Families were given levels of assistance on the basis of their size: the more children families had, the more aid they received. Women were deterred from attempting to leave welfare by getting jobs because they were limited in the number of hours they could work without losing some of their benefits.

1. ²

2. Michael B. Katz, *In the Shadow of the Poorhouse: A Social History of Welfare in the United States* (New York: Basic Books, 1997).

3. ⁴

4. Christopher Jencks, “What Happened to Welfare?” *New York Review*, December 15, 2005, 74.

Changes in Welfare Policies

In his successful 1991 campaign for the presidency, Bill Clinton preempted what had been a Republican issue by promising to “put an end to welfare as we know it.” In 1996, after rejecting previous versions, he signed a Republican bill, the Personal Responsibility and Work Opportunity and Reconciliation Act (PRWORA). This helped him get reelected in 1996.

This law replaced AFDC with the Temporary Assistance to Needy Families (TANF) program. The federal government gives states grants in aid and greater autonomy in structuring their welfare systems if they follow rules. Adult welfare recipients are limited to a lifetime total of five years of TANF benefits. State governments lose some of their TANF funding unless they show that significant numbers of their welfare recipients are entering the workforce. To receive benefits, children under eighteen must live with their parents or in an adult-supervised setting.

Link: Welfare Policies

Read PRWORA [here](#).

Since the law was passed, some states have reported decreases of over 50 percent in their number of welfare recipients. However it remains to be seen if the changes in welfare policy have led to less

poverty or simply removed people from the welfare rolls⁵ and what the effects of the policy are now that the economy has declined and people who had moved from welfare to employment have lost their jobs.

The federal government does pay the cost of food stamps. Nearly one in seven Americans receives them, with an average benefit of \$500 a month for a family of four. Removing the stigma of welfare from the stamps, the government changed the program's name to Supplemental Nutrition Assistance. Making it even more acceptable, it is supported by farmers and grocery stores.⁷

5. ⁶

6. ["Welfare Reform: With TANF Flexibility, States Vary in How They Implement Work"](#) (Washington, DC: General Accounting Office, 2002), accessed June 6, 2011.

7. ⁸

8. Jason DeParle and Robert Gebeloff, ["The Safety Net: Across U.S., Food Stamp Use Soars and Stigma Fades,"](#) *New York Times*, November 8, 2009, accessed June 6, 2011; and Jason DeParle and Robert Gebeloff, "Once Stigmatized, Food Stamps Find New Users and Acceptance," *New York Times*, February 11, 2010, A1.

Social Security

Some policies are controversial at the start, then build up powerful support from their current and future beneficiaries, becoming widely accepted, even treasured, by the public. Over time, they grow in complexity and cost. Social Security is a notable example.

Link: Social Security

Read more information about Social Security [here](#).

Among Americans most distressed by the Great Depression were the nation's elderly, many of whom lost their savings and were unable to support themselves. President Franklin D. Roosevelt and Congress attempted to address this problem through the [Social Security Act of 1935](#).



These figures, part of the memorial to President Franklin D. Roosevelt, symbolize the desperate conditions of the elderly during the Great Depression and President Roosevelt's Social Security policy in response.

It established a system of social insurance in which taxes on payrolls were used to provide benefits to the elderly. Social Security was soon expanded to cover benefits for “survivors,” including widows, dependent children, and orphans. In 1956, disabled Americans were added to the list of beneficiaries, thus formally creating the Old Age, Survivors and Disability Insurance (OASDI) system.⁹ In 1972, benefit

9.¹⁰

10. For an overview of the origin of the Social Security System, see Edward D. Berkowitz, *Robert Ball and the Politics of Social Security* (Madison: University of Wisconsin Press, 2003).

levels were tied to the consumer price index—benefit levels go up when the consumer price index does.

Social Security now provides benefits to over forty-eight million Americans. It is the main source of economic survival for two-thirds of the elderly and the only source of income for over 30 percent of the aged.

Social Security's Solvency

Traditionally, more money has been paid into the Social Security Trust Fund than drawn out, leading to a revenue surplus. But Americans are living longer than ever. Longer lives mean larger payouts from the fund, as there is no limit on the number of years people receive benefits. Also, recent generations entering the workforce are generally smaller in size than their predecessors. By 2040, there will not be enough money in the fund to finance recipients at the current level.¹¹

Special commissions have issued reports, prominently covered with alarmist stories by the press, about these problems. Proposals

11.¹²

12. For a contrary view, see Joseph White, *False Alarm: Why the Greatest Threat to Social Security and Medicare Is the Campaign to "Save" Them* (Baltimore: Johns Hopkins University Press, 2001).

to “fix” Social Security have been developed by these commissions, think tanks, other interest groups, and a few politicians. Policymakers are wary of suggesting that they may tamper with the revered system; they make change with delicacy. Thus in 1983, the age of eligibility for full retirement benefits was increased from 65 to 66, but the change wasn’t effective until 2009; the age increases to 67 in 2027.

Additional revenue could be generated by increasing the percentage of the payroll tax or the amount to which it is applied on employees’ wages and employers’ contributions. However, tax increases are never popular among elected officials, so these options lack advocates in Congress.

President Bush’s Proposals

Thinking to trade on the momentum of his 2004 reelection, President George W. Bush went public with a campaign to inspire public and congressional support for his proposals to “save” Social Security.¹³ Launching his campaign in his State of the Union address, he embarked on a high-profile “60 Cities in 60 Days” tour.

13.¹⁴

14. For details of President Bush’s campaign, see George C. Edwards III, *Governing by Campaigning: The Politics of the Bush Presidency* (New York: Longman, 2007), 216–80.

His theme: Social Security was in perilous condition. He proposed to save it through personal (private) savings accounts. People would be allowed to invest a third of their Social Security withholdings into a variety of investment options such as the stock market.

The argument for privatization is that the stock market greatly outperforms Social Security's trust fund over the long term.¹⁵ Over time, therefore, privatized investment would be a boon to the overall size of the trust fund and protect the solvency of the system.

The president appeared at town hall meetings with handpicked, sympathetic audiences. Signs saying "Protecting our Seniors" flanked him. He used the positive and evocative words "choice" and "ownership" to describe his proposals.

President Bush was supported by such powerful interest groups as the [U.S. Chamber of Commerce](#) and the [Business Roundtable](#). He also received support from potential beneficiaries of his proposed changes: Wall Street firms would receive billions of dollars to manage personal accounts.

The president faced opposition from Democrats and powerful interest groups such as organized labor and [AARP](#) (formerly the American Association of Retired Persons). They were bolstered by experts in Social Security policy who provided information challenging and undermining Bush's arguments and claims.

Critics of the president's proposals argued that there was no crisis; that the stock market goes down as well as up, so investing in it is risky and people could end up with reduced retirement income; and that private investment accounts would require the government to borrow about \$2 trillion to offset the reduction in payroll taxes

15.¹⁶

16. The Cato Institute, a conservative think tank, has been a major proponent of privatization. Its recommendations can be found at Cato Institute, "[Social Security](#)."

to avoid a shortfall in payments owed to current retirees. Most dramatically, the president's opponents contended that his proposals would destroy the program.

Media Coverage

It was a perfect setup for the news media. On one side were the president and his nationwide campaign; on the other side was the opposition. Experts could be called on to assess the validity of both sides' arguments. This was all done on a policy issue—the future of Social Security—of public interest and concern.

From the start, media coverage undermined the president. The very first story in the [New York Times](#) set the pattern. It was headlined “As White House Begins Campaign for Overhauling Social Security, Critics Claim Exaggeration.”¹⁷ It cited “outside analysts,” including the nonpartisan Congressional Budget Office and academics casting doubt on the president's arguments. It contained this devastating paragraph: “White House officials privately concede that the centerpiece of Mr. Bush's approach to Social Security—letting people invest some of their payroll taxes in private

17. ¹⁸

18. Edmund L. Andrews, “As White House Begins Campaign for Overhauling Social Security, Critics Claim Exaggeration,” *New York Times*, January 10, 2005, A15.

accounts—would do nothing in itself to eliminate the long-term gap.”

Perhaps because there was no new news in the president’s appearances and statements, stories reporting them focused on the rigged audiences, the “carefully screened panelists,” and “meticulously staged “conversations.”¹⁹

The more the president spoke, the less the public supported his proposals. From early January into May 2005, public opinion about the way Bush was handling Social Security decreased from 41 to 31 percent approval, and disapproval increased from 52 to 64 percent.²¹

The president ended his campaign. Personal retirement accounts disappeared from Congress’s policy agenda.

19. ²⁰

20. Jim VandeHei and Peter Baker, “Social Security: On with the Show: President’s ‘Conversations’ on Issue Are Carefully Orchestrated, Rehearsed,” *Washington Post*, March 12, 2005, A3.

21. ²²

22. Gallup/CNN/USA Today poll, January and May 2005.

Education Policies

Traditionally, education policy has been the domain of state and local governments. Schools are funded mainly by local property taxes. Consequently, schools' resources and thus their quality of education depend on their location, with vast differences between and often within school districts.



Because much of their funding comes from property taxes, the quality of schools differs drastically, even in the same city and district.

The federal government's limited involvement began to change in the 1960s as part of President Lyndon Johnson's War on Poverty. The 1965 Elementary and Secondary Education Act (ESEA) allotted funds for developing remedial programs, hiring teachers and aides, and purchasing supplies and equipment. The Head Start Program, also established in 1965, provided low-income children with preschool education. The Department of Education was created in 1979.

No Child Left Behind (NCLB)

Fulfilling his campaign pledge, repeated in his inaugural address, to close the gap in achievement between poor and minority children and children attending primarily white schools in the suburbs and to improve school performance, President George W. Bush obtained passage of significant amendments to the ESEA in the No Child Left Behind Act of 2002. He signed the legislation into law in an elaborate ceremony accompanied by his bipartisan congressional allies.

Link: The No Child Left Behind Act of 2002

Read the complete No Child Left Behind Act [here](#).

The law was a major policy accomplishment by the president. Placing its administration in the Education Department, he overcame the opposition of some his party's leaders who wanted to

abolish the department. Imposing federal requirements on schools, he radically changed federal-state relations in education.²³

The law called for states to implement accountability systems covering all public schools and students and to test all students in grades 3–8 in reading and math. Schools failing to make adequate yearly progress toward goals are subject to corrective actions and restructuring. To increase parental choice for children attending an underperforming school, schools are required to let low-income parents use allotted federal funding to pay for tuition at a school in the district that has attained acceptable standards.

23.²⁴

24. An account of education policy and politics is Patrick J. McGuinn, *No Child Left Behind and the Transformation of Federal Education Policy* (Lawrence: University Press of Kansas, 2006); a critique of the law and suggestions of ways to improve it is Scott Franklin Abernathy, *No Child Left Behind and the Public Schools* (Ann Arbor: University of Michigan Press, 2007); and a slashing attack on education policy, including NCLB, as more spectacle than rational is Mary Lee Smith with Linda Miller-Kahn, Walter Heinecke, Patricia F Jarvis, and Audrey Noble, *Political Spectacle and the Fate of American Schools* (New York: Routledge/Falmer, 2004).

Comparing Content: No Child Left Behind

President Bush touted No Child Left Behind as a great domestic accomplishment of his administration. He promoted it from the White House, on radio, and in speeches.²⁵ Education Secretary Rod Paige talked it up throughout the country. The Department of Education created a website and issued publications and press releases describing the act and how its objectives were being achieved.

The *New York Times* persistently contradicted the administration's beguiling rhetoric. Reporters detailed problems in how the program was administered and implemented. The newspaper's education writer critically evaluated the policy, and the editorial page's verdict on the program was caustic.

The newspaper pointed out that states have widely different standards for measuring students' progress—there is no agreement on how much students need to know to be considered proficient. Many states have low proficiency standards. Students ace these state tests only to fail more rigorous federal exams.²⁷ States with

25.²⁶

26. For example, see the radio addresses of January 4, 2003, September 6, 2003, and January 3, 2004; the Rose Garden speech of June 10, 2003; and the speech on May 12, 2004.

27.²⁸

high standards could be penalized by having many failing schools, while states with low standards and poor performance would be left alone.²⁹

According to the newspaper, schools reported implausibly high graduation rates and low dropout rates even as they were pushing out low achievers in order to keep up test scores. School districts were not enforcing and failed to meet a provision in the law requiring a “highly qualified” teacher in every classroom by 2006.³¹ Only 12 percent of the two million students in public schools eligible for free tutoring were receiving it. Above all, the Bush administration’s funding of the program was billions of dollars short of the amount authorized by Congress.

The *Times* printed an op-ed about the Department of Education’s rankings of reporters on a one hundred-point scale “depending on whether their stories were critical or favorable toward the

28. Sam Dillon, “Students Ace State Tests, but Earn D’s From U.S.,” *New York Times*, November 26, 2005, A1, 10.

29.³⁰

30. Ford Fessenden, “How to Measure Student Proficiency? States Disagree on Tests,” *New York Times*, December 31, 2003, A16; and for a typical piece by education writer Michael Winerip, see “On Education; A Pervasive Dismay on a Bush School Law,” *New York Times*, March 19, 2003, A24.

31.³²

32. Sam Dillon, “Most States Fail Demands Set Out in Education Law,” *New York Times* July 25, 2006, A14.

law.”³³ And repeated revelations (first reported in *USA Today*) came up that media commentators had been paid to promote the policy, including one pundit who received \$240,000 and often appeared on television and radio without mentioning the payment.

The *Times*’ coverage focused on the program’s inadequacies and failures, its duplicity and deception. Exposure is a news value, common in journalism; the *Times*’ reporters were doing their job. Missing, though, was an adequate acknowledgment and appreciation of the program’s accomplishments and the difficulty of achieving its goals.

The Obama Administration

President Obama’s Secretary of Education [Arne Duncan](#) promised to rectify the defects of NCLB. He embraced competition, accountability, parental choice, and incentives. Specifically, he proposed to raise academic standards, end the misleading identification of thousands of schools as failing, turn around schools that were truly failing, recruit and retain effective teachers, track students’ and teachers’ performance, and tie teacher evaluation to students’ test scores. He wanted to increase the number of charter

33. ³⁴

34. Andrew J. Rotherham, “No Pundit Left Behind,” *New York Times*, January 12, 2005, A23.

schools—a broad term describing the more than five thousand private schools set up mainly in urban areas, with local and state and private funds, to compete with public schools.³⁵

Duncan encouraged the development of national standards in English and math to be adopted by the states, specifying the skills students should have at each grade level. Although the timetable for implementing the standards is uncertain, states will have to rethink teacher training, textbooks, and testing.

Duncan also created the [Race to the Top](#) competition allocating \$4.3 billion in education aid to states that comply with the administration's educational goals. But this is a modest sum, won by only a few states, compared with the approximately \$650 billion spent on K-12 education annually.

At the same time, states and localities beset by budget deficits are slashing their expenditures for education. They are doing this by dismissing teachers, hiring few new ones, increasing class sizes, and cutting programs.

So even though the federal government is now far more involved in education than ever before, it prods but cannot compel the states and localities to do its bidding. Moreover, some states and school districts still object to federal intrusion and mandates. Besides, the quality of education often depends more on a student's family and community than the schools, starting with whether children are healthy enough to learn.

35. ³⁶

36. Carlo Rotella, "Class Warrior," *New Yorker*, February 1, 2010, 24-29.

Health-Care Policies

Program by program, the federal government has contributed to the costs of medical care for some of the people who have difficulty paying their medical bills or have no health insurance. The media encouraged the creation of such government policies by consistently reporting about the large number of uninsured Americans who, it was assumed, were without adequate doctor, prescription drug, and hospital care.

Medicare

In 1965, the most extensive health coverage legislation in American history became law. Medicare helps citizens sixty-five and older meet their primary medical care needs. It covers around forty million people.

Medicare has two parts. Part A pays some of the hospital charges for individuals who are eligible for Social Security benefits. It is funded by payroll deductions and matching contributions from a patient's employer. People are responsible for both a deductible charge that must be paid before Medicare payments are authorized and copayments for many hospital-related services. There are no limits on the total costs people can incur.

Part B is an optional insurance system covering health-care costs outside of hospital stays for physician services, medical tests, and

outpatient visits. Participants pay a monthly fee, deductible charges, and copayments. The government contributes about three-fourths of the overall costs.

Prescription Drugs

Medicare's lack of a prescription drug benefit was particularly hard on the elderly and disabled, who commonly take several prescription drugs. Responding to this need, the [Medicare Prescription Drug and Modernization Act of 2003](#) contains two types of [assistance programs](#). The first is a prescription drug discount card program saving Social Security recipients roughly 15 percent to 25 percent annually.

In the program's more substantial part, individuals pay an annual premium and deductible in return for the federal government paying 75 percent of their prescription drug costs up to \$2,250.

Because of exploding health costs and the new prescription drug benefit, Medicare may be in worse financial shape than Social Security. According to the program's trustees, its hospital insurance trust funds will run out of money in 2019.³⁷

37. ³⁸

38. Robert Pear, "Medicare Costs Expected to Soar in Coming Years," *New York Times*, March 24, 2004, A1, 15.

Medicaid

Medicaid was created in 1965. It provides health-care coverage for approximately fifty million poor and disabled Americans. More than a third of them are over sixty-five. The federal government pays about half the costs of their medical care, including hospital stays, physician fees, and various diagnostic services. States pay the remainder of the costs of the coverage.

Link: Medicaid

Learn more about Medicaid [here](#).

The federal government requires coverage of the blind, the disabled, and children (Children's Health Insurance Program, <https://www.cms.gov/home/chip.asp>) under the age of eighteen whose family's income is below the poverty level. Otherwise, states decide eligibility for inclusion in Medicaid. State standards vary significantly; someone eligible in California might be excluded in Texas. Nonetheless, Medicaid pays approximately two-thirds of the costs of nursing home care in this country.

Because of the high cost of health-care services covered under Medicaid, state governments have become increasingly burdened financially. Other than education, Medicaid takes up the single greatest percentage of state budgets, a cost that is increasing

annually. This situation has caused states to cut back on a number of the program's optional medical services.

The Uninsured

Around fifty-one million Americans lacked health insurance. This figure included approximately nine million under the age of eighteen who were eligible for but not enrolled in Medicaid or the Children's Health Insurance Program. Some twenty-eight million people came from households with income above the poverty line but whose employers did not provide them with health insurance. Their work was often temporary or part time and low-paid. About fifteen million of the uninsured had income below the poverty line yet were not receiving Medicaid.

Politicians proposed policies in response to the lack of health care. Most notably, the Clinton administration, led by First Lady Hillary Clinton, proposed health-care coverage for all United States citizens. This 1994 initiative died for lack of support in Congress, in part because of its complexity and a negative advertising campaign by interest groups against it.³⁹

39.⁴⁰

40. Jacob S. Hacker, *The Road to Nowhere: The Genesis of President Clinton's Plan for Health Security* (Princeton, NJ: Princeton University Press, 1997).

President Obama and Health Care

After he assumed office in 2009, President Obama took up health care as a major policy initiative. His administration negotiated (i.e., bargained) with every major sector of the health-care industry to support its health-care proposals. Motivating the industry was the drop in the number of employers insuring their employees or providing generous coverage and the number of employees who could afford to pay their share of the cost of insurance. This resulted in fewer Americans with insurance coverage and thus able to pay for hospital care, doctors, and drugs.

At the heart of the bargain “was a simple quid quo pro: accept greater public regulation and involvement in return for greater guaranteed financing.”⁴¹ That is, the government would require people to have insurance, thereby greatly expanding the market. This bargain did not prevent each industry group from lobbying to modify or scuttle provisions in the legislation that might reduce its members’ income. The drug industry opposed studying the effectiveness of treatment; the [American Medical Association](#) lobbied to kill the proposal for a government-run insurer (i.e., the public option); hospital lobbyists objected to a Medicare oversight board that could reduce payments.⁴³

41.⁴²

42. Jacob S. Hacker, “The Road to Somewhere: Why Health Reform Happened,” *Perspectives on Politics* 8, no. 3 (September 2010): 865.

43.⁴⁴

In March 2010, the Democratic majority in Congress passed the [Patient Protection and Affordable Care Act](#), arguably the most important domestic legislation in decades. It passed without a single Republican vote and despite millions of dollars of advertising aimed at the forty Democrats in the House deemed vulnerable to defeat if they voted for the bill. In this instance, party loyalty, appeals from party leaders (especially the president), advertisements from supporters of the legislation, and the realization that this was the most propitious opportunity to enact health reform in many years overcame the opponents' arguments and advertising.

The law is complicated; many provisions do not go into effect until 2014 or later. Bureaucrats will have to write the thousands of pages of rules, define terms such as “benefits,” and clarify the details. States will have to implement many provisions. Lobbying will be intense. The Republican majority in the House of Representative voted in 2011 to repeal the law and is likely to strip away funds for putting the law into effect. The law’s constitutionality has been challenged in court—cases that, probably consolidated, will likely reach the U.S. Supreme Court.

If it remains in effect, the law will eventually provide health insurance for around thirty-two million uninsured Americans. It will expand eligibility and subsidize lower premiums for Medicaid, transforming it from a government health-insurance program just for poor families into a much wider program to include millions of the poorest Americans, including able-bodied adults under sixty-five who earn no more than 133 percent of the federal poverty level. People not covered by their employers and who earn too much to qualify for Medicaid can buy coverage from state-based insurance purchasing organizations. The law prohibits insurance companies

44. David D. Kirkpatrick, “Groups Back Health Overhaul, but Seek Cover,” *New York Times*, September 12, 2009, A1.

from rejecting people for preexisting medical conditions, removes annual and lifetime limits on payments by insurance companies, and enables children to stay on their parents' policy until they turn twenty-six.

Such a complicated law raises a host of criticisms and questions. Are its costs affordable? Can Medicaid absorb the additional people, especially when—even now—many doctors do not accept Medicaid patients on the grounds that the reimbursement it pays is too low? Will insurance premiums continue to rise substantially? Is it constitutional to fine people who remain uninsured? Can the law curb unnecessary care (whatever “unnecessary” means in practice)?

Key Takeaways

In this section, we discussed the development and current condition of four of the main domestic policies: welfare, social security, education, and health care. We explained why and how the federal government, particularly the presidency, became involved, the policies it pursued, which ones were enacted into law, and their effects.

213. Reading: Contrary to 'Entitlement Society' Rhetoric

Read “Contrary to ‘Entitlement Society’ Rhetoric, Over Nine-Tenths of Entitlement Benefits Go to Elderly, Disabled, or Working Households” by Arloc Sherman, Robert Greenstein, and Kathy Ruffing [here](#).

214. Reading: 20,000 Leagues Under the State

Beneath the surface of American government lurks a system of social programs for the wealthy that is consuming the federal budget. It's time for progressives to do battle with tax expenditures.¹

Read “20,000 Leagues Under the State” by Suzanne Mettler [here](#).

215. Reading: Vox Card: Are Entitlement Cuts the Same As Austerity?

Read the Vox card “Are Entitlement Cuts the Same As Austerity?” [here](#).

216. Reading: Vox Cards: Health-Care Spending

What is health-care spending? What effect does it have on society and the economy? Investigate these and other questions by reading through the Vox “cards” [here](#).

217. Reading: Vox Cards: Everything You Need to Know About Obamacare

What is Obamacare and what does it do? Investigate these questions by reading through the Vox “cards” [here](#).

218. Reading: Vox Cards: The Battle over Medicaid Expansion

What was the battle over Medicaid expansion in 2013 and 2014? What was its significance? Investigate these questions by reading through the Vox “cards” [here](#).

219. Video: We Know How to End Poverty

The idea of a “basic income” has a long intellectual pedigree, and the case for it is better than you might expect. Watch the following video to learn more.



One or more interactive elements has been excluded from this version of the text. You can view them online

here: <https://library.achievingthedream.org/herkimeramericangovernment/?p=247#oembed-1>

220. Video: As if Teachers' Jobs Aren't Hard Enough

Big ideas in public education, such as the Obama administration's Race to the Top and Teach For America, often say teachers could improve inequality. In the following video, Dana Goldstein, author of *The Teacher Wars*, explains why this is magical thinking that's been around since the 1800s.



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here: <https://library.achievingthedream.org/herkimeramericangovernment/?p=248#oembed-1>

22I. Foreign Policy Goals

Identify the nature and goals of foreign policy

Learning Activities

The learning activities for this section include:

- Reading: Foreign Policy
- Video: American Foreign Policy in Historical Perspective
- Video: John Mearsheimer on America Unhinged
- Video: The Israel Lobby and U.S. Foreign Policy
- Reading: The Iran Nuclear Deal, Translated into Plain English
- Video: U.S. Democracy Promotion Means Toppling Governments
- Video: Obama on the Goal of His Foreign Policy
- Video: Obama on What Most Americans Get Wrong About Foreign Aid

Take time to review and reflect on each of these activities in order to improve your performance on the assessment for this section.

222. Reading: Foreign Policy

Introduction

In broad terms, America's foreign policies are aimed at maintaining and promoting the favorable position and security of the United States in the international arena. The goals of American foreign policy, however, are not always clear. How involved should the United States be in the affairs of other nations? Should it only use its military might to defend its borders or should it be involved in peace-keeping efforts around the world? Should the United States attempt to trade "freely" with other nations, or should it enact restrictive tariffs to protect American companies and manufacturers?

As the United States faces the new millennium, there are familiar calls to become more isolated from the rest of the world while others argue that the nation must remain an active participant in the world community, even as the world becomes a more uncertain and dangerous place.

Who Makes Foreign Policy?

The Constitution of the United States gives the president the clear upper hand in the conduct of foreign policy. The president is the Commander-in-Chief of the nation's armed forces. As the single officer of the United States charged with receiving the leaders of other nations and with negotiating treaties, the president is also the nation's Chief Diplomat.



President George W. Bush and Prime Minister Marek Belka of Poland meet with the press in the Oval Office Monday, August 9, 2004.

The president, however, does not have the authority to make foreign policy independently. The Constitution gives the Congress the power to check the president's foreign policy powers in important ways. While the president can order the United States military into action to respond to emergencies and threats to the security of the nation, only the Congress has the authority to officially "declare war." Ultimately, it is Congress's power of the purse that allows it to cut off funding to presidentially ordered military ventures of which it does not approve.

In treaty making, the president must also work together with the Congress. While the president is free to negotiate treaties between the United States and other nations, treaties must be ratified by the Senate before they are officially binding on the United States.

The budgets of the State Department and other foreign policy agencies, which are officially charged with implementing the president's foreign policies, are also set by the Congress and overseen by foreign policy committees in both the House and the Senate. However, the ability of the Congress to influence foreign policy and check the president's actions are limited. The president's constitutional authority and ability to act unilaterally, juxtaposed

against 535 often divided members of Congress, give the president a decisive edge.

What Is the Proper Role of the United States in the World Today?

While China's military strength is increasingly formidable, the United States is arguably the world's only remaining Superpower, with a long history of military involvement around the globe. While the United States has only declared war five times in its history, it has been involved in hundreds of armed conflicts in dozens of countries. These "undeclared wars" range in significance and scale from America's prolonged involvement in Korea and Vietnam, to bombing raids on Baghdad and Kosovo, to post-9/11 actions in Afghanistan and Iraq.

The United States at War

The United States of America has only made an official declarations of war five times:

1. The War of 1812 (Britain)
2. The Mexican American War (1848)
3. The Spanish American War (1898)
4. World War I (1917)
5. World War II (1948)

When should the United States military get involved in the affairs of another nation? Under what circumstances are United States' interests threatened enough to justify a response? During the Cold War, when the Soviet Union was still in existence, these questions were easily answered. United States foreign policy was driven



A B-2 Spirit. The U.S. Air Force's superiority in the skies is one reason the United States is the world's "super power."

by its official commitment to contain the spread of communism and to maintain military superiority over the Soviets.

With the fall of the Soviet Union and the almost complete failure of communism around the globe (with the notable exception of China), the United States now lacks a clear set of goals and objectives to guide its foreign policy. Determining who America's enemies and allies are is less straightforward than it once was. While al-Qaeda is clearly a deadly and determined enemy, it is a very different kind of enemy than the United States has faced in the past. al-Qaeda and its leaders are not formally affiliated with any nation-state. They operate independent across national borders and, as has been seen in Iraq, they do not wage war in traditional battle-field conflicts.

The so-called "War on Terror" has made articulating America's place in the international arena even more difficult. As it pursues its national security goals, the nation must also increasingly consider trade and economic goals as well. Moreover, increasingly complicated domestic policy problems make it easier to turn inward, rather than outward. But can America afford to ignore the problems and opportunities of the international arena? Such questions are at the heart of both presidential and congressional politics. They have significant implications for the future of America's military forces, America's relations with other nations

and America's status as economic and military power in the international arena.

Terms and Concepts

- Chief diplomat: role of the president as the primary point of contact between the United States of American and other nations.
- Cold War: "War" between the United States and the former Soviet Union, which involved no direct conflict between the two nations but instead was characterized by a multibillion-dollar nuclear arms race and numerous conflicts between secondary nations backed (sometimes publicly, sometimes secretly) by each nation.
- Commander-in-chief: formal constitutional role of the president as leader of the nation's armed forces.
- Treaty: a formal agreement between two or more nations. Treaties ratified by the Senate are legally binding for the United States and its citizens.
- War on Terror: term for the collective responsive actions taken by the United States military after the September 11 attacks on the World Trade Centers and Pentagon. The most notable of these actions have been in Afghanistan and Iraq.

Think About It

- What is the proper role of the United States in the international community? Is it different now than it was 200 years ago? Fifty years ago?
- What should be the priorities of American foreign policy?

Foreign Policy Resources on the Web

- [House International Relations Committee](#)
- [Senate Committee on Foreign Relations](#)
- [Council on Foreign Relations Organization](#)
- [United States Department of State](#)
- [House Armed Services Committees](#)
- [Senate Armed Services Committees](#)

223. Video: American Foreign Policy in Historical Perspective

Watch the following video lecture by Stephen Sestanovich in which he discusses historical continuities in American foreign policy by focusing on three topics: domestic politics, the goals of American foreign policy (regime change and democracy), and the exercise of American power.



One or more interactive elements has been excluded from this version of the text. You can view them online

here: <https://library.achievingthedream.org/herkimeramericangovernment/?p=251#oembed-1>

224. Video: John Mearsheimer on America Unhinged

In the following video, John Mearsheimer discusses American foreign policy with regard to our claim that we live in an “insecure world.”



One or more interactive elements has been excluded from this version of the text. You can view them online

here: <https://library.achievingthedream.org/herkimeramericangovernment/?p=252#oembed-1>

225. Video: The Israel Lobby and U.S. Foreign Policy

In the following video, John Mearsheimer and Stephen Walt discuss their book *The Israel Lobby and U.S. Foreign Policy* at Cambridge Forum. They argue that a group of pro-Israel activists are manipulating U.S. foreign policy.



One or more interactive elements has been excluded from this version of the text. You can view them online

here: <https://library.achievingthedream.org/herkimeramericangovernment/?p=253#oembed-1>

226. Reading: The Iran Nuclear Deal, Translated into Plain English

Watch the videos and read the accompanying text about the Iran nuclear deal at [Vox.com](https://www.vox.com).

227. Video: U.S. Democracy Promotion Means Toppling Governments

In spring 2015, the peace process in Ukraine is showing signs of hope—largely on account of goodwill efforts by European and Russian leaders. How will the Americans, excluded from the talks, react to de-escalation? Will hawks in Washington manage to derail the fragile process? In the following video, renowned political scientist and author John Mearsheimer joins the conversation.

<https://youtu.be/FCcxvzEKwJl>

228. Video: Obama on the Goal of His Foreign Policy

When it comes to foreign policy, is President Obama a realist or an idealist? It turns out he rejects both terms. Watch the following video to learn more.



One or more interactive elements has been excluded from this version of the text. You can view them online

here: <https://library.achievingthedream.org/herkimeramericangovernment/?p=256#oembed-1>

229. Video: Obama on What Most Americans Get Wrong About Foreign Aid

Watch the following video and listen to President Obama explain why he thinks we need to look at U.S. foreign aid not as charity but as an important tool in our national security portfolio.



One or more interactive elements has been excluded from this version of the text. You can view them online

here: <https://library.achievingthedream.org/herkimeramericangovernment/?p=257#oembed-1>

230. Environmental Challenges

Identify major environmental challenges

Learning Activities

The learning activities for this section include:

- Video: Ray Anderson: The Business Logic of Sustainability
- Reading: Vox Cards: Global Warming
- Video: Ramez Naam: Living in a Finite World
- Video: Ramez Naam: The Infinite Resource

Take time to review and reflect on this activity in order to improve your performance on the assessment for this section.

23I. Video: Ray Anderson: The Business Logic of Sustainability

At his carpet company, Ray Anderson has increased sales and doubled profits while turning the traditional “take/make/waste” industrial system on its head. In a gentle, understated way, in the following TED talk he shares a powerful vision for sustainable commerce.



*One or more interactive elements has been excluded
from this version of the text. You can view them online*

here: [https://library.achievingthedream.org/
herkimeramericangovernment/?p=259#oembed-1](https://library.achievingthedream.org/herkimeramericangovernment/?p=259#oembed-1)

You can read a transcript of Anderson’s talk [here](#).

232. Reading: Vox Cards: Global Warming

What is global warming and why should I care? Investigate these and other questions by reading through the Vox “cards” [here](#).

233. Video: Ramez Naam: Living in a Finite World

We live in a finite world where only one thing is infinite: human innovation. In the following video, Ramez Naam shows us the power of knowledge in our world and encourages us to spread our ideas.



*One or more interactive elements has been excluded
from this version of the text. You can view them online*

here: [https://library.achievingthedream.org/
herkimeramericangovernment/?p=261#oembed-1](https://library.achievingthedream.org/herkimeramericangovernment/?p=261#oembed-1)

234. Video: Ramez Naam: The Infinite Resource

What are the limits that nature imposes on human civilization? How do we live within these limits? Is it possible to continue to grow human wealth, prosperity, and capabilities without depleting natural resources?

In the following video, Ramez Naam paints a picture of human civilization on a planet with incredibly vast resources, stunted by the low efficiency with which we utilize them. With innovation in key fields, he argues, it is possible for humanity to continue growing in wealth and prosperity for centuries without depleting the Earth's resources. In this provocative talk, Naam sketches a roadmap toward a future of incredible wealth on a healthy and thriving planet.



One or more interactive elements has been excluded from this version of the text. You can view them online

here: <https://library.achievingthedream.org/herkimeramericangovernment/?p=262#oembed-1>

235. Putting It Together

Summary

Monetary and fiscal policy are the main tools the federal government uses to maintain and sustain American capitalism, the former being carried out by the Federal Reserve. Meanwhile, fiscal tax-and-spend policy includes discretionary and mandatory spending on programs designed to tackle a number of challenges. Various analysts have characterized the federal government as “an insurance company with an army” because of the nature of government spending priorities. That is, most mandatory spending goes to large social insurance programs like Social Security and Medicare, while the lion’s share of discretionary spending goes to the military.

On the tax side of things, considerable debate has focused on the reduction of taxes on the wealthy and corporations over the last few decades. Whereas the top tax bracket never dropped below a 70 percent tax on the highest incomes (and sometimes reached above 90 percent) during the three decades following WWII, taxes on top earners have been cut to around half that rate during the last thirty years, with the resulting loss in revenue leading to growing public debt and higher state and local taxes.

Social Security and Medicare—benefiting mostly the elderly—stand as the largest social welfare programs, which is not what most think when they consider welfare spending. Aid to the poor actually represents substantially less than many assume. Also, a sizable amount of welfare gets funneled through the system in the form of tax breaks, mostly benefiting middle- and upper-class Americans, who may not register that they are receiving significant help through breaks such as the home mortgage interest deduction.

The Affordable Care Act—also known as “Obamacare”—is the

latest addition to the social safety net. While the reach of the law has been blunted by the Supreme Court, evidence thus far suggests that Obamacare has rapidly increased the percentage of Americans with access to health insurance while slowing the rise in medical costs—two major policy successes.

There are numerous economic challenges that face the nation, but the national debt is not one of them—despite considerable media attention on the issue. Instead, putting people back to work in the wake of the Great Recession and addressing rising inequality and its consequences remain the most serious challenges.

In the foreign policy arena, America's interaction with the rest of the world is driven by a multitude of interests. As a great power, the nation's foreign policy does not always align well with professed ideals.

Lastly, environmental challenges have emerged as perhaps the largest and most serious issue facing the nation during the first decades of the twenty-first century, with climate change representing the most pressing of policy issues moving forward.

PART XIV

COURSE INFORMATION

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236. Contacting Me

If you need to contact me about a **private matter such as why you got a particular grade on a certain assignment, use the email system that is built into this course. It is called Messages and you can find it in the menu on the left side of the screen.**

237. My Expectations

This is a regular college course. I expect the same commitment to time and quality as I do in the classroom. The big difference is that internet study is student-centered rather than teacher-centered. This means that you are responsible for your own learning and success. If you are highly motivated, log on and **participate at least 6 times in each seminar**, work hard on the tests and produce a high quality paper – you will be successful. However, if you log on sporadically, participate minimally, or submit poor work – you will not. On-line higher education is aimed at independent learners. If you require the structure of a classroom, this method will not suit you.

Here is a big, big difference between this course and other on-line courses you may have taken. Every opinion that you post in the seminars must be backed up with evidence from the text, a web site, or a detailed personal experience. This is an absolute rule and I am very strict about enforcing it. I grade every seminar post and deduct major points if evidence is not provided to support the view being expressed. It is expected that students will treat each other in a respectful and civil fashion in the seminars. Obscene language that would disrupt seminar discussions is prohibited.

Cheating is defined as giving or receiving help on an assignment. This will result in an 'F' for that assignment and the lowering of the overall course grade by one full letter. Further information can be found in the Academic Dishonesty Procedure, Penalties, and Appeal Process sections of the Student Handbook.

I will not accept an exam, assignment or seminar response after its due date unless you have a good explanation for why it is late. You must communicate the explanation to me through the

message center. If a problem arises in your life that prevents you from doing the work for awhile, let me know about it as soon as it occurs. **I am much more likely to let you submit late work if you let me know in advance that you will miss a deadline.** When people tell me they did not submit an assignment that was due two weeks ago because of a certain reason, it is very unlikely that I will accept the excuse.

Here is another big expectation that I have. **Take enough pride in your work to care about spelling.** Before you submit a seminar post, short answer test, or research paper, I expect you to use the spell checker. It only takes a few seconds to do this. It is very slipshod and unprofessional to send a message with spelling errors. This includes when you communicate me through Messages.

238. Course Overview

This course is designed to introduce students to the United States government by examining the Constitution, the Supreme Court, Congress, the President, the electoral process, political parties and interests groups. Civil liberties and the struggle for equal rights will also be discussed.

239. Course Objectives

Here are the formal course objectives.

1. You will learn to think critically about political issues.
2. You will learn to evaluate the relative significance of political issues.
3. You will learn to communicate your awareness of and understanding of political issues.
4. You will learn to analyze and respond to the comments of other students regarding political issues.
5. You will learn to locate, analyze, synthesize and communicate information relevant to political issues.

240. Course Learning Activities

Student-led Virtual Seminars:

In every module you will find a Student-led Virtual Seminar. This is one way we cover the content of the textbook. For each chapter you will ask a “critical thinking” question about some topic in the chapter. Other students will respond to your question. In addition you will answer some of the questions posed by other students. Half of your final grade is determined by your participation in these seminars.

Chapter Exams

In every module there will be an open-book exam on the chapter to be covered in the **next** module. The course is set up this way so that you will be sure to read a chapter before you participate in the seminar on it. The exam will consist of 20 multiple-choice questions. This is the other way we will cover the content of the textbook.

Research Paper

A research paper is required. Details are provided in the Research Paper Assignment Module.

Course Announcements

There is a Course Announcements box on the homepage for the course. Every time you log-on to the course, read the current announcement. It will inform you when the work of the current module is due and remind you of when the Research Paper is due.

24I. Readings

We will be using an Open Educational Resource (OER) textbook in this course. It is free and can be accessed by clicking on “Textbook” in the menu on the left. When reading an assigned chapter, be sure to watch the videos that go along with the chapter. The chapter exams will include questions on both the readings and the videos.

242. Course Schedule

	Start	End	Assignments Due
Module 1: How to Participate in Seminars	5/22	5/26	Short Answer Test Multiple Choice Exam Ch. 1 Exam
Module 2: Constitutional Framework	5/27	5/30	Ch. 1 Seminar Ch. 2 Exam
Module 3: Civil Rights and Civil Liberties	5/31	6/3	Ch. 2 Seminar Ch. 3 Exam
Research Paper Seminar Ends	.	6/3	.
Module 4: The Legislative Branch	6/4	6/7	Ch. 3 Seminar Ch. 4 Exam
Module 5: The Executive Branch	6/8	6/11	Ch. 4 Seminar Ch. 5 Exam
Module 6: The Judicial Branch	6/12	6/15	Ch. 5 Seminar Ch. 6 Exam
Module 7: Political Culture and Opinion	6/16	6/20	Ch. 6 Seminar Ch. 7 Exam
Module 8: Political Parties and Interest Groups	6/21	6/25	Ch. 7 Seminar Ch. 8 Exam
Research Paper Due	.	6/25	.
Module 9: Elections	6/26	6/29	Ch. 8 Seminar Culminating Survey

243. A Note on the Sequencing of Exams and Seminars

Beginning with Module Two, the main focus of each module will be a seminar on a chapter in the text. However, you need to be aware that each module will also include an exam on **the chapter covered in the following module**. The reason for this is to get you to read a chapter before we begin to discuss it in a seminar. Therefore, don't be surprised or confused when you see that the seminar and exam in a module cover different chapters.

244. How You Will Be Graded

Your grade will be determined in the following way:

- 1. Seminars on the textbook chapters and research topics account for 50 percent of the course grade.
- 2. Exams and tests account for 25 percent of the course grade.
- 3. The Research Paper accounts for 25 percent of the course grade.

$$(\text{Seminar Average} * .5) + (\text{Exam average} * .25) + (\text{Research Paper Grade} * .25) = \text{Adjusted Average}$$

Course Grade	Adjusted Average
A+	97
A	93
A-	90
B+	87
B	83
B-	80
C+	77
C	73
C-	70
D+	67
D	63
D-	60
F	Less than 60

245. Students with Learning Disabilities

Students with disabilities who are seeking academic accommodations should contact Leslie Cornish in the Services for Students with Disabilities Office at 315-866-0300, ext. 8831. The SSD office is located in the Academic Support Center in room 115. Further information may be found in the Services for Students with Special Needs section of the Student Handbook.

246. This Course is Completely Online

Please be aware that this course is completely on-line. No classroom attendance is required.

247. Instructor Feedback

I will attempt to provide you with timely feedback in the following ways:

- If you send me a message, I will try to respond by the next day.
- When you submit a chapter exam, the only immediate feedback you receive will be your score. However, at the end of the module, you will have the opportunity to go back into the exam, see which questions you got wrong, and see what the correct answers were.
- When a module closes, I will try to post your overall grade for that module's seminar by the next day. If you lost points for any of your seminar posts, I will include feedback about how to avoid similar mistakes in the future.
- After the due date for the Research Paper passes, I will try to have all the papers, which were submitted on time, graded by the end of the next module. That is usually a period of 4 days. Once your paper is graded, I will send you a course mail explaining how to see your grade for the paper and my comments about it.

248. Expectations for Interaction

In each module you will be expected to make six posts in the seminar. These consist of one question and five responses to the questions submitted by other students. The question must be submitted before the last day of the module. The responses can be submitted at any time the module is open. There are no requirements concerning logging on a minimum number of times per week.

Please practice good “netiquette” when participating in the seminars. Here is a link to a site explaining the concept of netiquette and suggesting some rule to follow:

[9 Netiquette Guidelines Online Students Need to Know](#)

249. Your Next Steps

As your next steps, do the following:

1. Read the course information documents.
2. Read the documents and do the assignments in Module 1. This introductory module will help you to understand what I expect in the seminars.
3. Read the documents in the Research Paper Module concerning the research paper assignment. You might also want to begin to think about the topic for your paper and start some early research.

The class will officially begin on 5/22/17 but you may begin work in Module One and the Research Paper Module right away.

PART XV

RESEARCH PAPER ASSIGNMENT

All work in the Research Paper Seminar must be submitted by 6/3.
The paper must be submitted by 6/25.

250. Instructions for Proposing Your Topic

You must choose one of the following questions as the topic for your paper. **No other topics will be accepted.** Your main idea sentence must answer the question. The purpose of the paper is to persuade the reader that the main idea sentence is true. Your paper must be a completely original one that you do for this course. It may not be a paper that you have already submitted in another course either at HCCC or another college nor may it be a revised or modified version of such a paper.

1. Should the electoral college be discarded in favor of a simple popular vote in presidential elections? (Presidential Election Process)
2. Is campaign finance reform good for democracy? (Campaign Finance Reform)
3. Should the Health Care Reform Law signed by President Obama be repealed? (Health Care Reform)
4. Is electronic voting better than using paper ballot? (Electronic Voting)
5. Should the government have the right to impose the death penalty? (Capital Punishment)
6. Should the government ban abortion? (Abortion)
7. Is the federal budget deficit a big problem for America? (Federal Budget Deficit)
8. Should the government ban doctor-assisted suicide? (Doctor Assisted Suicide)
9. Does the threat of terrorism justify the powers given to the government by the Patriot Act? (Patriot Act)
10. Should affirmative action be used to give special help to traditionally disadvantaged groups in order to make up for past

discrimination? (Affirmative Action)

11. Should the government ban the building of a mosque near ground zero? (Ground Zero Mosque)
12. Should the government do more to prevent illegal immigration? (Illegal Immigration)
13. Should stronger gun control laws be passed? (Gun Control)
14. Should marijuana be legalized? (Marijuana)?
15. Who should be elected president?

Most of the topics were followed by an issue in parentheses that is covered by *Opposing Viewpoints in Context*, a database that may be accessed online through the HCCC Library. If you go to the database and type the issue in the search box, you will find many articles that are relevant to your topic. Here is how to access the database:

- Go to the main HCCC website.
- Click on Library.
- Click on By Program/Topic on the left side of the page.
- Scroll down.
- Click on *Opposing Viewpoints in Context*.
- Type the issue in the search box.

Once you have chosen your topic, open the document in this module entitled “Research Paper Seminar” Write a short essay that does the following:

1. State the main idea sentence that will be proven true by your paper
2. Tell why you picked this topic
3. Very briefly state three reasons why you believe the main idea sentence is true
4. For each of the three reasons, give the name and URL of a web site that provides supporting information for the reason. This means that you must present three different sites. Also, give a

summary of each web site. The summary of each site must be at least four sentences long.

In addition to posting your own research topic, you must post a response to the topics that have been proposed by at least three other students. Your response must suggest a website that will help the student write a good paper. You must provide a summary of the site that is at least four sentences long and give the URL of the site.

The seminar on research topics will be graded using the same rating scale as the textbook seminars. However, unlike the textbook seminars, in the seminar on research topics, you are only required to make four posts (not six). Your first post will be the one in which you introduce your topic. The other three posts will be the ones in which you provide help for other students. Also, unlike the seminars about the textbook chapters, in the seminar on research topics you do not have to express an opinion or use the phrases “In my opinion” and “My evidence is.” You merely have to suggest sources that other students can use in their papers. The purpose of your response to another student is not to give your opinion about her topic; it is merely help her find information for her paper.

When you are ready to propose your topic, click on the next document entitled “Research Paper Seminar.”

25I. Research Paper Seminar

Research Paper Seminar – Ends 6/3 Stop!!!!!!!!!!

Do not make any posts in this seminar before you read the previous document entitled “Instructions for Proposing Your Topic”

252. Instructions for Writing Your Paper

Instructions for Writing Your Paper

The assignment is to write a research-based persuasion paper. The purpose of the paper is to persuade the reader that your main idea sentence is true. Your grade will be determined by how closely you stick to the following directions:

1. The introductory paragraph should include the main idea sentence in a way that gets the reader involved (McPherson and Cowan 255-275). Suppose your main idea is that it was a good idea that New York State established the death penalty in 1995. Instead of merely stating that, you might say the following:

“Crime is one of the most serious problems facing New York State today. Many people are reluctant to go out after dark. They huddle at home behind locked windows and bolted doors after night falls. Strong measures must be taken to deal with the problem of violent crime. I firmly believe that New York State was right to establish the death penalty.”

Remember: Place the main idea sentence in the first paragraph and underline it.

2. Present specific reasons for your main idea (McPherson and Cowan 255-275). Support each reason in one of the following ways:

A. Giving examples – John Allen (135), in his book, *Assault with a Deadly Weapon*, describes an escaped convict who murdered two FBI agents in the District of Columbia when they attempted to capture him. Since the convict had already been serving a life sentence and the District of Columbia did not have the death

penalty, he felt he had nothing to lose by committing murder. The worst that could happen was that he simply would go back to prison.

B. Citing statistics – One scholar argues that each execution in the United States saves seven people from being murdered (Ehrlich 410).

C. Paraphrasing statements from authorities – A leading criminologist, Ernest Van Den Haag (209-211), argues that the death penalty is not opposed by many moral philosophers and religious leaders. Be sure to paraphrase the statement; do not use a direct quote.

Do not copy or quote information word-for-word from your sources or copy and paste from your sources. If you do this, your grade will be substantially lowered. **You must put all the information from your sources in your own words.** Copying from sources is not acceptable even if you use quotation marks. You will be submitting your paper to a plagiarism detection web site. If you copy word-for-word from your sources, the web site will make this very apparent and serious points will be deducted.

3. Identify your sources. You must show the sources of your information in the body of the paper by using the MLA citation system. The basic principle of this system is that at the end of a sentence or paragraph, you insert a parentheses (also known as a parenthetical note) that contains the last name of an author. This is the person who wrote the book, article, or website that you got your information from for that paragraph. If you do not know the author, use the title of the book, article or website. The parentheses must also include the page number of the book or article. (If a website is not divided up into numbered pages, don't worry about putting a page number into parentheses.) You must use one or more parenthetical notes to show a source of information for every paragraph except for the first (introductory) paragraph and the last (concluding) paragraph. You may cite a source more than once but **you must cite at least two different sources in the parenthetical notes in the text of the paper.**

4. In your concluding paragraph, briefly repeat the reasons for

your main idea in the same order they were presented in the paper (McPherson and Cowan 255-275). If appropriate, then predict the consequences of society accepting your main idea. For example, if you were writing a paper in favor of the death penalty, you would probably predict that if New York State retains the death penalty, the murder rate will continue to decline. Finally, end the concluding paragraph with restatement of the main idea sentence.

5. There must be a Works Cited page that contains an entry for each book, article, or web site that you cited in the parenthetical notes. List the sources in alphabetical order by author (or title if the author is unknown). There is a very definite format you must use. The following website explains the format. (Note: You will have to scroll down towards the end of the website to see the correct format for on-line sources such as websites.)

<http://www.library.cornell.edu/resrch/citmanage/mla>

Here is another website you may find helpful. It allows you to fill out a form and it then shows you how the source should look on the Works Cited Page:

<https://www.calvin.edu/library/knightcite/index.php>

Do not include any sources that were not referred to in the parenthetical notes. Here is a sample Works Cited page that contains the sources I have relied upon in developing this assignment:

Allen, John. *Assault with a Deadly Weapon*. Columbus: McGraw-Hill, 1978. Print.

Ehrlich, Isaac. "The Deterrent Effect of Capital Punishment." *American Economic Review* 65.3 (1975): 397-417. Print.

KnightCite. The Herman Library, n.d. Web. 6 Jan. 2011. <<https://herkimer.sln.suny.edu/section/default.asp?id=201120-HER-NS-SS-141-V1>>.

McPherson, Elisabeth, and Gregory Cowan. *Plain English Please*. 5th ed. Columbus: McGraw-Hill, 1984. 255-75. Print

MLA Citation Examples. Honolulu Community College Library, n.d. Web. 6 Jan. 2011. <<http://honolulu.hawaii.edu/legacylib/mlahcc.html>>.

Van Den Haag, Ernest. *Punishing Criminals: Concerning a Very Old and Painful Question*. Lanham, MD: University Press of America, 1991. Print.

6. The paper must be 2500 words. Use font size number 12. Double space. The paper must be typed in a word processing program and submitted as a file attachment.

7. Other factors that will affect your grade. Your grade will be based on how closely you stick to the guidelines listed above. It will also be affected by the following considerations:

- **How persuasive is the paper?** The purpose of the paper is to persuade the reader that your main idea sentence is true. The purpose is not to describe an issue or give general information about it. Do not put any information in paper that does not help convince the reader that your view on the issue is correct. Do not present arguments against your main idea unless you immediately explain why these arguments are wrong. Make sure you provide facts and examples to support the opinions you state. The purpose of the paper is not to just give your opinion on the issue. The purpose is to provide enough facts, statistics and examples to show that your opinion is correct. The persuasiveness of a paper is also weakened by contradictory statements and factual errors.
- **Are there errors involving grammar, spelling, and unclear sentences?** Points will be deducted for these mistakes.
- **How well organized is the paper?** Each paragraph or section of your paper should focus on just one of the reasons for your main idea. Each reason should be addressed in just one paragraph or one section of the paper.

I will be grading your paper using a rubric. Examining the rubric should give you an even better idea of what you have to do in order to get a good grade on the paper. To see the rubric, click on the next document entitled, "Scoring Rubric."

8. I will not accept a paper that has any of the following problems:

- There is no Works Cited page
- There are no parenthetical notes
- The paper is less than 1500 words long. If the paper is more than 1500 words but less than 2500, I will accept it but I will take off points for it being too short.
- More than 50 percent of the paper is copied word-for-word from sources. If some of the paper is copied from sources but it is less than 50 percent, I will accept the paper but I will take off serious points for the copying.

If I receive a paper with any of the above problems, I will send it back to you and require you to do it over. If you fail to do this, your grade for the paper will be zero.

To submit your paper, click on the document in this module entitled: Research Paper – Due

253. Scoring Rubric

	Very Poor	Poor	Fair	Good	Very Good	Total
	50 %	65 %	75 %	85 %	100 %	
Length 15 pts Number of words	7.5pts 1500 – 1749	9.75pts 1750 – 1999	11.25pts 2000 – 2249	12.75pts 2250 – 2499	15pts 2500 or more	15
Originality 15 pts What percent of the paper is taken word-for-word from sources?	7.5pts 36 to 50 percent	9.75pts 31 to 35 percent	11.25pts 26 to 30 percent	12.75pts 21 to 25 percent	15pts Less than 20 percent	15
Intro 5 pts How clear does the introductory paragraph make the main idea sentence?	2.5pts Not clear at all	3.25pts	3.75pts Somewhat clear	4.25pts	5pts Very clear	5

Sources	5pts Less than seven	6.5pts Seven	7.5pts Eight	8.5pts Nine	10pts Ten or more	10
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10 pts
Please enter a
description

Conclusion

5 pts Does the concluding paragraph do a good job of briefly summarizing the paper?	2.5pts Very poor job	3.25pts Poor job	3.75pts Fair job	4.25pts Fair job	5pts Very good job	5
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Persuasive	15pts Not at all persuasive	19.5pts	22.5pts Fairly persuasive	25.5pts	30pts Extremely persuasive	30
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30 pts
How persuasive is
the paper?

Grammar/ Spell

10 pts How many errors are there concerning grammar, spelling and unclear passages?	5pts 6 or more errors	6.5pts 5 – 6 errors	7.5pts 3 – 4 errors	8.5pts 1 – 2 errors	10pts No errors	10
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Organization	2.5pts Very poorly organized	3.25pts Poorly organized	3.75pts Moderately well organized	4.25pts Well organized	5pts Extremely well organized	5
5 pts How well organized is the paper?						

Works Cited	2.5pts More than three errors	3.25pts 3 errors	3.75pts 2 errors	4.25pts 1 error	5pts No errors	5
5 pts How many errors are on the Works Cited Page?						

<i>Total</i>						100
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254. Multiple Choice Exam on How to Participate in Seminars

QUESTION 1

1. When you pose a question to the class,
-
- A. you must introduce it with information from the text
 - B. you must give the chapter and section of the introductory information
 - C. the question must require other students to express an opinion
 - D. all of the above
-

6.66667 points

QUESTION 2

1. If a question is posted on the last day of a module, it will not count as one of the required six posts in the module.
- True
False

6.66667 points

QUESTION 3

1. If you post a question similar to one that has already been posted, it will not count towards one of the six required posts in the seminar.

True

False

6.66667 points

QUESTION 4

1. Every single response that you post must include factual information that backs up the opinion being expressed.

A. True

B. False

6.66667 points

QUESTION 5

1. When you introduce a question, it is OK to just say the book talks about a topic. You do not have to give any specific facts about the topic from the text.

True

False

6.66667 points

QUESTION 6

1. If you post a response that presents the same evidence from the text that has already been provided by another student responding to the same question, the response will not count towards one of the required six posts in the seminar.

True

False

6.66667 points

QUESTION 7

1. In a given seminar, which of your responses (not questions) must include an opinion that you have expressed?

A. Your first response in the seminar

B. Your first and second responses in the seminar.

C. Every single response that you make in the seminar

6.66667 points

QUESTION 8

1. Every response must contain the phrases, "in my opinion" and "my evidence is."

True
False

6.66667 points

QUESTION 9

1. Are you required to respond to everyone who responds to you in a seminar?

A. Yes

B. No

6.66667 points

QUESTION 10

1. If you use a web site to back up an opinion, it is OK to simply describe what the web site is about. You don't have to give any specific facts from the site.

A. True

B. False

6.66667 points

QUESTION 11

1. Every question must be given a subject title that is a shortened

version of the question being asked.

A. True

B. False

6.66667 points

QUESTION 12

1. Every response must be given a title that is a complete sentence and that answers the question being responded to.

A. True

B. False

6.66667 points

QUESTION 13

1. Every question must include the phrase, "in your opinion."

True

False

6.66667 points

QUESTION 14

1. In a response, if you say your evidence is based on my beliefs, my feelings, my opinion, or something similar,

-
- A. you will be immediately be expelled from HCCC
- B. you will be given a grade of no higher than C for the course as a whole
- C. you will be forced to listen to a collection of Professor McLean's greatest polka hits
- D. the response will not count towards the required six posts in the seminar.
-

6.66667 points

QUESTION 15

1. If a question does not require other students to make a judgment, it will be given not count towards the required six posts in the seminar.

-
- A. True
- B. False
-

255. Short Answer Test on How to Participate in Seminars

1. Suppose you are participating in a seminar on Ch. 1 in our text. Write a question about Ch. 1 following all the rules presented in the document entitled, “How to Participate in Seminars – Part II.” Be sure to indicate what the title of your question would be.
2. Suppose you were participating in a seminar on Ch. 1 and the following question was asked by another student: In Ch. 1-D, the text presents the views of Charles Beard. He argued the Constitution was an economic document pushed by investors and industrialist for their own profit. **In your opinion**, was Beard correct?

Write a response to this question using evidence from the text to support your opinion. Be sure to indicate what the subject title of your response would be and follow all the rules for responses presented in the document entitled “How Seminars Will Be Graded – Part III.”

3. Suppose you were participating in a seminar on Ch. 1 and the following question was asked by another student: In Section D, the text presents the views of Charles Beard. He argued the Constitution was an economic document pushed by investors and industrialist for their own profit. **In your opinion**, was Beard correct?

Write another response to this question but this time give information from a web site as evidence for your opinion. Be sure to follow all the rules for responses presented in the

document entitled, “How Seminars Will Be Graded – Part III.” Be sure to indicate what the subject title of your response is.

256. Ch. 1 Exam

1. Thomas Hobbes argued that people were motivated to form governments by

-
- A. a feeling of natural altruism for others
 - B. the violence and uncertainty of life
 - C. the desire for economic prosperity
 - D. the desire for companionship
-

5 points

QUESTION 2

1. John Locke argued that individuals would only grant authority to government so long as

-
- A. all major interest groups were represented in government positions
 - B. it provided for the common good and protected the life and liberty of the people
 - C. the government was democratically elected
 - D. the society in which the individuals lived was under threat of foreign invasion.
-

5 points

QUESTION 3

1. Which foundational American document was especially influenced by the writings of John Locke?

-
- A. The Constitution
 - B. The Declaration of Independence
 - C. The Federalist Papers
 - D. The Articles of Confederation
-

5 points

QUESTION 4

1. The founders feared democracy because

-
- A. in the late 18th century people thought democracy led to disorder and disruption
 - B. since the time of ancient Rome, very few democracies had enjoyed economic prosperity
 - C. democracy would give wealth campaign contributors to much control over the government
 - D. in the 18th century it had primarily been democracies that had initiated foreign wars
-

5 points

QUESTION 5

1. A modern day example of direct democracy is

-
- A. the New England town meeting
 - B. a college board of trustees
 - C. the Senate Finance Committee
 - D. the United Nations
-

5 points

QUESTION 6

1. A system in which representatives are chosen by the people to make decisions is referred to as

-
- A. autocracy
 - B. representative democracy
 - C. populism
 - D. pure democracy
-

5 points

QUESTION 7

1. The framers sought to balance liberty with two other political values. These values were

-
- A. prosperity and altruism
 - B. order and equality
 - C. equality and prosperity
 - D. humanism and freedom
-

5 points

QUESTION 8

1. What was the first political constitution for the government of the U.S.?

-
- A. The Federalist Papers
 - B. The Articles of Confederation
 - C. The Declaration of Independence
 - D. The U.S. Constitution
-

5 points

QUESTION 9

1. In 1763, the antagonized the colonists in which of the following ways?

-
- A. The colonists were required to pay a tax on all documents printed in America or imported from Great Britain.
 - B. The British prohibited the importation of African slaves.
 - C. A royal proclamation closed off the frontier to colonial expansion.
 - D. The British required the colonists to increase their trade with both Spain and France.
-

5 points

QUESTION 10

1. Why did the Articles of Confederation set up a weak government?

-
- A. George Washington believed a strong central government would weaken the authority and effectiveness of the continental army.
 - B. The war against Great Britain led to a widespread distrust of central authority
 - C. The primary author of the articles, Alexander Hamilton, was strongly opposed to a strong central government.
 - D. The capital of the Confederation government, Philadelphia, was not centrally located, making it difficult for the Congress to extend its power into other states.
-

5 points

QUESTION 11

1. What was Shay's Rebellion?

-
- A. A rebellion in France in 1793 that threatened to spread a spirit of anarchy and disorder to the U.S.
 - B. A movement of farmers in rural Pennsylvania to prevent the collection of taxes on whisky.
 - C. A movement in the House of Representative led by congressman Daniel Shay to oppose the policies of President John Adams.
 - D. An armed insurrection by debt ridden farmers to prevent county courts from from foreclosing on farms in Massachusetts.
-

5 points

QUESTION 12

1. Who was the driving force and chief strategist of the Constitutional Convention?

-
- A. Charles Beard
 - B. Benjamin Franklin
 - C. James Madison
 - D. George Washington
-

5 points

QUESTION 13

1. What has research concluded about Charles Beard's economic interpretation of the Constitution?

-
- A. Beard's economic interpretation is essentially correct.
 - B. It has not upheld a stark division of reaction to the Constitution into well-off supporters and poor, democratic adversaries
 - C. Very few well-to-do patriarchs opposed the Constitution.
 - D. Almost no small merchants wanted a national convention.
-

5 points

QUESTION 14

1. Madison favored a large republic because

- A. A large republic would make it much harder to create a strong central government.
 - B. A large republic could more effectively respond to the threat of invasion by European powers.
 - C. A large republic would make it hard for one faction to become a majority and trample on the rights of others.
 - D. Madison was influenced by Thomas Jefferson's preference for a large republic.
-

5 points

QUESTION 15

1. During the ratification of the Constitution, opponents of the Constitution

- A. opposed the ideals of the Declaration of Independence
 - B. thought that the indirect elections called for in the Constitution brought the government too close to the people
 - C. tended to come from rural, inland areas
 - D. thought the new government was not strong enough to protect individual freedoms
-

5 points

QUESTION 16

1. During the ratification of the Constitution,

-
- A. Anti-federalists put pressure on the few Federalist papers that did exist to change their position.
 - B. Anti-Federalist arguments were rarely printed.
 - C. Printers realized they could make more money by publishing papers opposed to ratification.
 - D. Approximately half of all newspapers opposed the Constitution.
-

5 points

QUESTION 17

1. Massachusetts, New Hampshire, Virginia, and New York only ratified the Constitution with the provision that

-
- A. white settlement of Indian territories located west of the Appalachians be immediately allowed.
 - B. the new government would immediately raise an army to put down Shay's rebellion.
 - C. the location of the U.S. capital be periodically rotated among those four states
 - D. the first Congress take up recommendations for adding a Bill of Rights to the Constitution.
-

5 points

QUESTION 18

1. Madison advocated a system of checks and balances because he believed

-
- A. most people could be trusted to work for the greater good.
 - B. all individuals follow their own selfish interests.
 - C. the British system of parliamentary government exemplified the benefits of checks and balance.
 - D. a system of checks and balances would allow the government to operate more quickly and efficiency.
-

5 points

QUESTION 19

1. Bicameralism was based on the Founders' doubts about

-
- A. pluralism.
 - B. the emergence of political parties.
 - C. judicial overreach.
 - D. majority rule.
-

5 points

QUESTION 20

1. Which branch of the government has the power to try impeachments?

-
- A. President
 - B. Supreme Court
 - C. House of Representatives
 - D. Senate
-

257. Ch. 2 Exam

QUESTION 1

1. Where did James Madison get the idea for the Bill of Rights?

-
- A. the six nations of the Iroquois Federation
 - B. suggestions from state ratifying conventions
 - C. the republic of ancient Rome
 - D. the example provided by the British Constitution
-

5 points

QUESTION 2

1. The American Civil Liberties Union

-
- A. only defends liberal organizations
 - B. pursues civil liberties for individuals across the political spectrum
 - C. was founded in response to government jailing of of opponents of World War I
 - D. has led the opposition to reactionary organizations such as the American Nazi party
-

5 points

QUESTION 3

1. What allows the Supreme Court to extend the Bill of Rights to the states?

-
- A. the Brown v. Board of Education decision
 - B. the First Amendment
 - C. the Fourteenth Amendment
 - D. the Plessy v. Ferguson decision
-

5 points

QUESTION 4

1. Who benefits from the protection of civil liberties?

-
- A. only lone individuals who appeal to the Supreme Court
 - B. neither lone individuals and powerful interests
 - C. only powerful interests
 - D. both lone individuals and powerful interests
-

5 points

QUESTION 5

1. Civil liberties are

-
- A. those rights belonging to members of suspect classifications
 - B. those rights protected by the strict scrutiny standard
 - C. individual rights and freedoms the government may not infringe on
 - D. the rights of all Americans to equal treatment under the law
-

5 points

QUESTION 6

1. Which of the following is a consequence of the War on Drugs?

-
- A. a minor strain on the criminal justice system
 - B. mass incarceration in the U.S.
 - C. the reduction of drug related violence around the world
 - D. the making of drugs more accessible
-

5 points

QUESTION 7

1. The policy known as Prohibition

-
- A. was repealed by Congress after 50 years
 - B. effectively suppressed the black market for alcohol
 - C. is widely considered a success by experts and historians
 - D. provided funds for criminal organizations across the U.S.
-

5 points

QUESTION 8

1. The _____ clause tries to keep religion out of government while the _____ clause tries to keep government out of religion.

-
- A. free exercise; establishment
 - B. establishment; free exercise
 - C. free exercise; wall of separation
 - D. wall of separation; free exercise
-

5 points

QUESTION 9

1. The First Amendment does not protect narrowly defined categories of speech that fail to contribute to the free exchange of ideas in a democracy. These unprotected categories include

-
- A. symbolic speech
 - B. newspaper editorials
 - C. fighting words
 - D. religious sermons
-

5 points

QUESTION 10

1. Social movements that engage in public protest and interest groups that engage in lobbying are protected by the

-
- A. prohibition on prior restraint.
 - B. right to assemble and petition.
 - C. Fairness Doctrine.
 - D. the right to freedom of speech.
-

5 points

QUESTION 11

1. Public policy debate on gun control usually occurs only after

-
- A. a new gun control bill is introduced in the Senate.
 - B. the President calls for stronger gun control in the State of the Union message.
 - C. a dramatic, heavily covered news event like an assassination or a massacre at a school.
 - D. a change to the Second Amendment has been formally proposed
-

5 points

QUESTION 12

1. The right to keep and bear arms

-
- A. rests with individuals according to a 2008 Supreme Court decision.
 - B. has been debated more by the courts than by the public and politicians.
 - C. rests with militias, not individuals.
 - D. is enjoyed by residents of the District of Columbia but not residents of other states and cities.
-

5 points

QUESTION 13

1. The _____ prevents evidence from an illegal search and seizure from being introduced against a defendant in court.

-
- A. Exclusionary Rule
 - B. Double Jeopardy Principle
 - C. Scopes Principle
 - D. Self Incrimination Clause
-

5 points

QUESTION 14

1. The main objection to the death penalty today is that it

-
- A. results in the death of many innocent defendants.
 - B. it is too often applied without the jury weighing mitigating and aggravating circumstances.
 - C. cannot be applied dependably enough to meet the Bill of Rights standard for due process.
 - D. represents cruel and unusual punishment.
-

5 points

QUESTION 15

1. In 2013, Edward Snowden leaked thousands of classified documents about NSA spying programs because
-

- A. he had become disillusioned with the illegal activities of U.S. intelligence agencies.
 - B. he was disgusted by U.S. and Russian intelligence agencies cooperating in covert operations that led to the loss of innocent life.
 - C. he was trying to help Bernie Sanders gain the Democratic nomination for president.
 - D. he was a lifelong Democrat and was trying to discredit Republican officials in the Department of Defense.
-

5 points

QUESTION 16

1. Wars rarely invite critical media coverage in their early stages because of a general agreement about the causes of and how to respond to the crisis. The text refers to such an agreement as
-

- A. sphere of consensus.
 - B. liberal ideology
 - C. political group think.
 - D. conservative ideology.
-

5 points

QUESTION 17

1. Which amendment to the Constitution is at the heart of all civil rights?

-
- A. Fourteenth
 - B. Thirteenth
 - C. First
 - D. Fifteenth
-

5 points

QUESTION 18

1. De facto segregation is defined as

-
- A. the granting of special preferences in hiring and college admissions to members of minority groups.
 - B. the separation of races more by custom than law.
 - C. the separation of races by law.
 - D. state sponsored barriers to voting such as literacy tests and poll taxes.
-

5 points

QUESTION 19

1. Which of the following was a consequence of investigations into the Michael Brown shooting?

-
- A. Protesters were forced to admit the prosecuting attorney had not submitted any false evidence to the jury.
 - B. Ferguson police officer Darren Wilson was not indicted.
 - C. The federal government pressed civil rights charges against Darren Wilson.
 - D. No systemic bias was found in the Ferguson Police department.
-

5 points

QUESTION 20

1. Conservative Southern House members offered an amendment to the 1964 Civil Rights bill extending protection to women. They did so because

258. Ch. 3 Exam

QUESTION 1

1. Certain powers are granted specifically to the House such as the power to

-
- A. establish courts below the level of the Supreme Court
 - B. raise and support armies.
 - C. initiate all tax and spending bills.
 - D. establish post offices.
-

5 points

QUESTION 2

1. The Constitution gives the Congress authority to make all laws that are necessary for carrying out its other powers. This is known as the _____ clause.

-
- A. elastic
 - B. faithful execution
 - C. establishment
 - D. full faith and credit
-

5 points

QUESTION 3

1. A bicameral system

-
- A. limits the legislature to two main committees.
 - B. distributes power within two houses that check and balance one another.
 - C. limits the legislature to exactly two sessions per year, each one lasting two months.
 - D. establishes two Speakers of the House as co-equal leaders of the legislature.
-

5 points

QUESTION 4

1. The House of Representatives is designed to

-
- A. give its members more time to think about things besides reelection.
 - B. be an elite body that would act as a check on the Senate.
 - C. be more distant from the people than the Senate
 - D. be the most democratic institution in the U.S. government.
-

5 points

QUESTION 5

1. Party caucuses in Congress

-
- A. have recently lost the authority to approve committee assignments.
 - B. promote party loyalty by granting rewards to members.
 - C. frequently must deal with the challenge of members switching parties.
 - D. provide a forum for developing strategies to pass legislation but do not allow their members to debate policies.
-

5 points

QUESTION 6

1. Like minded members of Congress can form specialized coalitions to promote a particular agenda. Examples would include the Congressional Black Caucus and the Tea Party Caucus. Such coalitions are known as

-
- A. standing committees.
 - B. factions.
 - C. appropriations committees.
 - D. interest groups.
-

5 points

QUESTION 7

1. What is the problem with measuring the productivity of a Congress by simply counting the number of public laws it passes?

-
- A. There is a disagreement about the differences among laws, bills, and resolutions.
 - B. Simply tallying up laws doesn't account for the scope and importance of the laws passed.
 - C. In recent years, Congress has packed less and less policy into single bills.

- D. In the early 1800s when the country was much smaller both geographically and in terms of population, it was not necessary to pass many laws; therefore, comparing the productivity of Congress in that era with that of the modern Congress is not a fair comparison.
-

5 points

QUESTION 8

1. Filibusters

-
- A. permit a senator or a group of senators to stall the chamber's business until stopped by 67 of their colleagues.
 - B. must take the form of a lengthy speech.
 - C. have been exceedingly rare for most of the Senate's history.
 - D. are formally authorized by the Constitution.
-

5 points

QUESTION 9

1. The Speaker of the House

-
- A. is required to participate in all floor debates and votes on bills.
 - B. is fourth in succession to the presidency.
 - C. is the top leadership position in the House.
 - D. plays a mainly symbolic role and does not have much influence over the legislative agenda in the House.
-

5 points

QUESTION 10

1. Which of the following was a charismatic Speaker of the House who rivaled the president in grabbing media attention and setting the nation's issue agenda?

-
- A. Nancy Pelosi
 - B. Dennis Hastert
 - C. Newt Gingrich
 - D. John Boehner
-

5 points

QUESTION 11

1. The most influential member of the Senate is the

-
- A. Vice-President.
 - B. presiding officer.
 - C. Senate majority leader.
 - D. president pro tempore.
-

5 points

QUESTION 12

1. Senate whips

-
- A. participate in a network that is even more extensive than its House counterpart.
 - B. are hindered by the less close relationships in the Senate.
 - C. are often able to predict how members will vote without relying on whip counts.
 - D. only exercise power when the majority and minority leaders are present on the floor.
-

5 points

QUESTION 13

1. _____ committees are special committees that are formed to deal with a political issue or policy.

-
- A. Select
 - B. Joint
 - C. Appropriations
 - D. Standing
-

5 points

QUESTION 14

1. Committee investigations

-
- A. are private hearings that usually are closed to the press.
 - B. during the progressive era of the 1890s through the 1920s focused primarily on scandals in higher education.
 - C. into the 1970s Watergate burglaries led to the impeachment of President Nixon.
 - D. by Senator Kefauver in the 1950s focused on organized crime and drew millions of television viewers.
-

5 points

QUESTION 15

1. On average, close to _____ bills are introduced in the House and Senate during a two-year legislative session but fewer than _____ become laws.

-
- A. eleven thousand; four hundred
 - B. one thousand; five hundred
 - C. five thousand; two thousand
 - D. five hundred; two hundred
-

5 points

QUESTION 16

1. A two-step process is required to establish and fund specific programs within the guidelines set by the annual budget. The appropriations step involves

-
- A. actually allocating the funds that are to be spent for a program.
 - B. authorizing or recommending that federal programs receive funding at a particular level.
 - C. submitting spending proposals to the President for his approval.
 - D. ensuring a spending proposal will not increase the national debt.
-

5 points

QUESTION 17

1. The Congressional process known as reconciliation

-
- A. in recent decades has only been used for budgets.
 - B. forces legislators to design their laws around taxes and spending rather than regulation.
 - C. was used to block parts of Obamacare
 - D. was designed by obstructionists to make it harder for the House and Senate to bring their budget proposals into alignment.
-

5 points

QUESTION 18

1. In 2013, Senate Democrats exempted which of the following from the filibuster?

-
- A. non-binding budget resolutions
 - B. executive and non-Supreme Court nominations
 - C. defense appropriations bills
 - D. declarations of war
-

5 points

QUESTION 19

1. Which of the following statements concerning members of Congress is true?

A majority of members of Congress were born after 1964.

Women and members of diverse ethnic and racial groups are represented in Congress in the same proportion as their representation in the general population.

More than half of all members of Congress in 2009 were millionaires.

Members of the House serve an average of only four years.

5 points

QUESTION 20

1. Which of the following statements concerning members of congressional staff is true?

-
- A. House staffs average 34 people.
 - B. Congressional staff only began to increase substantially in the 1990s.
 - C. Some staff members focus on constituent service.
 - D. Senate staffs average 14 people.
-

259. Ch. 4 Exam

QUESTION 1

1. According to the Eric Foner video, the only president to be unanimously elected in the electoral college was

-
- A. George Washington
 - B. Theodore Roosevelt
 - C. Abraham Lincoln
 - D. Franklin Roosevelt
-

5 points

QUESTION 2

1. According to the Eric Foner video, what precedent did George Washington establish?

The President should only serve two terms.

The President is the commander-in-chief of the armed forces.

The President is the main initiator of legislation in Congress.

European powers should not interfere with the nations of the Western Hemisphere.

5 points

QUESTION 3

1. According to the Eric Foner video, why was the election of Thomas Jefferson in 1800 an important turning point in the history of the presidency?

-
- A. It was the first time a slave owner became president.
 - B. It was the first time that a candidate who lost the popular vote won in the electoral college.
 - C. It represented the peaceful transfer of power from one party to another.
 - D. It was the first time that someone born after the American revolution became president.
-

5 points

QUESTION 4

1. According to the Eric Foner video, why is the election of William McKinley in 1896 considered to be the first modern election?

-
- A. It was the first election in which giant amounts of money were poured into the campaign
 - B. It was the first election in which the media played an influential role.
 - C. It was the first election in which the candidates engaged in a series of debates that attracted national attention.
 - D. It was the first election in which members of the electoral college were chosen directly by the voters rather than by state legislators.
-

5 points

QUESTION 5

1. According to the Eric Foner video, after the death of Franklin Roosevelt, the administrations of the next few presidents were dominated by what major event?

-
- A. the rise of anti-colonialism in Asian and African nations
 - B. the Cold War
 - C. the Great Depression
 - D. the environmental crisis particularly in regard to global warming
-

5 points

QUESTION 6

1. The text argues that the enduring image of Mount Rushmore

-
- A. downplays the role of the president as the chief decision maker in the American political system.
 - B. highlights and exaggerates the importance of presidents.
 - C. degrades four previous presidents because they are portrayed as cartoonish figures.
 - D. elevates the office of the president over the occupant.
-

5 points

QUESTION 7

1. President have the least power and responsibility in which of the following areas?

-
- A. trade relations
 - B. foreign policy
 - C. defense policy
 - D. domestic affairs
-

5 points

QUESTION 8

1. Presidential impeachment involves

-
- A. the Secretary of State presiding over the trial of the president.
 - B. a two-thirds vote by the Senate being necessary for conviction.
 - C. the House acting as a jury after the president has been impeached.
 - D. the Senate deciding whether to accuse the president of wrongdoing.
-

5 points

QUESTION 9

1. Which of the following statement concerning the vice presidency is true?

-
- A. The vice president's sole duties in the Constitution are to preside over the Senate and oversee foreign policy.
 - B. FDR's first vice president, John Nance Garner, called the office "not worth a bucket of warm piss."
 - C. Arguably the most powerful occupant of the vice presidency was Lyndon Johnson.
 - D. In recent years vice presidents have have become even less publicly visible and taken on fewer responsibilities.
-

5 points

QUESTION 10

1. Which of the following is not a member of White House Office?

A. a press secretary

B. a chief of staff

C. the Director of the CIA

D. the national security advisor

5 points

QUESTION 11

1. The presidency became a more complex institution and took on more responsibilities and jobs starting with which of the following?

Franklin Roosevelt

Ronald Reagan

Bill Clinton

Dwight Eisenhower

5 points

QUESTION 12

1. The use of the presidential veto

-
- A. is overridden only about 15 percent of the time.
 - B. can be overridden by Congress with a 51 percent majority in each chamber.
 - C. can alienate members of Congress who work hard crafting a bill.
 - D. is often the first tool the president will use in trying to get his way with Congress.
-

5 points

QUESTION 13

1. In a _____ the president claims the right to ignore or refuse to enforce laws, parts of laws or provisions of appropriations bills even though Congress has enacted them and he has signed them into law.

-
- A. concurring opinion
 - B. veto threat
 - C. signing statement
 - D. advisory opinion
-

5 points

QUESTION 14

1. Executive orders by the president

-
- A. are rarely overturned after a president has left office.
 - B. are directives to administrators in the executive branch on how to implement legislation.
 - C. are very effective tools for the president since they are hard to overturn.
 - D. are based on the constitutional mandate that the President act as the commander-in-chief of the armed forces.
-

5 points

QUESTION 15

1. What was the 60 percent rule that Dick Morris advised Bill Clinton to follow during his presidency?

-
- A. If 60 percent of votes in Congress supported positions taken by Clinton, his presidency would be deemed a success by historians.
 - B. If six out of ten Americans were in favor of something, Clinton had to be too.
 - C. To attract conservative voters, Clinton needed to propose a 60 percent increase in the defense budget.
 - D. Clinton needed to set a goal of obtaining 60 percent of the electoral votes when he ran for reelection.
-

5 points

QUESTION 16

1. Which of the following statements concerning presidential speechmaking is false?

-
- A. Presidents' television addresses usually increase public support for the policy action the president advocates.
 - B. Sometimes the use of memorable settings as backdrops for speeches can backfire.
 - C. The president's approval rating rises during periods of international tension.
 - D. Presidents' television addresses fail to increase public approval of the president.
-

5 points

QUESTION 17

1. The risks posed by press conferences for presidents include

-
- A. the reporters' questions becoming more challenging over time.
 - B. the possibility of overexposure and the loss of interest by the public if press conferences are held too frequently
 - C. hostile responses by the representative of the opposing party who, by law, must be present at each press conference.
 - D. the difficulty for the president of making all his main points in the limited amount of time the press conference is allotted by the television networks.
-

5 points

QUESTION 18

1. A lasting innovation of the Nixon presidency involved the office of communications repeating specific topics and storylines as the focus for discussion on a particular day. This is referred to as the

-
- A. compendium.
 - B. main talking point.
 - C. line of the day.
 - D. party line.
-

5 points

QUESTION 19

1. The White House Press Corps

- A. is characterized by very competitive individuals who rarely develop friendships with each other.
 - B. has a core group of about 100 key members who go to the White House every day and spend their work days there.
 - C. includes about 1700 reporters who are granted White House press passes.
 - D. spends very little time waiting. Because its members come from the most prestigious news organizations, they usually are granted access to senior officials as soon as the members arrive at the White House.
-

5 points

QUESTION 20

1. Which of the following statements concerning President Obama's attempt to communicate effectively with the American public is true?

The media has become more and more partisan.

Presidents' prime-time addresses reach a much larger proportion of the audience than they did in past years.

The news media have become less and less interested in conflict.

The media audience has become increasingly unified and cohesive.

260. Ch. 5 Exam

QUESTION 1

1. Civil cases

-
- A. are initiated by the government.
 - B. run the gamut from misdemeanors to felonies
 - C. can result in the loss of liberty
 - D. go to trial about 1.3 percent of the time
-

5 points

QUESTION 2

1. Federal courts

-
- A. were first established by the Article of Confederation.
 - B. which hear appeals make use of witnesses, testimony and juries.
 - C. are organized into two levels – the Supreme Court and the federal courts of appeal.
 - D. below the level of the Supreme Court were established by the Judiciary Act of 1789
-

5 points

QUESTION 3

1. When the Supreme court grants a writ of certiorari, it means that it

-
- A. has issued a signed a opinion explaining its decision in a case.
 - B. has reached its final decision in a case.
 - C. has refused to hear a case.
 - D. has decided to accept a case.
-

5 points

QUESTION 4

1. When a Supreme Court justice issues a concurring opinion, it means that

-
- A. she has decided not to give a written explanation for her vote in the case.
 - B. she agrees with the opinion reached by the federal appeals court in the case.
 - C. she agrees with how the majority decision in the case but disagrees with the rationale for the decision.
 - D. she agrees with the opinion reached by the federal district court in the case.
-

5 points

QUESTION 5

1. The power of the Supreme court to refuse to apply a state or federal law because it violates the Constitution is referred to as

-
- A. the appointment of guardian ad litem
 - B. judicial review
 - C. the right of stare decisis
 - D. granting of certiorari
-

5 points

QUESTION 6

1. The Supreme court decision which established the the right of judicial review was

-
- A. Marbury v. Madison
 - B. McCulloch v. Maryland
 - C. Dred Scott v. Sanford
 - D. Plessy v. Ferguson
-

5 points

QUESTION 7

1. The judicial philosophy of strict constructionism involves

-
- A. deciding cases on the narrowest possible grounds
 - B. applying the Constitution according to its original meaning as understood by a reasonable person at the time it was written.
 - C. viewing the Constitution as a living document that the founders deliberately left ambiguous.
 - D. substituting the policy views of Supreme Court justices for the policy actions of other branches of government.
-

5 points

QUESTION 8

1. A plurality of Supreme Court justices found a right to privacy implicit in the Constitution and used it to overturn a Connecticut law prohibiting the use of contraceptives. The justices later used that privacy right as a basis for discovering a woman's right to an abortion. This is considered to be an example of

-
- A. judicial restraint
 - B. strict constructionism
 - C. originalism
 - D. loose constructionism
-

5 points

QUESTION 9

1. Which of the following statements concerning the selection of federal judges is true?

-
- A. Once in office, federal judges must stand for re-election every ten years.
 - B. Federal district judges are nominated by state governors.
 - C. Judge nominated by the president must be approved by the House of Representatives.
 - D. The appointment of judges to lower federal courts are important because almost all federal cases end there.
-

5 points

QUESTION 10

1. The nomination of which of the following Supreme Court justices was almost derailed by charges of sexual impropriety?

-
- A. Robert Bork
 - B. Earl Warren
 - C. Clarence Thomas
 - D. John Roberts
-

5 points

QUESTION 11

1. The tradition of unleashing a lobbying and public relations

campaign to block the appointment of Supreme Court justice began in response to the nomination of which of the following?

-
- A. Earl Warren
 - B. John Roberts
 - C. Anton Scalia
 - D. Robert Bork
-

5 points

QUESTION 12

1. According to the video, *The Supreme Court of the United States*, which of the following principles was established by Chief Justice John Marshall?

-
- A. The Commerce Clause only applied to the buying and selling of goods.
 - B. Individuals who lost a case in the highest state court could not appeal to the United States Supreme Court.
 - C. The Supreme Court could not declare state laws unconstitutional.
 - D. The states had to obey the Supreme Court.
-

5 points

QUESTION 13

1. According to the video, *The Supreme Court of the United States*, Chief Justice Roger Taney has gone down in history because he

 - A. was the second longest serving chief justice of the Supreme Court.
 - B. was a fierce opponent of slavery.
 - C. consolidated many of John Marshall's decisions concerning the power of the court.
 - D. played a key role in the Dred Scott decision.

5 points

QUESTION 14

1. According to the video, *The Supreme Court of the United States*, what did Franklin Roosevelt do in response to the Court finding many of his New Deal proposals unconstitutional?

 - A. He called upon the House of Representative to impeach two of the sitting justices.
 - B. He proposed a federal budget which included a substantial cut in the pay for Supreme Court justices.
 - C. He proposed to increase the size of the courts thus allowing him to appoint more justices who would support his postions.
 - D. He launched a public relations campaign in which he denigrated the members of the Court and referred to them as "so called" judges.

5 points

QUESTION 15

1. According to the video, *SCOTUS (Part 1)*, at the time the video was made _____ individuals had served as justices on the Supreme Court and the average justice had remained on the court for _____ years.

A. 200, 10

B. 150, 25

C. 100, 16

D. 75, 5

5 points

QUESTION 16

1. According to the video, *SCOTUS (Part 1)*, what was the great self-inflicted wound of the Supreme Court?

-
- A. the Dred Scott decision
 - B. the Court's decision to become involved with the recount of the 2000 presidential election
 - C. the Brown v. Board of Education decision
 - D. the resistance of the Court to Franklin Roosevelt's New Deal proposals in the 1930s
-

5 points

QUESTION 17

1. According to the video, *SCOTUS (Part 1)*, why is the 14th Amendment referred to as the second bill of rights?

It is used to protect individuals against the excesses of state power.

It is used to protect individuals against the excesses of federal power.

It abolished slavery.

It granted the right to vote to former slaves.

5 points

QUESTION 18

1. According to the video, SCOTUS (*Part 2*), the main responsibilities of the Supreme Court include deciding

-
- A. the facts of the case.
 - B. whether the lower court applied the law properly.
 - C. whether the law is constitutional.
 - D. both B and C
-

5 points

QUESTION 19

1. According to the video, SCOTUS (*Part 2*), the hearing of cases by the Supreme Court

-
- A. allows the justices to ask hard questions that the briefs have raised in their minds.
 - B. allows lawyers for both sides 2 hours to make their arguments.
 - C. is televised across the nation.
 - D. occurs in private.
-

5 points

QUESTION 20

1. According to the video, SCOTUS (*Part 3*), the writing of opinions by Supreme Court justices

-
- A. is assisted by law clerks who engage in legal research and write drafts.
 - B. is followed by the release of the opinion to the public immediately after it has been written.
 - C. almost never results in the redrafting of an opinion once it is down on paper.
 - D. is one of the least time consuming parts of a justice's work.
-

26I. Ch. 6 Exam

QUESTION 1

1. What is the term for the deep-rooted, well-established beliefs that are characteristic of a society?

-
- A. political culture
 - B. constitutional framework
 - C. political socialization
 - D. ideology
-

5 points

QUESTION 2

1. According to the text, the two central beliefs of American political culture are

-
- A. egalitarianism and individualism
 - B. individualism and wealth
 - C. wealth and work
 - D. egalitarianism and wealth
-

5 points

QUESTION 3

1. What term refers to the conviction that America's vast frontier offered boundless and equal opportunities for individuals to achieve their goals and that America is destined to serve as an example to other countries?

-
- A. frontier ethos
 - B. American dilemma
 - C. civic culture
 - D. American exceptionalism
-

5 points

QUESTION 4

1. According to the text rituals are

-
- A. legends and stories that are shared by the nation such as the legend of George Washington chopping down the cherry tree.
 - B. objects or emblems that stand for a nation such the flag.
 - C. ceremonial acts that are performed by the people of the nation such as singing the national anthem at sporting events.
 - D. customs and festivities that are passed from generation to generation such as celebrating America's founding on the Fourth of July.
-

5 points

QUESTION 5

1. Sometimes controversies arise over whether it is valid to alter historical fact in order to promote a cultural value. One such controversy described in the text centered on whether

-
- A. tour guides in the White House should emphasize the fact that much of its construction was carried out by slaves.
 - B. a sculpture of a person of color should be added to the Mt. Rushmore monument.
 - C. a statue depicting New York City firefighters raising a flag at the 9/11 site should portray the actual race and ethnicity of the firefighters involved.
 - D. the portrait of Alexander Hamilton should be removed from the \$10 bill.
-

5 points

QUESTION 6

1. What is the particular type of political learning whereby people develop the attitudes, values, beliefs, opinions, and behaviors that are conducive to becoming good citizens in their country?

-
- A. political socialization
 - B. political indoctrination
 - C. brainwashing
 - D. political acculturation
-

5 points

QUESTION 7

1. During what period of life are people most politically impressionable?

-
- A. the time after age 65
 - B. from the midteens through the midtwenties
 - C. from birth to age six
 - D. from age six to age thirteen
-

5 points

QUESTION 8

1. Which of the following statements concerning the famous study of political socialization at Bennington College is true?

-
- A. About two-thirds of Bennington women adopted the progressive ideals of their teachers.
 - B. Very few of the women remained active in politics after they graduated from college.
 - C. Most of the young women involved in the study came from middle class families with liberal values.
 - D. The faculty consisted of political progressives who supported the New Deal and other social programs.
-

5 points

QUESTION 9

1. Which of the following political generations came of age during a period without a major war or economic hardship and relates to events such as the explosion of the Challenger spacecraft and Iran-Contra hearings?

-
- A. generation X
 - B. the baby boom generation
 - C. the millennial generation
 - D. the silent generation
-

5 points

QUESTION 10

1. The Internet is a potentially powerful agent of political socialization because

-
- A. few people use the online media to actively take part in political processes; this has made them much more likely to participate in elections off line by doing things such as handing out campaign literature and driving voters to the polls.
 - B. it allows people to respond to stories and debate others through discussion forums
 - C. only a small amount of political information is available online but the information that is available tends to be of high quality
 - D. few people actively engage with political news from online platforms, giving them time to reflect on political issues and develop their own positions without interference from others
-

5 points

QUESTION 11

1. The Payne Fund studies

-
- A. were conducted in the 1970s to determine how the political attitudes of young people had been influenced by the Watergate scandal.
 - B. found that the racist film, *Birth of a Nation*, actually did not have much of an effect on racial attitudes.
 - C. found that people developed attitudes toward racial groups, war, and crime based on their exposure to popular films.
 - D. provided early evidence that radio could have a powerful effect on the political attitudes of young people but film did not have much of an effect.
-

5 points

QUESTION 12

1. Which of the following consists of people who pay close attention to government and politics in general?

-
- A. the attentive public
 - B. the body politic
 - C. a focus group
 - D. an issue public
-

5 points

QUESTION 13

1. Which of the following statements summarizes the view of journalist and social commentator Walter Lippmann about public opinion?

-
- A. Average people have the opportunity to directly experience most political events.
 - B. The views of average citizens, not elite opinion should count the most.
 - C. Average people have the time and inclination to keep up with the myriad issues that confront the nation.
 - D. Public opinion is best managed by specialists who have the knowledge and capabilities to promote policies.
-

5 points

QUESTION 14

1. Which of the following statements represent the view of political scientist Sidney Verba concerning the relationship of public opinion to policy making?

-
- A. In general the public is misinformed about many issues.
 - B. If you spend too much time following polls, you will forget how to lead especially when it matters.
 - C. Government officials should pay close attention to to the results of public opinion surveys.
 - D. Public policy should be grounded in sound principles supported by experts.
-

5 points

QUESTION 15

1. The famous Literary Digest poll of 1936

-
- A. failed to distribute questionnaires to enough voters.
 - B. correctly predicted that the Republican candidate Alfred Landon would defeat Franklin Roosevelt.
 - C. used a sample that was biased toward voters who could afford telephones, cars, and magazines.
 - D. led to great public acclaim for the magazine and a large increase in its number of subscriptions.
-

5 points

QUESTION 16

1. Which of the following statements concerning exit polling is true?

-
- A. They are not a major component of the media's election night coverage since they are not released until two weeks after the election.
 - B. They are a form of online polling.
 - C. They constitute a marketing technique used by political campaigns to influence opinions.
 - D. They are interviews with voters taken as they leave the voting booth.
-

5 points

QUESTION 17

1. Which of the following is characteristic of quick polls?

-
- A. They conform to the established protocols for conducting scientific polls and are very reliable indicators of public opinion.
 - B. Often it is possible for people to register their views more than once in a quick poll which can bias its outcome.
 - C. They rarely are given online.
 - D. They consist of face-to-face interviews with voters taken as they leave the voting booth.
-

5 points

QUESTION 18

1. Push polls

-
- A. were used to help John McCain to win the 2000 presidential primary in South Carolina.
 - B. constitute a marketing technique used by political campaigns to influence opinions.
 - C. represent a legitimate attempt to investigate public opinion.
 - D. involve the careful collection and analysis of data.
-

5 points

QUESTION 19

1. The main point of the video, *Six of One*, was that

-
- A. People often do not base their political opinions on factual knowledge.
 - B. Political opinions are almost always based on a knowledge of facts.
 - C. Obamacare was a good idea.
 - D. Obamacare was a bad idea.
-

5 points

QUESTION 20

1. The term echo chamber refers to the fact that

-
- A. people attend to media that are essentially self-protected enclaves hospitable to their own beliefs.
 - B. the ownership of a newspaper or television station amplifies the political influence of the organization's owner.
 - C. when the President and the Speaker of the House are members of the same party they tend to repeat and mutually reinforce each other's message.
 - D. during debates in Congress, the same tired old political arguments keep getting recycled over and over.
-

262. Ch. 7 Exam

QUESTION 1

1. James Madison's main fear about political factions was that

- A. during the colonial era there had been a history of foreign governments influencing American political factions.
 - B. a faction that constituted a large majority could seize control of the government.
 - C. most of the factions in Madison's day were vehemently opposed to the existence of a standing army.
 - D. factions were prone to bureaucratization and thus might make the government less efficient.
-

5 points

QUESTION 2

1. A key event in the origin of American political parties was

-
- A. the founding of the Federalist Party by large farmers in Virginia.
 - B. the statement in Federalist No. 10 that called for the official recognition of political parties.
 - C. the alliance of James Madison and Alexander Hamilton against Thomas Jefferson.
 - D. Washington's appointment of two political adversaries to his cabinet, Hamilton and Jefferson.
-

5 points

QUESTION 3

1. A cohesive, authoritarian commanded structure headed by a boss who exacted loyalty and services from underlings in return for jobs and favors was known as a(n)

-
- A. political faction
 - B. party machine
 - C. cabinet department
 - D. administrative unit
-

5 points

QUESTION 4

1. Which of the following is not a characteristic of candidate-centered politics?

-
- A. Candidates' use of social media to connect with voters has finally begun to decline.
 - B. Candidates build personal organizations rather than rely on party support.
 - C. Campaign professionals and media consultants assume many of the responsibilities previously held by parties.
 - D. Candidates can appeal to the public directly through television rather than working their way through the party apparatus.
-

5 points

QUESTION 5

1. According to the text, which of the following is not a characteristic of modern day American political parties?

-
- A. It is relatively hard to join a political party.
 - B. The two major political parties have been dominant for a long period of time.
 - C. The two major parties represent the core values of American culture that favor centrist positions.
 - D. The two major parties are ideologically ambiguous.
-

5 points

QUESTION 6

1. A set of plans that outline party positions on issues and the actions leaders will take to implement them if elected are known as

-
- A. party platforms.
 - B. majority reports.
 - C. position papers.
 - D. white papers.
-

5 points

QUESTION 7

1. Which of the following is not a function of national nominating conventions?

-
- A. selecting presidential candidates
 - B. showcasing leaders and policies in front of a national audience
 - C. rewarding the party faithful by having them participate as delegates
 - D. electing the party's national chairman
-

5 points

QUESTION 8

1. What does it mean to say that a president has adopted a policy of triangulation?

-
- A. He places equal emphasis on all three branches of the federal government.
 - B. He works both sides of the congressional aisle to gain support for his positions.
 - C. He emphasizes all three components of the nuclear triad – nuclear submarines, nuclear bombers and intercontinental ballistic missiles.
 - D. He campaigns for candidates of his party at the local, state, and federal levels.
-

5 points

QUESTION 9

1. Divided government occurs when

-
- A. power to solve a given problem such pollution of the environment is divided between the federal and state governments.
 - B. a majority of Supreme Court justices belong to a different party than the president.
 - C. the chief executive is of a different party from the majority in the legislature.
 - D. the Supreme Court overrules the decision of a state court.
-

5 points

QUESTION 10

1. Which of the following statements concerning party realignment is false?

-
- A. A critical election in 1932 brought the Democrats to power after Republican dominance since the 1890s
 - B. Realignments can be sparked by critical elections where a minority party wins and becomes the majority party in government for an extended period of time.
 - C. Realignment is a major, enduring shift in coalition loyalties that results in a change in the balance of power between the two major parties.
 - D. American parties realign about once every 100 years.
-

5 points

QUESTION 11

1. In the United States, what is the term for any party other than the two major parties?

-
- A. voting bloc
 - B. party caucus
 - C. third party
 - D. interest group
-

5 points

QUESTION 12

1. A fusion minor party is

-
- A. a party that has existed for a long time and regularly fields candidates for president and state legislatures.
 - B. a party that engages in the practice of cross endorsement, backing candidates who appear on the ballot under more than one party label.
 - C. a party that exists to promote a particular policy agenda.
 - D. a party formed around a candidate who is able to rally support based on his own charisma or message.
-

5 points

QUESTION 13

1. Which of the following is not one of the factors that help explain the difficulty minor parties face in winning elections?

-
- A. procedures and requirements that make it difficult for minor parties to be listed on the ballots in many states
 - B. the prevalence of single-member district plurality systems in the U.S.
 - C. the lack of funds to establish and equip permanent headquarters
 - D. the prevalence of proportional representation systems in the U.S.
-

5 points

QUESTION 14

1. The free-rider problem refers to the fact that

-
- A. sometimes people do not need to join an interest group voluntarily when they can benefit from its activities without becoming a member.
 - B. many users of public transportation do not pay their full share of its cost because it is supported by government subsidies.
 - C. most interest groups seek the reduction of federal taxes as at least one of their secondary goals.
 - D. use of toll roads increases exponentially when the tolls are removed.
-

5 points

QUESTION 15

1. Solidarity incentives to join an interest group

- A. lead people to voluntarily join and contribute money to a group because they want to help the group achieve its goals.
 - B. consist of practical benefits such as discounts, subscriptions or group insurance.
 - C. consist of the pleasure of interacting with like-minded individuals and the gratification of publicly expressing one's beliefs
 - D. are based on the idea that the group stands for something you believe in and you gain considerable satisfaction in taking action from within that group.
-

5 points

QUESTION 16

1. Which of the following statements concerning media depiction of unions is false?

-
- A. Union officials are infrequently used as sources and are consequently unable to frame union news to their advantage.
 - B. Strikes are the union actions most often shown in the news.
 - C. There are some movies that favorably portray workers' struggles to organize and strike for better working conditions, wages, and security against exploiting employers.
 - D. Strikes are usually framed as legitimate collective tactics to improve wages and working conditions.
-

5 points

QUESTION 17

1. Grassroots lobbying involves an interest group

-
- A. making anonymous postings online that appear to be from concerned citizens but actually come from the sponsoring organization.
 - B. paying for a television or radio ad taking a position on a particular issue.
 - C. encouraging their members and others to to contact their legislators on behalf of a policy position the group advocates.
 - D. rating the performance of legislators based on how often the legislators have voted for the group's position on particular issues.
-

5 points

QUESTION 18

1. Which of the following statements concerning the Jack Abramoff case is false?

-
- A. Abramoff used some of the \$45 million he had been paid by Native American tribes to bribe members of Congress.
 - B. Abramoff's meteoric rise was helped by a Democratic takeover of Congress.
 - C. Abramoff ultimately pled guilty to fraud, tax evasion, and conspiracy to bribe public officials.
 - D. Abramoff saved a Native American tribe hundred of millions in taxes by helping to defeat a proposal to tax casino revenues.
-

5 points

QUESTION 19

1. Which of the following statements concerning the objectives of interest groups is not true?

-
- A. Passing legislation is usually easier than preventing it from being passed.
 - B. The vast bulk of lobbying in Washington has to do with the adjustment of existing programs or with the maintenance of programs just as they are.
 - C. Legislation enacted over the opposition of powerful groups tend to be watered down.
 - D. The National Automobile Dealers Association was able to defeat a proposal by President Obama to put automobile loans under the oversight of a new federal consumer authority.
-

5 points

QUESTION 20

1. _____ is the theory that states competition among interest groups produces compromise and balance among competing policy preferences.

-
- A. Elitism
 - B. Pluralism
 - C. Majoritarianism
 - D. Libertarianism
-

263. Ch. 8 Exam

QUESTION 1

1. In an election campaign, who is responsible for information supporting the candidate's position on issues and for research on the opponent's statements, voting records and vulnerabilities?

-
- A. the political director
 - B. the research director
 - C. the press secretary
 - D. the pollster
-

5 points

QUESTION 2

1. In 2010, what did the Supreme Court rule in the case concerning the rights of Citizens United, a conservative political group, to run a film that was critical of Hillary Clinton?

-
- A. The government has the right to limit the amount of money that individuals, political parties and political groups contribute to campaigns.
 - B. No governmental limits may be placed on campaign spending.
 - C. Restricting independent spending by corporations in elections violated free speech.
 - D. Corporations and labor unions are not allowed to advocate for or against a candidates via broadcast, cable or satellite.
-

5 points

QUESTION 3

1. The use of computers and mathematical models to identify people's voting preferences on the bases of the magazines they read, credit card purchases and the cars they own is referred to as

-
- A. microtargeting.
 - B. retail politics
 - C. grass roots mobilization
 - D. machine politics
-

5 points

QUESTION 4

1. The text argues that Republicans are seen as the party to

-
- A. increase the minimum wage.
 - B. protect social security.
 - C. strengthen national defense.
 - D. expand health care coverage.
-

5 points

QUESTION 5

1. Which of the following statements concerning attack ads is false?

-
- A. Many attack ads are effective in generating negative impressions of candidates.
 - B. One of the most memorable attack ads was the “Daisy Ad” attacking Republican presidential candidate Barry Goldwater in 1964.
 - C. Attack ads have been criticized as “the crack cocaine of politics.”
 - D. Rebuttals to attack ads are usually a good idea because they tend to shorten the attack ad’s visibility.
-

5 points

QUESTION 6

1. Which of the following statements concerning ad watches is false?

-
- A. There is a possibility that ad watches may boomerang by showing the ads to people who might not otherwise have seen them.
 - B. Ad watches are an official duty of the Federal Election commission.
 - C. Toward the end of a campaign, ad checks have trouble standing out amid the clutter of so many ads for so many candidates.
 - D. FactCheck.org is an example of an ad watch.
-

5 points

QUESTION 7

1. Media coverage that focuses on which candidate is leading and which is trailing is referred to as

-
- A. breaking news.
 - B. horse race coverage.
 - C. twenty-four hour news cycle coverage.
 - D. saturation coverage.
-

5 points

QUESTION 8

1. More and more states are holding presidential primaries early in the process so as to increase the state's influence on the presidential nomination. Such primaries are known as

-
- A. re-aligning elections
 - B. front-load primaries
 - C. critical elections
 - D. open primaries
-

5 points

QUESTION 9

1. According to the video, *Primary Elections Explained*, which of the following statements concerning presidential primary elections is false?

-
- A. Iowa always has the first primary election.
 - B. The biggest primary election alliance is Super Tuesday.
 - C. U.S. territories hold primary elections even though residents of the territories are not allowed to vote in the general election for president.
 - D. Members of either party can participate in an open primary.
-

5 points

QUESTION 10

1. According to the video, *How the Electoral College Works*,

- A. The number of electoral votes each state receives is equal to the number of representatives it has in the House of Representatives.
 - B. American citizens who live in U.S. territories can vote in the presidential election by sending a postal vote to the last state they lived in.
 - C. The real election of the President occurs in early December.
 - D. Electors are required by law to vote for the candidate they are pledged to.
-

5 points

QUESTION 11

1. According to the video, *Trouble with the Electoral College*,

- A. the electoral college supports the principle that everyone's vote should count equally.
 - B. every state gets one vote in the electoral college before the population of the state is taken into account.
 - C. the electoral college protects the small states against the big states.
 - D. some states that should only get 1 or 2 electoral votes actually get 3 or 4.
-

5 points

QUESTION 12

1. According to the video, *The Trouble with the Electoral College*, candidates are most likely to visit states
-

- A. where they are far ahead of their opponents in the polls.
 - B. with small populations.
 - C. where they are evenly matched with their opponents in the polls.
 - D. with very large populations.
-

5 points

QUESTION 13

1. According to the video, *What if the Electoral College is Tied?*,
-

- A. when the House of Representatives breaks an electoral tie for President, each representative gets one vote.
 - B. if no candidate for President received a majority of votes in the electoral college, the Supreme Court decides the winner
 - C. if there is a tie in the electoral college for President, the House of Representatives breaks the tie.
 - D. there has never been a Presidential election in which no candidate received a majority of votes in the electoral college.
-

5 points

QUESTION 14

1. Midterm elections

- A. are frequently treated as referenda on the performance of the sitting president.
 - B. usually focus on foreign policy issues rather than the economy and unemployment.
 - C. usually result in the president's party picking up additional seats in Congress.
 - D. occur in the same year that a presidential election occurs.
-

5 points

QUESTION 15

1. A ballot measure in which voters propose and pass laws and present them to the state legislature is known as a(n)
-

- A. bond issue.
 - B. initiative.
 - C. recall election.
 - D. referendum.
-

5 points

QUESTION 16

1. The drawing of congressional district lines to give one party the advantage in electing its candidates to the House of Representatives is known as

-
- A. gerrymandering
 - B. geographic representation
 - C. proportional representation
 - D. redistricting
-

5 points

QUESTION 17

1. Which of the following is a type of modern day restrictive voting legislation?

-
- A. laws that reduce opportunities to vote early in person
 - B. laws that require photo identification for voting
 - C. laws that make it harder for students to register and vote
 - D. all of the above
-

5 points

QUESTION 18

1. Which of the following statements concerning the history of voting rights is false?

-
- A. In the decades between the American War for Independence and the Civil War, various tactics made it possible but very hard for African Americans to cast ballots.
 - B. In the past, states with a grandfather clause allowed a man to vote even if he had not passed a literacy test so long as his grandfather had voted before January 1, 1867.
 - C. In several states in the past, voters had to prove they'd paid special taxes for voting before they were allowed to cast a ballot.
 - D. African Americans and other racial and ethnic minorities were guaranteed the right to vote by the 15th Amendment.
-

5 points

QUESTION 19

1. Which of the following statements concerning voter ID laws is false?

-
- A. Voter ID requirements have a disproportionate impact on low-income Americans who are less likely to have a driver's license or be able to afford another form of identification.
 - B. Twenty-five percent of African Americans of voting age compared to 50 percent of their white counterparts do not have government-issued photo ID.
 - C. Critics of voting ID laws argue they are specifically designed to make it harder for racial minorities and poor people to vote.
 - D. Proponents of voter ID laws argues that they are not discriminatory because they apply the same requirements to all potential voters.
-

5 points

QUESTION 20

1. The U.S. Government Accountability Office has concluded that the rate of voting fraud in the U.S. is between 0.1 percent and zero percent.

True

False

PART XVI

HOW TO PARTICIPATE IN SEMINARS

.

264. How Seminars Will Be Graded - Part I

In each seminar, your assignment will be to ask a question that will help the other students gain a better understanding of some aspect of the chapter. You should try to post your question as early as possible in the module so that other students will have a chance to respond to it. You absolutely must post your question before the last day of the module. **If you post your question on the last day, it will receive a score of zero.** The reason for this is that if you post the question on the last day, many of the other students will not have enough time left in the module to respond to it. **You will also receive a zero if you ask a question that is the same as or similar to a question already asked by another student.**

In addition to posing your own question, you must make five responses to questions posed by other students. **Overall, in each seminar, you must make six posts. The question you pose will count as one of the six posts. The five responses you make to other students will count as the other five posts. It is not necessary to respond to everyone who responds to you.** The requirement is to pose one question and make five responses to other students.

The seminars in this course are not discussions. In a discussion it might be acceptable to simply state your opinion but that is absolutely not true in a seminar. I firmly believe that education is not merely about expressing your opinions. Rather, I believe it is about deciding whether to keep, revise or discard your opinions in light of new information. When you present facts to back up your views, you are helping your classmates to make this decision. **Therefore, there will be an absolute, iron-clad rule in this course that in every seminar question or response, you must provide factual information.** In the case of a question that you are posing to the class, you must provide information from the text to

introduce the question. In the case of a response you are making to someone else's question, you must provide facts from the text, another book or article, or a web site.

It is important that the seminar not get too far away from the substance of the chapter. Questions that are not directly related to the text and that are not introduced with information from the text, will receive a score of zero.

The seminars in this course will be very different from discussions you have experienced in either on-campus courses or other on-line courses. Some students are so used to merely expressing their views without any supporting facts that they don't take me seriously when I say that it is not acceptable in this course. Please be aware that I will be very strict about enforcing the requirement that you must provide specific facts in every single post.

To be frank about these scoring guidelines, they will make you work harder to get a good grade on the seminars. Many of us are used to freely expressing our views on a subject when we participate in a discussion. It is easier to simply do that rather than to also search for information to support our views. It takes a little bit of work to look for the information. However, as I noted above, I really believe that education is about deciding whether to retain your opinions in light of new information. **Therefore, I am going to be very strict about using these scoring guidelines.**

265. How Seminars Will be Graded - Part II

When I grade the seminar, I will look for the following things in your question:

1. The question is given a title that is a shortened version of the question. The title must end in a question mark.
2. The question must actually include the phrase, "In your opinion...."
3. Information from the text is presented to introduce the question. This means that you must present specific facts about a topic. It is not enough to simply say the text talks about a given topic.
4. The chapter and section of the introductory information from the text are given.
5. Correct spelling is used.

A question will not count as one of the six required posts if it has any of the following problems:

1. The question is posted on the last day of the module. If you post your question on the last day, you are not giving other students enough time to respond to it
2. The question is similar to one that has already been posted. In other words there may be only one question about a given topic in the same seminar. Read all the other questions that have already been posted before you post your own. **If another topic has already been taken, do not post a question about it.**
3. The question merely asks for facts from the text to be reproduced. It does not require a judgment to be made.

A Good Example of a Question

Subject: Is it good for the Court to hold the power of judicial review?

The text explains in Ch. 5-F that judicial review is an informal method of constitutional change. Judicial review includes the right of the Supreme Court to rule acts of Congress unconstitutional. In your opinion, is it good for the Court to have this right?

Remember: In each seminar you must post exactly one question.

266. How Seminars Will Be Graded - Part III

When I grade the seminar, I will be looking for the following things in your responses.

1. The response is given a subject title. It must be a **complete sentence** that is a shortened version of the opinion you are expressing. The title that is automatically given to your response and begins with "re:" must be deleted and replaced with a complete sentence that states your opinion.
2. The response includes the phrases, "In my opinion" and "My evidence is."
3. At least two facts are presented that support the opinion being expressed by the response.
4. The source of the facts is identified. If the information is from the text, the chapter and section number is given (e.g. Ch. 5-F). If the information is from another book, the title and author are given. If the information is from a web site the URL (address) of the web site is given.
5. Correct spelling is used.

You can respond both to questions asked by other students and to the responses other students have made to your own question; however, when you respond to others' responses to you, you still must follow all the rules listed above.

A response will not count towards the required six posts if it has either of the following problems:

1. **You say your evidence is any of the following: my personal beliefs, my own opinions, my thoughts, my feelings, or**

anything similar.

2. **It provides the same evidence from the text that has already been provided by another student responding to the same question.**

Sample Question

Subject: Is it good for the Court to hold the power of judicial review?

The text explains in Ch. 5-F that judicial review is an informal method of constitutional change. Judicial review includes the right of the Supreme Court to rule acts of Congress unconstitutional. In your opinion, is it good for the Court to have this right?

Examples of Good Responses

Subject: Judicial review adapts the Constitution to modern situations

In my opinion it is good thing that the Court has this power.

My evidence for this is found in Ch. 5-F. The text notes that judicial review strengthens the system of checks and balances. It is a way to make sure the actions of Congress, the president, and state governments conform to the Constitution. For example, in the *Brown v. Board of Education* decision, the Court used judicial review to declare that state laws requiring school segregation were unconstitutional.

Subject: Judicial review may overrule the will of the people
In my opinion, the Court should not hold the power of judicial review. When a law is passed by Congress or a state legislature, it represents the will of the people. It has been passed by their elected representatives. When the Court strikes down such a law, nine unelected justices are placing their own view above that of the people.

My evidence for this is from a web site entitled, Judicial Review and Executive Responsibility. (<http://www.renewamerica.us/columns/bates/050322>) The site concerns the famous Terri Schiavo case. Terri was a 41 year old brain damaged woman whose husband requested that her feeding tube be removed. The Florida

State legislature attempted to authorize protection for her continued access to nutrition but this effort was ruled unconstitutional by the Florida State Supreme Court. The feeding tube was removed and Terri died.

Remember, in each seminar you must make five responses.

PART XVII

CULMINATING SURVEY

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267. Culminating Survey

1. Did you check the feedback on your chapter exams? In other words, did you take a look at the exam after the module closed to see which questions you got wrong and what the correct answers were?
2. When I graded the seminars, I provided feedback in the form of a rubric and sometimes written comments. Did you ever check this?
3. When I graded the paper, I again provided feedback in the form of a rubric and comments. Did you check this feedback?
4. Do you think the course was substantive enough? In other words was the work load adequate to ensure that you learned something in the course? Would you recommend that I make the course harder, make it easier, or keep it the same?
5. At Herkimer, we are experimenting with the use of free on-line textbooks referred to as Open Educational Resources (OER). As you know we used such a book in this course. This is the first time I have used OER in one of my courses and I am really interested in your comments. Did you feel the book was as good as a traditional printed textbook? Did you have any trouble using it? Even if there are a few problems with using an OER book, is it worth using one because of the zero cost. Any other thoughts?

PART XVIII

SEMINARS ON TEXTBOOK CHAPTERS

All the seminars follow the same format. The only thing that needs to be changed is the part of the instructions that indicate which chapters are addressed by the seminar.

268. Seminar on Ch. 1

Pose a question from Ch. 1 of the textbook that will help other members of the class gain a better understanding of some aspect of the chapter. You must also make five responses to questions asked or responses made by other students. Be very careful to follow the rules for participating in seminars that were presented in Module One.