

# Texas Government



# Texas Government

*DREGALADO*



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PART I

# FACULTY RESOURCES





# I. Final Exam and Project

## GOVT 2306 Final Exam Questions:

1. Analyze the evolution of the Texas political system. Be sure to include at least one individual or document that influenced the current Texas Constitution and one change in the federal system impacting Texas. (LOs 1, 2)
2. Which of the three branches of Texas is the most powerful and influential today? Provide a specific example to support your position. (LOs 3, 4)
3. Evaluate the impact of public opinion, interest groups, and political parties on voting in Texas. (LOs 5, 6)

GOVT 2306 Departmental Project: This project will examine your Texas constitutional rights through the exploration of the rights and responsibilities of citizens, and the ability to analyze issues, policies, and political culture of Texas (This project covers LOs 7, 8). The student must address the following questions:

- Define the difference between civil liberties and civil rights.
- Choose and explain a constitutional right from the Texas Constitution (be sure to explain why it is a civil liberty or civil right).
- Choose and discuss a U.S. Supreme Court case that relates to your chosen Texas constitutional right (be sure to explain how/why it is relevant).
- Discuss a current Texas policy or issue impacted by your chosen constitutional right.

## 2. I Need Help



Need more information about this course? Have questions about faculty resources? Can't find what you're looking for? Experiencing technical difficulties?

We're here to help! Contact [oeer@achievingthedream.org](mailto:oeer@achievingthedream.org) for support.

PART II

I. TEXAS HISTORY AND  
CULTURE



### 3. Independence for Texas

#### *Learning Objectives*

By the end of this section, you will be able to:

- Explain why American settlers in Texas sought independence from Mexico
- Discuss early attempts to make Texas independent of Mexico
- Describe the relationship between Anglo-Americans and Tejanos in Texas before and after independence

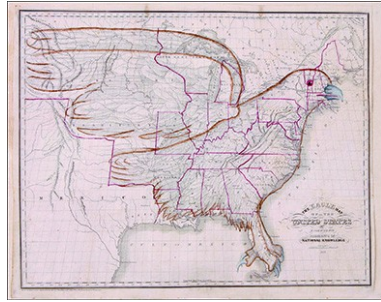
As the incursions of the earlier filibusters into Texas demonstrated, American expansionists had desired this area of Spain's empire in America for many years. After the 1819 Adams-Onís treaty established the boundary between Mexico and the United States, more American expansionists began to move into the northern portion of Mexico's province of Coahuila y Texas. Following Mexico's independence from Spain in 1821, American settlers immigrated to Texas in even larger numbers, intent on taking the land from the new and vulnerable Mexican nation in order to create a new American slave state.

## AMERICAN SETTLERS MOVE TO TEXAS

After the 1819 **Adams-Onís Treaty** defined the U.S.-Mexico boundary, Spain began actively encouraging Americans to settle their northern province. Texas was sparsely settled, and the few Mexican farmers and ranchers who lived there were under constant threat of attack by hostile Indian tribes, especially the Comanche, who supplemented their hunting with raids in pursuit of horses and cattle.

To increase the non-Indian population in Texas and provide a buffer zone between its hostile tribes and the rest of Mexico, Spain began to recruit *empresarios*. An **empresario** was someone who brought settlers to the region in exchange for generous grants of land. **Moses Austin**, a once-prosperous entrepreneur reduced to poverty by the Panic of 1819, requested permission to settle three hundred English-speaking American residents in Texas. Spain agreed on the condition that the resettled people convert to Roman Catholicism.

On his deathbed in 1821, Austin asked his son Stephen to carry out his plans, and Mexico, which had won independence from Spain the same year, allowed Stephen to take control of his father's grant. Like Spain, Mexico also wished to encourage settlement in the state of Coahuila y Texas and passed colonization laws to encourage immigration. Thousands of Americans, primarily from slave states, flocked to Texas and quickly came to outnumber the Tejanos, the Mexican residents of the region. The soil and



*By the early 1830s, all the lands east of the Mississippi River had been settled and admitted to the Union as states. The land west of the river, though in this contemporary map united with the settled areas in the body of an eagle symbolizing the territorial ambitions of the United States, remained largely unsettled by white Americans. Texas (just southwest of the bird's tail feathers) remained outside the U.S. border.*

climate offered good opportunities to expand slavery and the cotton kingdom. Land was plentiful and offered at generous terms. Unlike the U.S. government, Mexico allowed buyers to pay for their land in installments and did not require a minimum purchase. Furthermore, to many whites, it seemed not only their God-given right but also their patriotic duty to populate the lands beyond the Mississippi River, bringing with them American slavery, culture, laws, and political traditions.

## THE TEXAS WAR FOR INDEPENDENCE

Many Americans who migrated to Texas at the invitation of the Mexican government did not completely shed their identity or

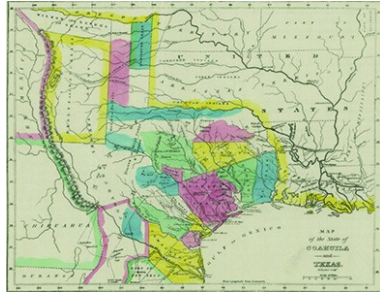
loyalty to the United States. They brought American traditions and expectations with them (including, for many, the right to own slaves). For instance, the majority of these new settlers were Protestant, and though they were not required to attend the Catholic mass, Mexico's prohibition on the public practice of other religions upset them and they routinely ignored it.

Accustomed to representative democracy, jury trials, and the defendant's right to appear before a judge, the Anglo-American settlers in Texas also disliked the Mexican legal system, which provided for an initial hearing by an *alcalde*, an administrator who often combined the duties of mayor, judge, and law enforcement officer. The **alcalde** sent a written record of the proceeding to a judge in Saltillo, the state capital, who decided the outcome. Settlers also resented that at most two Texas representatives were allowed in the state legislature.

Their greatest source of discontent, though, was the Mexican government's 1829 abolition of slavery. Most American settlers were from southern states, and many had brought slaves with them. Mexico tried to accommodate them by maintaining the fiction that the slaves were indentured servants. But American slaveholders in Texas distrusted the Mexican government and wanted Texas to be a new U.S. slave state. The dislike of most for Roman Catholicism (the prevailing religion of Mexico) and a widely held belief in American racial superiority led them generally to regard Mexicans as dishonest, ignorant, and backward.



Belief in their own superiority inspired some Texans to try to undermine the power of the Mexican government. When *empresario* Haden Edwards attempted to evict people who had settled his land grant before he gained title to it, the Mexican government nullified its agreement with him. Outraged, Edwards and a small party of men took prisoner the *alcalde* of



*This 1833 map shows the extent of land grants made by Mexico to American settlers in Texas. Nearly all are in the eastern portion of the state, one factor that led to war with Mexico in 1846.*

Nacogdoches. The Mexican army marched to the town, and Edwards and his troops then declared the formation of the Republic of Fredonia between the Sabine and Rio Grande Rivers. To demonstrate loyalty to their adopted country, a force led by Stephen Austin hastened to Nacogdoches to support the Mexican army. Edwards's revolt collapsed, and the revolutionaries fled Texas.

The growing presence of American settlers in Texas, their reluctance to abide by Mexican law, and their desire for independence caused the Mexican government to grow wary. In 1830, it forbade future U.S. immigration and increased its military presence in Texas. Settlers continued to stream illegally across the long border; by 1835, after immigration resumed, there were twenty thousand Anglo-Americans in Texas.

Fifty-five delegates from the Anglo-American settlements gathered in 1831 to demand the suspension of customs duties, the resumption of immigration from the United States, better protection from Indian tribes, the granting of promised land titles, and the creation of an independent state of Texas separate from Coahuila. Ordered to disband, the delegates reconvened in early April 1833 to write a constitution for an independent Texas. Surprisingly, **General Antonio Lopez de Santa Anna**, Mexico's new president, agreed to all demands, except the call for statehood.

Coahuila y Texas made provisions for jury trials, increased Texas's representation in the state legislature, and removed restrictions on commerce.

Texans' hopes for independence were quashed in 1834, however, when Santa Anna dismissed the Mexican Congress and abolished all state governments, including that of Coahuila y Texas. In January 1835, reneging on earlier promises, he dispatched troops to the town of Anahuac to collect customs duties. Lawyer and soldier William B. Travis and a small force marched on Anahuac in June, and the fort surrendered. On October 2, Anglo-American forces met Mexican troops at



*This portrait of General Antonio Lopez de Santa Anna depicts the Mexican president and general in full military regalia.*

the town of Gonzales; the Mexican troops fled and the Americans moved on to take San Antonio. Now more cautious, delegates to the **Consultation of 1835** at San Felipe de Austin voted against declaring independence, instead drafting a statement, which became known as the **Declaration of Causes**, promising continued loyalty if Mexico returned to a constitutional form of government. They selected **Henry Smith**, leader of the Independence Party, as governor of Texas and placed **Sam Houston**, a former soldier who had been a congressman and governor of Tennessee, in charge of its small military force.

The **Consultation** delegates met again in March 1836. They declared their independence from Mexico and drafted a constitution calling for an American-style judicial system and an elected president and legislature. Significantly, they also established

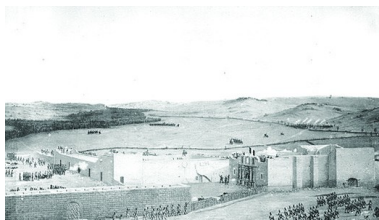
that slavery would not be prohibited in Texas. Many wealthy Tejanos supported the push for independence, hoping for liberal governmental reforms and economic benefits.

## REMEMBER THE ALAMO!

Mexico had no intention of losing its northern province. Santa Anna and his army of four thousand had besieged San Antonio in February 1836. Hopelessly outnumbered, its two hundred defenders, under Travis, fought fiercely from their refuge in an old mission known as the Alamo. After ten days, however, the mission was taken and all but a few of the defenders were dead, including Travis and James Bowie, the famed frontiersman who was also a land speculator and slave trader. A few male survivors, possibly including the frontier legend and former Tennessee congressman **Davy Crockett**, were led outside the walls and executed. The few women and children inside the mission were allowed to leave with the only adult male survivor, a slave owned by Travis who was then freed by the Mexican Army. Terrified, they fled.

Although hungry for revenge, the Texas forces under Sam Houston nevertheless withdrew across Texas, gathering recruits as they went. Coming upon Santa Anna's encampment on the banks of San Jacinto River on April 21, 1836, they waited as the Mexican troops settled for an

afternoon nap. Assured by Houston that "Victory is certain!" and told to "Trust in God and fear not!" the seven hundred men descended on a sleeping force nearly twice their number with cries



*The Fall of the Alamo, painted by Theodore Gentilz fewer than ten years after this pivotal moment in the Texas Revolution, depicts the 1836 assault on the Alamo complex.*

of “Remember the Alamo!” Within fifteen minutes the **Battle of San Jacinto** was over. Approximately half the Mexican troops were killed, and the survivors, including Santa Anna, taken prisoner.

Santa Anna grudgingly signed a peace treaty and was sent to Washington, where he met with President Andrew Jackson and, under pressure, agreed to recognize an independent Texas with the Rio Grande River as its southwestern border. By the time the agreement had been signed, however, Santa Anna had been removed from power in Mexico. For that reason, the Mexican Congress refused to be bound by Santa Anna’s promises and continued to insist that the renegade territory still belonged to Mexico.

## THE LONE STAR REPUBLIC

In September 1836, military hero Sam Houston was elected president of Texas, and, following the relentless logic of U.S. expansion, Texans voted in favor of annexation to the United States. This had been the dream of many settlers in Texas all along. They wanted to expand the United States west and saw Texas as the next logical step. Slaveholders there, such as Sam Houston, **William B. Travis** and **James Bowie** (the latter two of whom died at the Alamo), believed too in the destiny of slavery. Mindful of the vicious debates over Missouri that had led to talk of disunion and war, American politicians were reluctant to annex Texas or, indeed, even to recognize it as a sovereign nation. Annexation would almost certainly mean war with Mexico, and the admission of a state with a large slave population, though permissible under the Missouri Compromise, would bring the issue of slavery once again to the fore. Texas had no choice but to organize itself as the independent Lone Star Republic. To protect itself from Mexican attempts to reclaim it, Texas sought and received recognition from France, Great Britain, Belgium, and the Netherlands. The United States did not officially

recognize Texas as an independent nation until March 1837, nearly a year after the final victory over the Mexican army at San Jacinto.

Uncertainty about its future did not discourage Americans committed to expansion, especially slaveholders, from rushing to settle in the **Lone Star Republic**, however. Between 1836 and 1846, its population nearly tripled. By 1840, nearly twelve thousand enslaved Africans had been brought to Texas by American slaveholders. Many new settlers had suffered financial losses in the severe financial depression of 1837 and hoped for a new start in the new nation. According to folklore, across the United States, homes and farms were deserted overnight, and curious neighbors found notes reading only “**GTT**” (“Gone to Texas”). Many Europeans, especially Germans, also immigrated to Texas during this period.

In keeping with the program of ethnic cleansing and white racial domination, as illustrated by the image at the beginning of this chapter, Americans in Texas generally treated both Tejano and Indian residents with utter contempt, eager to displace and dispossess them. Anglo-American leaders failed to return the support their Tejano neighbors had extended during the rebellion and repaid them by seizing their lands. In 1839, the republic’s militia attempted to drive out the Cherokee and Comanche.

The impulse to expand did not lay dormant, and Anglo-American settlers and leaders in the newly formed Texas republic soon cast their gaze on the Mexican province of New Mexico as well. Repeating the tactics of earlier filibusters, a Texas force set out in 1841 intent on taking Santa Fe. Its members encountered an army of New Mexicans and were taken prisoner and sent to Mexico City. On Christmas Day, 1842, Texans avenged a Mexican assault on San Antonio by attacking the Mexican town of Mier. In August, another Texas army was sent to attack Santa Fe, but Mexican troops forced them to retreat. Clearly, hostilities between Texas and Mexico had not ended simply because Texas had declared its independence.

## 4. The Mexican-American War, 1846–1848

### *Learning Objectives*

By the end of this section, you will be able to:

- Identify the causes of the Mexican-American War
- Describe the outcomes of the war in 1848, especially the Mexican Cession

Tensions between the United States and Mexico rapidly deteriorated in the 1840s as American expansionists eagerly eyed Mexican land to the west, including the lush northern Mexican province of California. Indeed, in 1842, a U.S. naval fleet, incorrectly believing war had broken out, seized Monterey, California, a part of Mexico. Monterey was returned the next day, but the episode only added to the uneasiness with which Mexico viewed its northern neighbor. The forces of expansion, however, could not be contained, and American voters elected **James Polk** in 1844 because he promised to deliver more lands. President Polk fulfilled his promise by gaining Oregon and, most spectacularly, provoking a war with Mexico that ultimately fulfilled the wildest fantasies of expansionists. By 1848, the United States encompassed much of North America, a republic that stretched from the Atlantic to the Pacific.

# JAMES K. POLK AND THE TRIUMPH OF EXPANSION

A fervent belief in expansion gripped the United States in the 1840s. In 1845, a New York newspaper editor, John O'Sullivan, introduced the concept of “**manifest destiny**” to describe the popular idea of the special role of the United States in overspreading the continent—the divine right and duty of white Americans to seize and settle the American West, thus spreading Protestant, democratic values. In this climate of opinion, voters in 1844 elected James K. Polk, a slaveholder from Tennessee, because he vowed to annex Texas as a new slave state and take Oregon.

Annexing Oregon was an important objective for U.S. foreign policy because it appeared to be an area rich in commercial possibilities. Northerners favored U.S. control of Oregon because ports in the Pacific Northwest would be gateways for trade with Asia. Southerners hoped that, in exchange for their support of expansion into the northwest, northerners would not oppose plans for expansion into the southwest.

President Polk—whose campaign slogan in 1844 had been **“Fifty-four forty or fight!”**—asserted the United States’ right to gain full control of what was known as Oregon Country, from its southern border at 42° latitude (the current boundary with California) to its northern border at 54° 40’ latitude. According to an 1818 agreement, Great Britain and the United States held joint ownership of this territory, but the 1827 Treaty of Joint



*This map of the Oregon territory during the period of joint occupation by the United States and Great Britain shows the area whose ownership was contested by the two powers.*

Occupation opened the land to settlement by both countries. Realizing that the British were not willing to cede all claims to the territory, Polk proposed the land be divided at 49° latitude (the current border between Washington and Canada). The British, however, denied U.S. claims to land north of the Columbia River (Oregon’s current northern border). Indeed, the British foreign secretary refused even to relay Polk’s proposal to London. However, reports of the difficulty Great Britain would face defending Oregon in the event of a U.S. attack, combined with concerns over affairs at home and elsewhere in its empire, quickly changed the minds of the British, and in June 1846, Queen Victoria’s government agreed to a division at the forty-ninth parallel.

In contrast to the diplomatic solution with Great Britain over Oregon, when it came to Mexico, Polk and the American people proved willing to use force to wrest more land for the United States. In keeping with voters’ expectations, President Polk set his sights on the Mexican state of California. After the mistaken capture of Monterey, negotiations about purchasing the port of San Francisco from Mexico broke off until September 1845. Then, following a revolt



in California that left it divided in two, Polk attempted to purchase Upper California and New Mexico as well. These efforts went nowhere. The Mexican government, angered by U.S. actions, refused to recognize the independence of Texas.

Finally, after nearly a decade of public clamoring for the annexation of Texas, in December 1845 Polk officially agreed to the annexation of the former Mexican state, making the Lone Star Republic an additional slave state. Incensed that the United States had annexed Texas, however, the Mexican government refused to discuss the matter of selling land to the United States. Indeed, Mexico refused even to acknowledge Polk's emissary, John Slidell, who had been sent to Mexico City to negotiate. Not to be deterred, Polk encouraged Thomas O. Larkin, the U.S. consul in Monterey, to assist any American settlers and any Californios, the Mexican residents of the state, who wished to proclaim their independence from Mexico. By the end of 1845, having broken diplomatic ties with the United States over Texas and having grown alarmed by American actions in California, the Mexican government warily anticipated the next move. It did not have long to wait.

## WAR WITH MEXICO, 1846–1848

Expansionistic fervor propelled the United States to war against Mexico in 1846. The United States had long argued that the **Rio Grande** was the border between Mexico and the United States, and at the end of the Texas war for independence Santa Anna had been pressured to agree. Mexico, however, refused to be bound by Santa Anna's promises and insisted the border lay farther north, at the Nueces River. To set it at the Rio Grande would, in effect,

allow the United States to control land it had never occupied. In Mexico's eyes, therefore, President Polk violated its sovereign territory when he ordered U.S. troops into the disputed lands in 1846. From the Mexican perspective, it appeared the United States had invaded their nation.

In January 1846, the U.S. force that was ordered to the banks of the Rio Grande to build a fort on the "American" side encountered a Mexican cavalry unit on patrol. Shots rang out, and sixteen U.S. soldiers were killed or wounded. Angrily declaring that Mexico "has invaded our territory and shed American blood upon American soil," President Polk demanded the United States declare war on Mexico. On May 12, Congress obliged.

The small but vocal antislavery faction decried the decision to go to war, arguing that Polk had deliberately provoked hostilities so the United States could annex more slave territory. Illinois representative Abraham Lincoln and other members of Congress



*In 1845, when Texas joined the United States, Mexico insisted the United States had a right only to the territory northeast of the Nueces River. The United States argued in turn that it should have title to all land between the Nueces and the Rio Grande as well.*

issued the “Spot Resolutions” in which they demanded to know the precise spot on U.S. soil where American blood had been spilled. Many Whigs also denounced the war. Democrats, however, supported Polk’s decision, and volunteers for the army came forward in droves from every part of the country except New England, the seat of abolitionist activity. Enthusiasm for the war was aided by the widely held belief that Mexico was a weak, impoverished country and that the Mexican people, perceived as ignorant, lazy, and controlled by a corrupt Roman Catholic clergy, would be easy to defeat.

U.S. military strategy had three main objectives: 1) Take control of northern Mexico, including New Mexico; 2) seize California; and 3) capture Mexico City. General Zachary Taylor and his Army of the Center were assigned to accomplish the first goal, and with superior weapons they soon captured the Mexican city of Monterrey. Taylor quickly became a hero in the eyes of the American people, and Polk appointed him commander of all U.S. forces.

#### **General Stephen Watts**

**Kearny**, commander of the Army of the West, accepted the surrender of Santa Fe, New Mexico, and moved on to take control of California, leaving Colonel Sterling Price in command. Despite Kearny’s assurances that New Mexicans need not fear for their lives or their property, and in fact the region’s residents rose in revolt in January 1847 in an effort to drive the Americans away. Although Price managed to put an end to the rebellion, tensions remained high.



*Anti-Catholic sentiment played an important role in the Mexican-American War. The American public widely regarded Roman Catholics as cowardly and vice-ridden, like the clergy in this ca. 1846 lithograph who are shown fleeing the Mexican town of Matamoros accompanied by pretty women and baskets full of alcohol. (credit: Library of Congress)*

Kearny, meanwhile, arrived in California to find it already in American hands through the joint efforts of California settlers, U.S. naval commander John D. Sloat, and John C. Fremont, a former army captain and son-in-law of Missouri senator Thomas Benton. Sloat, at anchor off the coast of Mazatlan, learned that war had begun and quickly set sail for California. He seized the town of Monterey in July 1846, less than a month after a group of American settlers led by William B. Ide had taken control of Sonoma and declared California a republic. A week after the fall of Monterey, the navy took San Francisco with no resistance. Although some Californios staged a short-lived rebellion in September 1846, many others submitted to the U.S. takeover. Thus Kearny had little to do other than take command of California as its governor.

Leading the Army of the South was **General Winfield Scott**. Both Taylor and Scott were potential competitors for the presidency, and believing—correctly—that whoever seized Mexico City would become a hero, Polk assigned Scott the campaign to avoid elevating the more popular Taylor, who was affectionately known as “**Old Rough and Ready**.”

Scott captured **Veracruz** in March 1847, and moving in a northwesterly direction from there (much as Spanish conquistador Hernán Cortés had done in 1519), he slowly closed in on the capital. Every step of the way was a hard-fought victory, however, and Mexican soldiers and civilians both fought bravely to save their land from the American invaders. Mexico City’s defenders, including young military cadets, fought to the end. According to legend, cadet Juan Escutia’s last act was to save the Mexican flag, and he leapt from the city’s walls with it wrapped around his body. On September 14, 1847, Scott entered Mexico City’s central plaza; the city had fallen. While Polk and other expansionists called for “all Mexico,” the Mexican government and the United States negotiated for peace in 1848, resulting in the Treaty of Guadalupe Hidalgo.

## The Treaty of Guadalupe Hidalgo

signed in February 1848, was a triumph for American expansionism under which Mexico ceded nearly half its land to the United States. The Mexican Cession, as the conquest of land west of the Rio Grande was called, included the current states of California, New Mexico, Arizona, Nevada, Utah, and portions of Colorado and Wyoming. Mexico also recognized the Rio Grande as the border with the United States. Mexican citizens in the

ceded territory were promised U.S. citizenship in the future when the territories they were living in became states. In exchange, the United States agreed to assume \$3.35 million worth of Mexican debts owed to U.S. citizens, paid Mexico \$15 million for the loss of its land, and promised to guard the residents of the Mexican Cession from Indian raids.

As extensive as the Mexican Cession was, some argued the United States should not be satisfied until it had taken all of Mexico. Many who were opposed to this idea were southerners who, while desiring the annexation of more slave territory, did not want to make Mexico's large mestizo (people of mixed Indian and European ancestry) population part of the United States. Others did not want to absorb a large group of Roman Catholics. These expansionists could not accept the idea of new U.S. territory filled with mixed-race, Catholic populations.



*In General Scott's Entrance into Mexico (1851), Carl Nebel depicts General Winfield Scott on a white horse entering Mexico City's Plaza de la Constitución as anxious residents of the city watch. One woman peers furtively from behind the curtain of an upstairs window. On the left, a man bends down to pick up a paving stone to throw at the invaders.*

# 5. The Constitutions of Texas

## Learning Objectives

By the end of this section, you will be able to:

- Discuss the constitutions of Texas
- Describe the current constitution of Texas

## Constitutions of Texas

Texas has been governed by multiple constitutions.

- The Mexican Constitution of 1824
  - Texas was part of Mexico
  - Called for an official religion (Catholicism)
- The Constitution of Coahuila and Texas, 1827
  - First state constitutions under Mexican rule
- The Texas Constitution of 1836
  - Texas gains their independence, becomes their own country (Republic of Texas)
- The Texas Constitution of 1845
  - US Annexation of Texas
  - Texas is pre-approved to split up in to as much as 5 states
- The Texas Constitution of 1861
  - Texas secedes from the Union and joins the Confederate States of America
- The Texas Constitution of 1866

- Adopted as a condition for readmission to the United States of America
- The Texas Constitution of 1869
  - State constitution rewritten to abide by Reconstruction policies
  - Created a powerful Texas Governor
- The Texas Constitution of 1876
  - current state constitution

## Texas Constitution of 1876

Texas Democrats gained control of Congress in 1873 and decided it was time to draft a new constitution for Texas. The Texas Constitutional Convention of 1875 met in Austin with the purpose of replacing the Constitution of 1869- it was believed that the new constitution should restrict the state government and hand the power back to the people. Some examples of how the government was restricted were<sup>1</sup>:

- Legislative sessions moved from annual to biennial sessions
- Creation of a plural executive
- Mandated a balanced budget
- State Judges would be elected by the people
- The people would vote on the ratification of amendments

The structure of the current constitution of Texas (Constitution of

1. <https://www.tsl.texas.gov/exhibits/forever/representation/page5.html>

1876) is a Preamble, 17 Articles, and 491 Amendments (Since 2015)<sup>2</sup>. The Texas Constitution does not contain a “**necessary and proper clause**” like the U.S. Constitution, therefore making it the second longest state constitution in America (2nd only to Alabama’s).

- Article 1: Bill of Rights
  - Similar civil liberties and civil rights as in the U.S. Constitution’s Bill of Rights
- Article 2: The Powers of the Government
  - Establishes three branches of government with separation of powers
- Article 3: Legislative Department
  - Specifics about the Texas Legislator
- Article 4: Executive Department
  - Specifics about the plural executive
- Article 5: Judicial Department
  - Specifics about the Texas Judicial system
- Article 6: Suffrage
  - Forbids the following from voting:
    - any non US citizen
    - any non-registered Texas voter
    - any convicted felon who has not completed their sentence
    - any person deemed mentally incompetent by the courts
- Article 7: Education
  - Mandates an “efficient” free public school system
  - Established the Permanent School Fund

2. <http://www.constitution.legis.state.tx.us/>



- Article 8: Taxation and Revenue
  - Places limits on the raising and spending of public funds
- Article 9: Counties
  - Authorizes the Texas Legislature to create county governments
- Article 10: Railroads
  - Regulated the railroad system
- Article 11: Municipal Corporations
  - Specifics regarding local governments, including empowering them to tax, and how to charter cities
- Article 12: Private Corporations
  - Specifics regarding private businesses, including how they would be regulated
- Article 13: Spanish and Mexican Land Titles
  - Specifics on what which land with previous claims would become state property
- Article 14: Public Lands and Land Office
  - Established the Land Office which regulated land titles
- Article 15: Impeachment
  - Specifics on how to remove a public official from office
- Article 16: General Provisions
  - Miscellaneous regulations i.e. forbid Congress from printing money, forbid U.S. public officials from holding a state office
- Article 17: Mode of Amending the Constitution of this State
  - 2/3rds proposal from Congress
  - Registered voters vote on approval, and with a majority vote the amendment is ratified

The entire Texas Constitution can be accessed at <http://www.constitution.legis.state.tx.us/>

# 6. State Political Culture

## Learning Objectives

By the end of this section, you will be able to:

- Compare Daniel Elazar's three forms of political culture
- Describe how cultural differences between the states can shape attitudes about the role of government and citizen participation
- Discuss the main criticisms of Daniel Elazar's theory

Some states, such as Alaska, are endowed with natural resources. They can use their oil or natural gas reserves to their advantage to fund education or reduce taxes. Other states, like Florida, are favored with a climate that attracts tourists and retirees each winter, drawing in revenues to support infrastructure improvements throughout the state. These differences can lead to strategic advantages in the economic fortunes of a state, which can translate into differences in the levels of taxes that must be collected from citizens.

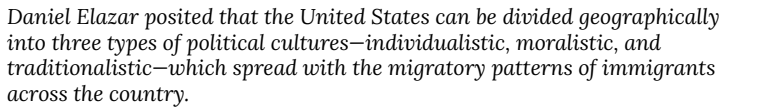
But their economic fortunes are only one component of what makes individual states unique. Theorists have long proposed that states are also unique as a function of their differing political cultures, or their attitudes and beliefs about the functions and expectations of the government. In the book, *American Federalism: A View from the States*, Daniel **Elazar** first theorized in 1966 that the United States could be divided into three distinct political cultures: moralistic, individualistic, and traditionalistic. The diffusion of these cultures throughout the United States is attributed to the migratory patterns of immigrants who settled in and spread out across the country from the east to the west coast. These settlers had distinct

**Elazar's Cultural Classification by State**

Legend:

- Individualistic (Light Green)
- Moralistic (Purple)
- Traditionalistic (Yellow)

States are color-coded according to this classification. For example, WA, OR, ID, MT, ND, MN, WI, MI, IL, IN, OH, PA, NY, VT, ME, NH, MA, CT, RI, NJ, DE, MD, VA, WV, KY, TN, NC, SC, GA, FL, AL, MS, AR, OK, NM, AZ, NV, UT, CO, KS, MO, IA, NE, WY, and AK are Individualistic. WA, OR, ID, MT, ND, MN, WI, MI, IL, IN, OH, PA, NY, VT, ME, NH, MA, CT, RI, NJ, DE, MD, VA, WV, KY, TN, NC, SC, GA, FL, AL, MS, AR, OK, NM, AZ, NV, UT, CO, KS, MO, IA, NE, WY, and AK are Moralistic. WA, OR, ID, MT, ND, MN, WI, MI, IL, IN, OH, PA, NY, VT, ME, NH, MA, CT, RI, NJ, DE, MD, VA, WV, KY, TN, NC, SC, GA, FL, AL, MS, AR, OK, NM, AZ, NV, UT, CO, KS, MO, IA, NE, WY, and AK are Traditionalistic.



State Political Culture | 29

Moralistic states thus tend to support an expanded role for government. They are more likely to believe government should promote the general welfare by allocating funds to programs that will benefit the poor. In addition, they see it as the duty of public officials to advocate for new programs that will benefit marginal citizens or solve public policy problems, even when public pressure to do so is nonexistent.

The moralistic political culture developed among the Puritans in upper New England. After several generations, these settlers moved westward, and their values diffused across the top of the United States to the upper Great Lakes. In the middle of the 1800s, Scandinavians and Northern Europeans joined this group of settlers and reinforced the Puritans' values. Together, these groups pushed further west through the northern portion of the Midwest and West and then along the West Coast.<sup>1</sup>

States that identify with this culture value citizen engagement and desire citizen participation in all forms of political affairs. In Elazar's model, citizens from moralistic states should be more likely to donate their time and/or resources to political campaigns and to vote. This occurs for two main reasons. First, state law is likely to make it easier for residents to register and to vote because mass participation is valued. Second, citizens who hail from moralistic states should be more likely to vote because elections are truly contested. In other words, candidates will be less likely to run unopposed and more likely to face genuine competition from a qualified opponent. According to Elazar, the heightened competition is a function of individuals' believing that public service is a worthwhile endeavor and an honorable profession.

1. Daniel Elazar. 1972. *American Federalism: A View from the States*, 2nd ed. New York: Thomas Y. Crowell Company.

## Individualistic Political Culture

States that align with Elazar's **individualistic political culture** see the government as a mechanism for addressing issues that matter to individual citizens and for pursuing individual goals. People in this culture interact with the government in the same manner they would interact with a marketplace. They expect the government to provide goods and services they see as essential, and the public officials and bureaucrats who provide them expect to be compensated for their efforts. The focus is on meeting individual needs and private goals rather than on serving the best interests of everyone in the community. New policies will be enacted if politicians can use them to garner support from voters or other interested stakeholders, or if there is great demand for these services on the part of individuals.

According to **Elazar**, the individualist political culture originated with settlers from non-Puritan England and Germany. The first settlements were in the mid-Atlantic region of New York, Pennsylvania, and New Jersey and diffused into the middle portion of the United States in a fairly straight line from Ohio to Wyoming.

Given their focus on pursuing individual objectives, states with an individualistic mindset will tend to advance tax breaks as a way of trying to boost a state's economy or as a mechanism for promoting individual initiative and entrepreneurship. For instance, New Jersey governor Chris **Christie** made headlines in 2015 when discussing the incentives he used to attract businesses to the state. Christie encouraged a number of businesses to move to Camden, where unemployment has risen to almost 14 percent, by providing them with hundreds of millions of dollars in tax breaks.<sup>2</sup> The governor

2. Dean DeChiaro, "\$830M in Tax Breaks Later, Christie Says His Camden Plan Won't Work for America," *U.S. News and*

hopes these corporate incentives will spur job creation for citizens who need employment in an economically depressed area of the state.

Since this theoretical lens assumes that the objective of politics and the government is to advance individual interests, Elazar argues that individuals are motivated to become engaged in politics only if they have a personal interest in this area or wish to be in charge of the provision of government benefits. They will tend to remain involved if they get enjoyment from their participation or rewards in the form of patronage appointments or financial compensation. As a result of these personal motivations, citizens in individualistic states will tend to be more tolerant of corruption among their political leaders and less likely to see politics as a noble profession in which all citizens should engage.

Finally, Elazar argues that in individualistic states, electoral competition does not seek to identify the candidate with the best ideas. Instead it pits against each other political parties that are well organized and compete directly for votes. Voters are loyal to the candidates who hold the same party affiliation they do. As a result, unlike the case in moralistic cultures, voters do not pay much attention to the personalities of the candidates when deciding how to vote and are less tolerant of third-party candidates.

## Traditionalistic Political Culture

Given the prominence of slavery in its formation, a **traditionalistic political culture**, in Elazar's argument, sees the government as

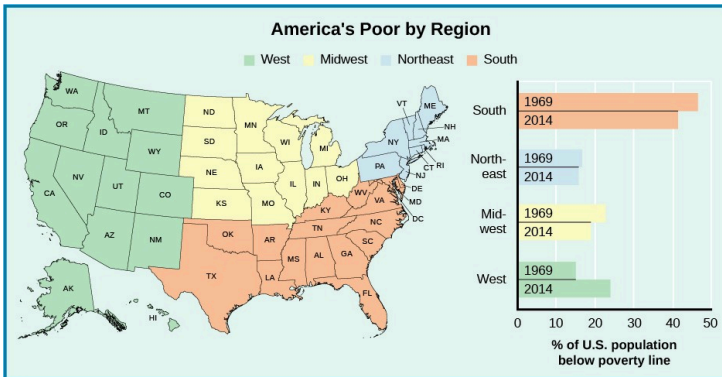
World Report, 19 August 2015. <http://www.usnews.com/news/articles/2015/08/19/830m-in-tax-breaks-later-christie-says-his-camden-plan-wont-work-for-america>.

necessary to maintaining the existing social order, the status quo. Only elites belong in the political enterprise, and as a result, new public policies will be advanced only if they reinforce the beliefs and interests of those in power.

**Elazar** associates traditionalistic political culture with the southern portion of the United States, where it developed in the upper regions of Virginia and Kentucky before spreading to the Deep South and the Southwest. Like the individualistic culture, the traditionalistic culture believes in the importance of the individual. But instead of profiting from corporate ventures, settlers in traditionalistic states tied their economic fortunes to the necessity of slavery on plantations throughout the South.

When elected officials do not prioritize public policies that benefit them, those on the social and economic fringes of society can be plagued by poverty and pervasive health problems. For example, although the map below shows that poverty is a problem across the entire United States, the South has the highest incidence. According to the Centers for Disease Control and Prevention, the South also leads the nation in self-reported obesity, closely followed by the Midwest.<sup>3</sup> These statistics present challenges for lawmakers not only in the short term but also in the long term, because they must prioritize fiscal constraints in the face of growing demand for services.

3. "Division of Nutrition, Physical Activity, and Obesity: Data, Trends and Maps," <http://www.cdc.gov/obesity/data/prevalence-maps.html> (March 14, 2016).



*While the greatest percentage of those living below the poverty line in the United States is found in the South, migration and immigration patterns over the past fifty years have resulted in a significant increase in the percentage of the nation's poor being located in the West.*

While moralistic cultures expect and encourage political participation by all citizens, traditionalistic cultures are more likely to see it as a privilege reserved for only those who meet the qualifications. As a result, voter participation will generally be lower in a traditionalistic culture, and there will be more barriers to participation (e.g., a requirement to produce a photo ID at the voting booth). Conservatives argue that these laws reduce or eliminate fraud on the part of voters, while liberals believe they disproportionately disenfranchise the poor and minorities and constitute a modern-day poll tax.

Finally, under a traditionalistic political culture, Elazar argues that party competition will tend to occur between factions within a dominant party. Historically, the Democratic Party dominated the political structure in the South before realignment during the civil rights era. Today, depending on the office being sought, the parties are more likely to compete for voters.



## Texas Political Culture and Elazar's Theory

Elazar's Theory claims that Texas is a mixture of traditional and individualistic political cultures. As a result, the voter turnout in Texas is lower than most other American states, with the argument that Texans view political participation as an economic perk versus the value of contributing to society.

## Critiques of Elazar's Theory

Several critiques have come to light since **Elazar** first introduced his theory of state political culture fifty years ago. The original theory rested on the assumption that new cultures could arise with the influx of settlers from different parts of the world; however, since immigration patterns have changed over time, it could be argued that the three cultures no longer match the country's current reality. Today's immigrants are less likely to come from European countries and are more likely to originate in Latin American and Asian countries.<sup>4</sup> In addition, advances in technology and transportation have made it easier for citizens to travel across state lines and to relocate. Therefore, the pattern of diffusion on which

4. Jie Zong and Jeanne Batalova. 26 February 2015. "Frequently Requested Statistics on Immigrants and Immigration in the United States," <http://www.migrationpolicy.org/article/frequently-requested-statistics-immigrants-and-immigration-united-states>.

the original theory rests may no longer be accurate, because people are moving around in more, and often unpredictable, directions.

It is also true that people migrate for more reasons than simple economics. They may be motivated by social issues such as widespread unemployment, urban decay, or low-quality health care of schools. Such trends may aggravate existing differences, for example the difference between urban and rural lifestyles (e.g., the city of Atlanta vs. other parts of Georgia), which are not accounted for in Elazar's classification. Finally, unlike economic or demographic characteristics that lend themselves to more precise measurement, culture is a comprehensive concept that can be difficult to quantify. This can limit its explanatory power in political science research.

## PART III

# 2. FEDERALISM



# 7. Division of Powers

## Learning Objectives

By the end of this section, you will be able to:

- Explain the concept of federalism
- Discuss the constitutional logic of federalism
- Identify the powers and responsibilities of federal, state, and local governments

Modern democracies divide governmental power in two general ways; some, like the United States, use a combination of both structures. The first and more common mechanism shares power among three branches of government—the legislature, the executive, and the judiciary. The second, federalism, apportions power between two levels of government: national and subnational. In the United States, the term **federal government** refers to the government at the national level, while the term **states** means governments at the subnational level.

## Federalism Defined and Contrasted

**Federalism** is an institutional arrangement that creates two relatively autonomous levels of government, each possessing the

capacity to act directly on behalf of the people with the authority granted to it by the national constitution.<sup>1</sup>

Although today's federal systems vary in design, five structural characteristics are common to the United States and other federal systems around the world, including Germany and Mexico.

First, all federal systems establish two levels of government, with both levels being elected by the people and each level assigned different functions. The national government is responsible for handling matters that affect the country as a whole, for example, defending the nation against foreign threats and promoting national economic prosperity. Subnational, or state governments, are responsible for matters that lie within their regions, which include ensuring the well-being of their people by administering education, health care, public safety, and other public services. By definition, a system like this requires that different levels of government cooperate, because the institutions at each level form an interacting network. In the U.S. federal system, all national matters are handled by the federal government, which is led by the president and members of Congress, all of whom are elected by voters across the country. All matters at the subnational level are the responsibility of the fifty states, each headed by an elected governor and legislature. Thus, there is a separation of functions between the federal and state governments, and voters choose the leader at each level.<sup>2</sup>

1. See John Kincaid. 1975. "Federalism." In *Civitas: A Framework for Civil Education*, eds. Charles Quigley and Charles Bahmueller. Calabasas, CA: Center for Civic Education, 391–392; William S. Riker. 1975. "Federalism." In *Handbook of Political Science*, eds. Fred Greenstein and Nelson Polsby. Reading, MA: Addison-Wesley, 93–172.

2. Garry Willis, ed. 1982. *The Federalist Papers by Alexander*

The second characteristic common to all federal systems is a written national constitution that cannot be changed without the substantial consent of subnational governments. In the American federal system, the twenty-seven amendments added to the Constitution since its adoption were the result of an arduous process that required approval by two-thirds of both houses of Congress and three-fourths of the states. The main advantage of this supermajority requirement is that no changes to the Constitution can occur unless there is broad support within Congress and among states. The potential drawback is that numerous national amendment initiatives—such as the **Equal Rights Amendment** (ERA), which aims to guarantee equal rights regardless of sex—have failed because they cannot garner sufficient consent among members of Congress or, in the case of the ERA, the states.

Third, the constitutions of countries with federal systems formally allocate legislative, judicial, and executive authority to the two levels of government in such a way as to ensure each level some degree of autonomy from the other. Under the U.S. Constitution, the president assumes executive power, Congress exercises legislative powers, and the federal courts (e.g., U.S. district courts, appellate courts, and the Supreme Court) assume judicial powers. In each of the fifty states, a governor assumes executive authority, a state legislature makes laws, and state-level courts (e.g., trial courts, intermediate appellate courts, and supreme courts) possess judicial authority.

While each level of government is somewhat independent of the others, a great deal of interaction occurs among them. In fact, the ability of the federal and state governments to achieve their objectives often depends on the cooperation of the other level of government. For example, the federal government's efforts to

*Hamilton, James Madison and John Jay*. New York: Bantam Books, 237.

ensure homeland security are bolstered by the involvement of law enforcement agents working at local and state levels. On the other hand, the ability of states to provide their residents with public education and health care is enhanced by the federal government's financial assistance.

Another common characteristic of federalism around the world is that national courts commonly resolve disputes between levels and departments of government. In the United States, conflicts between states and the federal government are adjudicated by federal courts, with the U.S. Supreme Court being the final arbiter. The resolution of such disputes can preserve the autonomy of one level of government, as illustrated recently when the Supreme Court ruled that states cannot interfere with the federal government's actions relating to immigration.<sup>3</sup>

In other instances, a Supreme Court ruling can erode that autonomy, as demonstrated in the 1940s when, in **United States v. Wrightwood Dairy Co.**, the Court enabled the federal government to regulate commercial activities that occurred within states, a function previously handled exclusively by the states.<sup>4</sup>

Finally, subnational governments are always represented in the upper house of the national legislature, enabling regional interests to influence national lawmaking.<sup>5</sup>

3. *Arizona v. United States*, 567 U.S. \_\_ (2012).

4. *United States v. Wrightwood Dairy Co.*, 315 U.S. 110 (1942).

5. Ronald L. Watts. 1999. *Comparing Federal Systems*, 2nd ed. Kingston, Ontario: McGill-Queen's University, 6-7; Daniel J. Elazar. 1992. *Federal Systems of the World: A Handbook of Federal, Confederal and Autonomy Arrangements*. Harlow, Essex: Longman Current Affairs.



In the American federal system, the U.S. Senate functions as a territorial body by representing the fifty states: Each state elects two senators to ensure equal representation regardless of state population differences. Thus, federal laws are shaped in part by state interests, which senators convey to the federal policymaking process.

Division of power can also occur via a unitary structure or confederation. In contrast to federalism, a **unitary system** makes subnational governments dependent on the national government, where significant authority is concentrated. Before the late 1990s, the United Kingdom's unitary system was centralized to the extent that the national government held the most important levers of power. Since then, power has been gradually decentralized through a process of **devolution**, leading to the creation of regional governments in Scotland, Wales, and Northern Ireland as well as the delegation of specific responsibilities to them. Other democratic countries with unitary systems, such as France, Japan, and Sweden, have followed a similar path of decentralization.

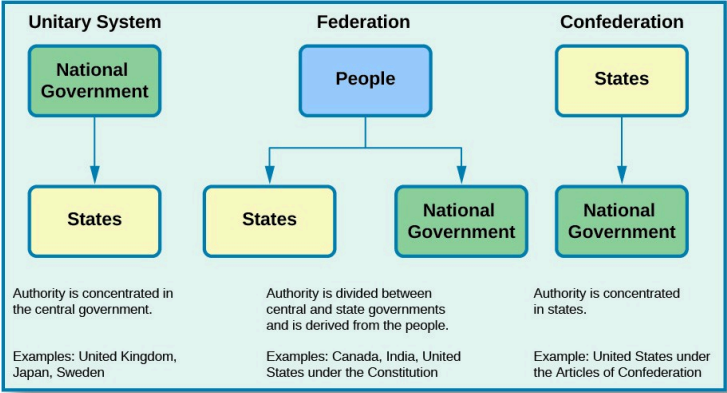


Figure 1. There are three general systems of government—unitary systems, federations, and confederations—each of which allocates power differently.

In a confederation, authority is decentralized, and the central

government's ability to act depends on the consent of the subnational governments. Under the **Articles of Confederation** (the first constitution of the United States), states were sovereign and powerful while the national government was subordinate and weak. Because states were reluctant to give up any of their power, the national government lacked authority in the face of challenges such as servicing the war debt, ending commercial disputes among states, negotiating trade agreements with other countries, and addressing popular uprisings that were sweeping the country. As the brief American experience with confederation clearly shows, the main drawback with this system of government is that it maximizes regional self-rule at the expense of effective national governance.

## Federalism and the Constitution

The Constitution contains several provisions that direct the functioning of U.S. **federalism**. Some delineate the scope of national and state power, while others restrict it. The remaining provisions shape relationships among the states and between the states and the federal government.

The enumerated powers of the national legislature are found in Article I, Section 8. These powers define the jurisdictional boundaries within which the federal government has authority. In seeking not to replay the problems that plagued the young country under the Articles of Confederation, the Constitution's framers granted Congress specific powers that ensured its authority over national and foreign affairs. To provide for the general welfare of the populace, it can tax, borrow money, regulate interstate and foreign commerce, and protect property rights, for example. To provide for the common defense of the people, the federal government can raise and support armies and declare war. Furthermore, national integration and unity are fostered with the government's powers

over the coining of money, naturalization, postal services, and other responsibilities.

The last clause of Article I, Section 8, commonly referred to as the **elastic clause** or the *necessary and proper cause*, enables Congress “to make all Laws which shall be necessary and proper for carrying” out its constitutional responsibilities. While the enumerated powers define the policy areas in which the national government has authority, the elastic clause allows it to create the legal means to fulfill those responsibilities. However, the open-ended construction of this clause has enabled the national government to expand its authority beyond what is specified in the Constitution, a development also motivated by the expansive interpretation of the *commerce clause*, which empowers the federal government to regulate interstate economic transactions.

The powers of the state governments were never listed in the original Constitution. The consensus among the framers was that states would retain any powers not prohibited by the Constitution or delegated to the national government.<sup>6</sup>

However, when it came time to ratify the Constitution, a number of states requested that an amendment be added explicitly identifying the reserved powers of the states. What these Anti-Federalists sought was further assurance that the national government’s capacity to act directly on behalf of the people would be restricted, which the first ten amendments (**Bill of Rights**) provided. The **Tenth Amendment** affirms the states’ reserved powers: “The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the

6. Jack Rakove. 2007. *James Madison and the Creation of the American Republic*. New York: Pearson; Samuel H. Beer. 1998. *To Make a Nation: The Rediscovery of American Federalism*. Cambridge, MA: Harvard University Press.

States respectively, or to the people.” Indeed, state constitutions had bills of rights, which the first Congress used as the source for the first ten amendments to the Constitution.

Some of the states’ reserved powers are no longer exclusively within state domain, however. For example, since the 1940s, the federal government has also engaged in administering health, safety, income security, education, and welfare to state residents. The boundary between intrastate and interstate commerce has become indefinable as a result of broad interpretation of the commerce clause. Shared and overlapping powers have become an integral part of contemporary U.S. federalism. These **concurrent powers** range from taxing, borrowing, and making and enforcing laws to establishing court systems.<sup>7</sup>

Article I, Sections 9 and 10, along with several constitutional amendments, lay out the restrictions on federal and state authority. The most important restriction Section 9 places on the national government prevents measures that cause the deprivation of personal liberty. Specifically, the government cannot suspend the **writ of habeas corpus**, which enables someone in custody to petition a judge to determine whether that person’s detention is legal; pass a **bill of attainder**, a legislative action declaring someone guilty without a trial; or enact an **ex post facto law**, which criminalizes an act retroactively. The Bill of Rights affirms and expands these constitutional restrictions, ensuring that the government cannot encroach on personal freedoms.

7. Elton E. Richter. 1929. “Exclusive and Concurrent Powers in the Federal Constitution,” *Notre Dame Law Review* 4, No. 8: 513–542. <http://scholarship.law.nd.edu/cgi/viewcontent.cgi?article=4416&context=ndlr>

Federal Government		State Government
<b>Enumerated Powers</b>	<b>Concurrent Powers</b>	<b>Reserved Powers</b>
<ul style="list-style-type: none"> <li>• Coin money</li> <li>• Regulate interstate and foreign commerce</li> <li>• Conduct foreign affairs</li> <li>• Establish rules of naturalization</li> <li>• Punish counterfeiting</li> <li>• Establish copyright/patent laws</li> <li>• Regulate postal system</li> <li>• Establish courts inferior to Supreme Court</li> <li>• Declare war</li> <li>• Raise and support armies</li> <li>• Make all laws “necessary and proper” to carry out responsibilities</li> </ul>	<ul style="list-style-type: none"> <li>• Levy and collect taxes</li> <li>• Borrow money</li> <li>• Make and enforce laws</li> <li>• Establish courts</li> <li>• Charter banks and corporations</li> <li>• Take property for public purpose with just compensation (eminent domain)</li> </ul>	<ul style="list-style-type: none"> <li>• Regulate intrastate commerce</li> <li>• Conduct elections</li> <li>• Provide for public health, safety, welfare, and morals</li> <li>• Establish local governments</li> <li>• Maintain militia (National Guard)</li> <li>• Ratify amendments to the Constitution</li> </ul>
<b>Powers Denied</b>		<b>Powers Denied</b>
<ul style="list-style-type: none"> <li>• Tax state exports</li> <li>• Change state boundaries</li> <li>• Violate the Bill of Rights</li> </ul>		<ul style="list-style-type: none"> <li>• Tax imports and exports</li> <li>• Coin money</li> <li>• Enter into treaties</li> <li>• Impair obligation of contracts</li> <li>• Abridge the privileges or immunities of citizens or deny due process and equal protection of the laws</li> </ul>

Figure 2. Constitutional powers and responsibilities are divided between the U.S. federal and state governments. The two levels of government also share concurrent powers.

The states are also constrained by the Constitution. Article I, Section 10, prohibits the states from entering into treaties with other countries, coining money, and levying taxes on imports and exports. Like the federal government, the states cannot violate personal freedoms by suspending the writ of habeas corpus, passing bills of attainder, or enacting ex post facto laws. Furthermore, the **Fourteenth Amendment**, ratified in 1868, prohibits the states from denying citizens the rights to which they are entitled by the Constitution, due process of law, or the equal protection of the laws. Lastly, three civil rights amendments—the Fifteenth, Nineteenth, and Twenty-Sixth—prevent both the states and the federal government from abridging citizens’ right to vote based on race, sex, and age. This topic remains controversial because states have not always ensured equal protection.

The supremacy clause in **Article VI** of the Constitution regulates relationships between the federal and state governments by declaring that the Constitution and federal law are the supreme law

of the land. This means that if a state law clashes with a federal law found to be within the national government's constitutional authority, the federal law prevails. The intent of the supremacy clause is not to subordinate the states to the federal government; rather, it affirms that one body of laws binds the country. In fact, all national and state government officials are bound by oath to uphold the Constitution regardless of the offices they hold. Yet enforcement is not always that simple. In the case of marijuana use, which the federal government defines to be illegal, twenty-three states and the District of Columbia have nevertheless established medical marijuana laws, others have decriminalized its recreational use, and four states have completely legalized it. The federal government could act in this area if it wanted to. For example, in addition to the legalization issue, there is the question of how to treat the money from marijuana sales, which the national government designates as drug money and regulates under laws regarding its deposit in banks.

Various constitutional provisions govern state-to-state relations. **Article IV**, Section 1, referred to as the **full faith and credit clause** or the *comity clause*, requires the states to accept court decisions, public acts, and contracts of other states. Thus, an adoption certificate or driver's license issued in one state is valid in any other state. The movement for marriage equality has put the full faith and credit clause to the test in recent decades. In light of **Baehr v. Lewin**, a 1993 ruling in which the Hawaii Supreme Court asserted that the state's ban on same-sex marriage was unconstitutional, a number of states became worried that they would be required to recognize those marriage certificates.<sup>8</sup>

To address this concern, Congress passed and President Clinton signed the **Defense of Marriage Act (DOMA)** in 1996. The law declared that "No state (or other political subdivision within the

8. *Baehr v. Lewin*. 1993. 74 Haw. 530.

United States) need recognize a marriage between persons of the same sex, even if the marriage was concluded or recognized in another state.” The law also barred federal benefits for same-sex partners.

DOMA clearly made the topic a state matter. It denoted a choice for states, which led many states to take up the policy issue of marriage equality. Scores of states considered legislation and ballot initiatives on the question. The federal courts took up the issue with zeal after the U.S. Supreme Court in **United States v. Windsor** struck down the part of DOMA that outlawed federal benefits.<sup>9</sup>

That move was followed by upwards of forty federal court decisions that upheld marriage equality in particular states. In 2014, the Supreme Court decided not to hear several key case appeals from a variety of states, all of which were brought by opponents of marriage equality who had lost in the federal courts. The outcome of not hearing these cases was that federal court decisions in four states were affirmed, which, when added to other states in the same federal circuit districts, brought the total number of states permitting same-sex marriage to thirty.<sup>10</sup>

Then, in 2015, the **Obergefell v. Hodges** case had a sweeping effect when the Supreme Court clearly identified a constitutional right to marriage based on the **Fourteenth Amendment**.<sup>11</sup>

The **privileges and immunities clause** of **Article IV** asserts that states are prohibited from discriminating against out-of-staters by denying them such guarantees as access to courts, legal protection, property rights, and travel rights. The clause has not been

9. *United States v. Windsor*, 570 U.S. \_\_ (2013).

10. Adam Liptak, “Supreme Court Delivers Tacit Win to Gay Marriage,” *New York Times*, 6 October, 2014.

11. *Obergefell v. Hodges*, 576 U.S. \_\_\_\_ (2015).

interpreted to mean there cannot be *any* difference in the way a state treats residents and non-residents. For example, individuals cannot vote in a state in which they do not reside, tuition at state universities is higher for out-of-state residents, and in some cases individuals who have recently become residents of a state must wait a certain amount of time to be eligible for social welfare benefits. Another constitutional provision prohibits states from establishing trade restrictions on goods produced in other states. However, a state can tax out-of-state goods sold within its borders as long as state-made goods are taxed at the same level.

## The Distribution of Finances

Federal, state, and local governments depend on different sources of revenue to finance their annual expenditures. In 2014, total revenue (or receipts) reached \$3.2 trillion for the federal government, \$1.7 trillion for the states, and \$1.2 trillion for local governments.<sup>12</sup>

Two important developments have fundamentally changed the allocation of revenue since the early 1900s. First, the ratification of the **Sixteenth Amendment** in 1913 authorized Congress to impose income taxes without apportioning it among the states on the basis

12. Data reported by [http://www.usgovernmentrevenue.com/federal\\_revenue](http://www.usgovernmentrevenue.com/federal_revenue). State and local government figures are estimated.



of population, a burdensome provision that Article I, Section 9, had imposed on the national government.<sup>13</sup>

With this change, the federal government's ability to raise revenue significantly increased and so did its ability to spend.

The second development regulates federal grants, that is, transfers of federal money to state and local governments. These transfers, which do not have to be repaid, are designed to support the activities of the recipient governments, but also to encourage them to pursue federal policy objectives they might not otherwise adopt. The expansion of the federal government's spending power has enabled it to transfer more grant money to lower government levels, which has accounted for an increasing share of their total revenue.<sup>14</sup>

The sources of revenue for federal, state, and local governments are detailed in Figure 3. Although the data reflect 2013 results, the patterns we see in the figure give us a good idea of how governments have funded their activities in recent years. For the federal government, 47 percent of 2013 revenue came from individual income taxes and 34 percent from payroll taxes, which combine **Social Security** tax and **Medicare** tax.

13. *Pollock v. Farmers' Loan & Trust Co.*, 158 U.S. 601 (1895).

14. See Robert Jay Dilger, "Federal Grants to State and Local Governments: A Historical Perspective on Contemporary Issues," *Congressional Research Service*, Report 7-5700, 5 March 2015.

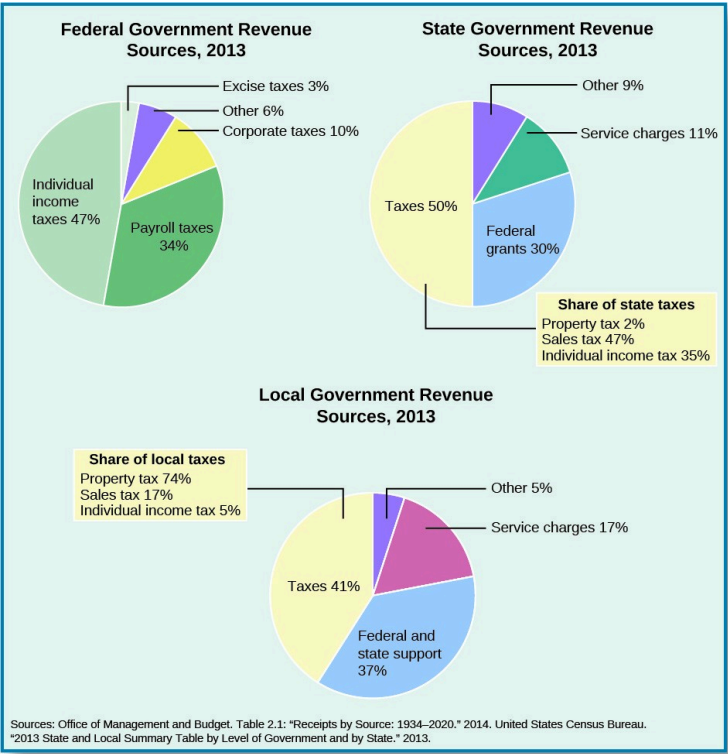


Figure 3. As these charts indicate, federal, state, and local governments raise revenue from different sources.

For state governments, 50 percent of revenue came from taxes, while 30 percent consisted of federal grants. Sales tax—which includes taxes on purchased food, clothing, alcohol, amusements, insurance, motor fuels, tobacco products, and public utilities, for example—accounted for about 47 percent of total tax revenue, and individual income taxes represented roughly 35 percent. Revenue from service charges (e.g., tuition revenue from public universities and fees for hospital-related services) accounted for 11 percent.

The tax structure of states varies. Alaska, Florida, Nevada, South Dakota, Texas, Washington, and Wyoming do not have individual

income taxes. Figure 4 illustrates yet another difference: Fuel tax as a percentage of total tax revenue is much higher in South Dakota and West Virginia than in Alaska and Hawaii. However, most states have done little to prevent the erosion of the fuel tax's share of their total tax revenue between 2007 and 2014 (notice that for many states the dark blue dots for 2014 are to the left of the light blue numbers for 2007). Fuel tax revenue is typically used to finance state highway transportation projects, although some states do use it to fund non-transportation projects.

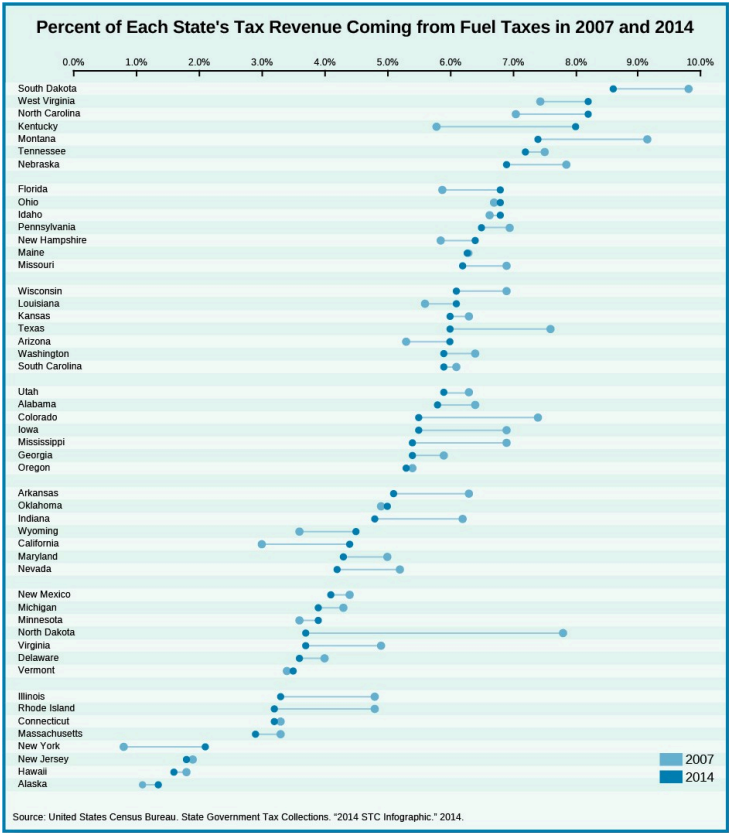


Figure 4. The fuel tax as a percentage of tax revenue varies greatly across states.

The most important sources of revenue for local governments in 2013 were taxes, federal and state grants, and service charges. For local governments the property tax, a levy on residential and commercial real estate, was the most important source of tax revenue, accounting for about 74 percent of the total. Federal and state grants accounted for 37 percent of local government revenue. State grants made up 87 percent of total local grants. Charges for hospital-related services, sewage and solid-waste management, public city university tuition, and airport services are important sources of general revenue for local governments.

Intergovernmental grants are important sources of revenue for both state and local governments. When economic times are good, such grants help states, cities, municipalities, and townships carry out their regular functions. However, during hard economic times, such as the **Great Recession** of 2007–2009, intergovernmental transfers provide much-needed fiscal relief as the revenue streams of state and local governments dry up. During the Great Recession, tax receipts dropped as business activities slowed, consumer spending dropped, and family incomes decreased due to layoffs or work-hour reductions. To offset the adverse effects of the recession on the states and local governments, federal grants increased by roughly 33 percent during this period.<sup>15</sup>

In 2009, President Obama signed the **American Recovery and Reinvestment Act** (ARRA), which provided immediate economic-crisis management assistance such as helping local and state economies ride out the Great Recession and shoring up the country's banking sector. A total of \$274.7 billion in grants, contracts,

15. Jeffrey L. Barnett et al. 2014. *2012 Census of Governments: Finance-State and Local Government Summary Report*, Appendix Table A-1. December 17. Washington, DC: United States Census Bureau, 2.

and loans was allocated to state and local governments under the ARRA.<sup>16</sup>

The bulk of the stimulus funds apportioned to state and local governments was used to create and protect existing jobs through public works projects and to fund various public welfare programs such as unemployment insurance.<sup>17</sup>

How are the revenues generated by our tax dollars, fees we pay to use public services and obtain licenses, and monies from other sources put to use by the different levels of government? A good starting point to gain insight on this question as it relates to the federal government is Article I, Section 8, of the Constitution. Recall, for instance, that the Constitution assigns the federal government various powers that allow it to affect the nation as a whole. A look at the federal budget in 2014 shows that the three largest spending categories were Social Security (24 percent of the total budget); Medicare, Medicaid, the Children's Health Insurance Program, and marketplace subsidies under the Affordable Care Act (24 percent); and defense and international security assistance (18 percent). The rest was divided among categories such as safety net programs (11 percent), including the Earned Income Tax Credit and Child Tax Credit, unemployment insurance, food stamps, and other low-income assistance programs; interest on federal debt (7 percent);

16. Dilger, "Federal Grants to State and Local Governments," 4.

17. James Feyrer and Bruce Sacerdote. 2011. "Did the Stimulus Stimulate? Real Time Estimates of the Effects of the American Recovery and Reinvestment Act" (Working Paper No. 16759), Cambridge, MA: National Bureau of Economic Research. <http://www.nber.org/papers/w16759.pdf>

benefits for federal retirees and veterans (8 percent); and transportation infrastructure (3 percent).<sup>18</sup>

It is clear from the 2014 federal budget that providing for the general welfare and national defense consumes much of the government's resources—not just its revenue, but also its administrative capacity and labor power.

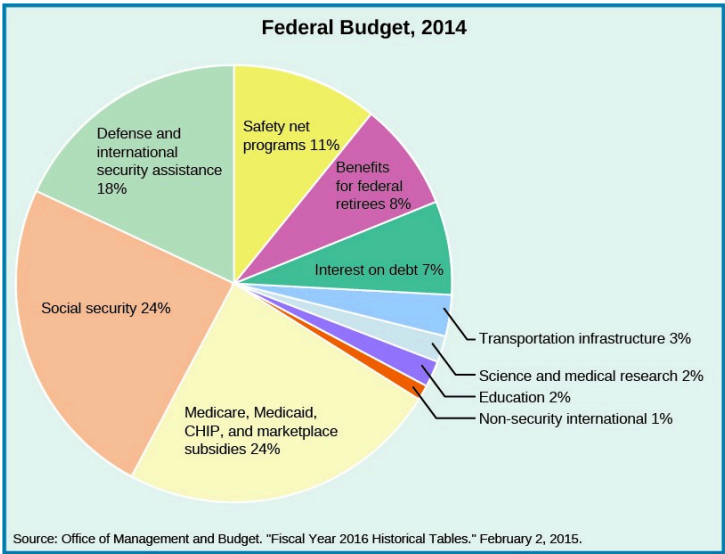


Figure 5. Approximately two-thirds of the federal budget is spent in just three categories: Social Security, health care and health insurance programs, and defense.

18. Data reported by the Center on Budget and Policy Priorities. 2015. "Policy Basics: Where Do Our Federal Tax Dollars Go?" March 11. <http://www.cbpp.org/research/policy-basics-where-do-our-federal-tax-dollars-go>

Figure 6 compares recent spending activities of local and state governments. Educational expenditures constitute a major category for both. However, whereas the states spend comparatively more than local governments on university education, local governments spend even more on elementary and secondary education. That said, nationwide, state funding for public higher education has declined as a percentage of university revenues; this is primarily because states have taken in lower amounts of sales taxes as internet commerce has increased. Local governments allocate more funds to police protection, fire protection, housing and community development, and public utilities such as water, sewage, and electricity. And while state governments allocate comparatively more funds to public welfare programs, such as health care, income support, and highways, both local and state governments spend roughly similar amounts on judicial and legal services and correctional services.

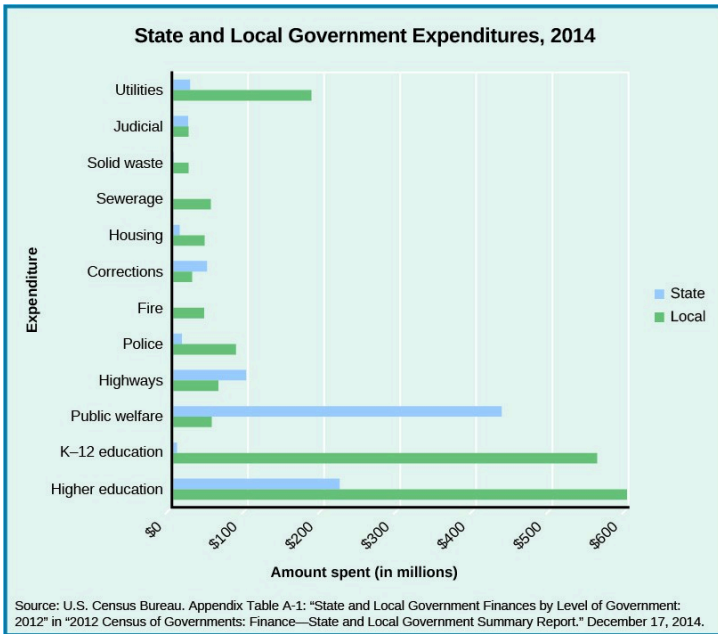


Figure 6. This list includes some of the largest expenditure items for state and local governments.

Federalism is a system of government that creates two relatively autonomous levels of government, each possessing authority granted to them by the national constitution. Federal systems like the one in the United States are different from unitary systems, which concentrate authority in the national government, and from confederations, which concentrate authority in subnational governments.

The U.S. Constitution allocates powers to the states and federal government, structures the relationship between these two levels of government, and guides state-to-state relationships. Federal, state, and local governments rely on different sources of revenue to enable them to fulfill their public responsibilities.



# 8. The Evolution of Federalism

## Learning Objectives

By the end of this section, you will be able to:

- Describe how federalism has evolved in the United States
- Compare different conceptions of federalism

The Constitution sketches a federal framework that aims to balance the forces of decentralized and centralized governance in general terms; it does not flesh out standard operating procedures that say precisely how the states and federal governments are to handle all policy contingencies imaginable. Therefore, officials at the state and national levels have had some room to maneuver as they operate within the Constitution's federal design. This has led to changes in the configuration of federalism over time, changes corresponding to different historical phases that capture distinct balances between state and federal authority.

## The Struggle Between National Power and State Power

As George Washington's secretary of the treasury from 1789 to 1795, Alexander **Hamilton** championed legislative efforts to create a publicly chartered bank. For Hamilton, the establishment of the **Bank of the United States** was fully within Congress's authority, and he hoped the bank would foster economic development, print

and circulate paper money, and provide loans to the government. Although Thomas **Jefferson**, Washington's secretary of state, staunchly opposed Hamilton's plan on the constitutional grounds that the national government had no authority to create such an instrument, Hamilton managed to convince the reluctant president to sign the legislation.<sup>1</sup>

When the bank's charter expired in 1811, **Jeffersonian Democratic-Republicans** prevailed in blocking its renewal. However, the fiscal hardships that plagued the government during the **War of 1812**, coupled with the fragility of the country's financial system, convinced Congress and then-president James **Madison** to create the **Second Bank of the United States** in 1816. Many states rejected the Second Bank, arguing that the national government was infringing upon the states' constitutional jurisdiction.

A political showdown between Maryland and the national government emerged when James McCulloch, an agent for the Baltimore branch of the Second Bank, refused to pay a tax that Maryland had imposed on all out-of-state chartered banks. The standoff raised two constitutional questions: Did Congress have the authority to charter a national bank? Were states allowed to tax federal property? In **McCulloch v. Maryland**, Chief Justice John **Marshall** argued that Congress could create a national bank even though the Constitution did not expressly authorize it.<sup>2</sup>

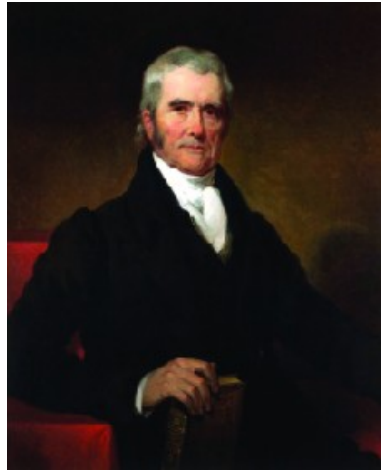
Under the necessary and proper clause of **Article I**, Section 8, the Supreme Court asserted that Congress could establish "all means which are appropriate" to fulfill "the legitimate ends" of the Constitution. In other words, the bank was an appropriate

1. The Lehrman Institute. "The Founding Trio: Washington, Hamilton and Jefferson." <http://lehrmaninstitute.org/history/FoundingTrio.asp>

2. *McCulloch v. Maryland*, 17 U.S. 316 (1819).

instrument that enabled the national government to carry out several of its enumerated powers, such as regulating interstate commerce, collecting taxes, and borrowing money.

This ruling established the doctrine of implied powers, granting Congress a vast source of discretionary power to achieve its constitutional responsibilities. The Supreme Court also sided with the federal government on the issue of whether states could tax federal property. Under the supremacy clause of **Article VI**, legitimate national laws trump conflicting state laws. As the court observed, “the government of the Union, though limited in its powers, is supreme within its sphere of action and its laws, when made in pursuance of the constitution, form the supreme



*Figure 1. Chief Justice John Marshall, shown here in a portrait by Henry Inman, was best known for the principle of judicial review established in *Marbury v. Madison* (1803), which reinforced the influence and independence of the judiciary branch of the U.S. government.*

law of the land.” Maryland’s action violated national supremacy because “the power to tax is the power to destroy.” This second ruling established the principle of national supremacy, which prohibits states from meddling in the lawful activities of the national government.

Defining the scope of national power was the subject of another landmark Supreme Court decision in 1824. In ***Gibbons v. Ogden***, the court had to interpret the commerce clause of **Article I**, Section 8; specifically, it had to determine whether the federal government

had the sole authority to regulate the licensing of steamboats operating between New York and New Jersey.<sup>3</sup>

Aaron Ogden, who had obtained an exclusive license from New York State to operate steamboat ferries between New York City and New Jersey, sued Thomas Gibbons, who was operating ferries along the same route under a coasting license issued by the federal government. Gibbons lost in New York state courts and appealed. Chief Justice **Marshall** delivered a two-part ruling in favor of Gibbons that strengthened the power of the national government. First, interstate commerce was interpreted broadly to mean “commercial intercourse” among states, thus allowing Congress to regulate navigation. Second, because the federal **Licensing Act** of 1793, which regulated coastal commerce, was a constitutional exercise of Congress’s authority under the commerce clause, federal law trumped the New York State license-monopoly law that had granted Ogden an exclusive steamboat operating license. As Marshall pointed out, “the acts of New York must yield to the law of Congress.”<sup>4</sup>

Various states railed against the nationalization of power that had been going on since the late 1700s. When President John **Adams** signed the **Sedition Act** in 1798, which made it a crime to speak openly against the government, the Kentucky and Virginia legislatures passed resolutions declaring the act null on the grounds that they retained the discretion to follow national laws. In effect, these resolutions articulated the legal reasoning underpinning the doctrine of **nullification**—that states had the right to reject national laws they deemed unconstitutional.<sup>5</sup>

3. *Gibbons v. Ogden*, 22 U.S. 1 (1824).

4. *Gibbons v. Ogden*, 22 U.S. 1 (1824).

5. W. Kirk Wood. 2008. *Nullification, A Constitutional*

A nullification crisis emerged in the 1830s over President Andrew Jackson's tariff acts of 1828 and 1832. Led by John **Calhoun**, President Jackson's vice president, nullifiers argued that high tariffs on imported goods benefited northern manufacturing interests while disadvantaging economies in the South. South Carolina passed an **Ordinance of Nullification** declaring both tariff acts null and void and threatened to leave the Union. The federal government responded by enacting the **Force Bill** in 1833, authorizing President **Jackson** to use military force against states that challenged federal tariff laws. The prospect of military action coupled with the passage of the **Compromise Tariff Act** of 1833 (which lowered tariffs over time) led South Carolina to back off, ending the nullification crisis.

The ultimate showdown between national and state authority came during the **Civil War**. Prior to the conflict, in **Dred Scott v. Sandford**, the Supreme Court ruled that the national government lacked the authority to ban slavery in the territories.<sup>6</sup>

But the election of President Abraham **Lincoln** in 1860 led eleven southern states to secede from the United States because they believed the new president would challenge the institution of slavery. What was initially a conflict to preserve the Union became a conflict to end slavery when Lincoln issued the **Emancipation Proclamation** in 1863, freeing all slaves in the rebellious states. The defeat of the South had a huge impact on the balance of power between the states and the national government in two important ways. First, the Union victory put an end to the right of states to secede and to challenge legitimate national laws. Second, Congress imposed several conditions for readmitting former Confederate states into the Union; among them was ratification of the

History, 1776–1833. Lanham, MD: University Press of America.

6. *Dred Scott v. Sandford*, 60 U.S. 393 (1857).

Fourteenth and **Fifteenth Amendments**. In sum, after the Civil War the power balance shifted toward the national government, a movement that had begun several decades before with **McCulloch v. Maryland** (1819) and **Gibbons v. Odgen** (1824).

The period between 1819 and the 1860s demonstrated that the national government sought to establish its role within the newly created federal design, which in turn often provoked the states to resist as they sought to protect their interests. With the exception of the Civil War, the Supreme Court settled the power struggles between the states and national government. From a historical perspective, the national supremacy principle introduced during this period did not so much narrow the states' scope of constitutional authority as restrict their encroachment on national powers.<sup>7</sup>

## Dual Federalism

The late 1870s ushered in a new phase in the evolution of U.S. federalism. Under **dual federalism**, the states and national government exercise exclusive authority in distinctly delineated spheres of jurisdiction. Like the layers of a cake, the levels of government do not blend with one another but rather are clearly defined. Two factors contributed to the emergence of this conception of federalism. First, several Supreme Court rulings blocked attempts by both state and federal governments to step outside their jurisdictional boundaries. Second, the prevailing

7. Joseph R. Marbach, Troy E. Smith, and Ellis Katz. 2005. *Federalism in America: An Encyclopedia*. Westport, CT: Greenwood Publishing.

economic philosophy at the time loathed government interference in the process of industrial development.

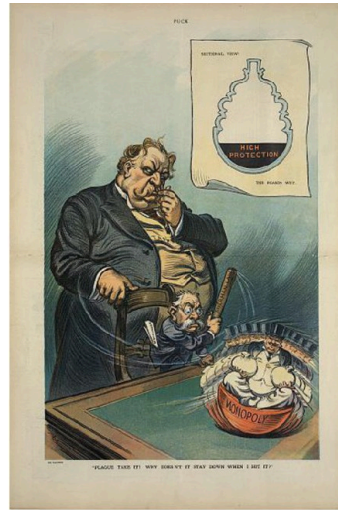
Industrialization changed the socioeconomic landscape of the United States. One of its adverse effects was the concentration of market power. Because there was no national regulatory supervision to ensure fairness in market practices, collusive behavior among powerful firms emerged in several industries.<sup>8</sup>

To curtail widespread anticompetitive practices in the railroad industry, Congress passed the **Interstate Commerce Act** in 1887, which created the Interstate Commerce Commission. Three years later, national regulatory capacity was broadened by the **Sherman Antitrust Act** of 1890, which made it illegal to monopolize or attempt to monopolize and conspire in restraining commerce (Figure 03\_02\_Commerce). In the early stages of industrial capitalism, federal regulations were focused for the most part on promoting market competition rather than on addressing the social dislocations resulting from market operations, something the government began to tackle in the 1930s.<sup>9</sup>

8. Marc Allen Eisner. 2014. *The American Political Economy: Institutional Evolution of Market and State*. New York: Routledge.
9. Eisner, *The American Political Economy*; Stephen Skowronek. 1982. *Building a New American State: The Expansion of National Administrative Capacities, 1877–1920*. Cambridge, MA: Cambridge University Press.



(a)



(b)

Puck, a humor magazine published from 1871 to 1918, satirized political issues of the day such as federal attempts to regulate commerce and prevent monopolies. “Will you walk into my parlor?” said the spider to the fly” (a) by Udo Keppler depicts a spider labeled “Interstate Commerce Commission” capturing a large fly in a web labeled “The Law” while “Plague take it! Why doesn’t it stay down when I hit it?” (b), also drawn by Keppler, shows President William Howard Taft and his attorney general, George W. Wickersham, trying to beat a “Monopoly” into submission with a stick labeled “Sherman Law.”

The new federal regulatory regime was dealt a legal blow early in its existence. In 1895, in **United States v. E. C. Knight**, the Supreme Court ruled that the national government lacked the authority to regulate manufacturing.<sup>10</sup>

The case came about when the government, using its regulatory

10. *United States v. E. C. Knight*, 156 U.S. 1 (1895).



power under the Sherman Act, attempted to override American Sugar's purchase of four sugar refineries, which would give the company a commanding share of the industry. Distinguishing between commerce among states and the production of goods, the court argued that the national government's regulatory authority applied only to commercial activities. If manufacturing activities fell within the purview of the commerce clause of the Constitution, then "comparatively little of business operations would be left for state control," the court argued.

In the late 1800s, some states attempted to regulate working conditions. For example, New York State passed the **Bakeshop Act** in 1897, which prohibited bakery employees from working more than sixty hours in a week. In **Lochner v. New York**, the Supreme Court ruled this state regulation that capped work hours unconstitutional, on the grounds that it violated the due process clause of the Fourteenth Amendment.<sup>11</sup>

In other words, the right to sell and buy labor is a "liberty of the individual" safeguarded by the Constitution, the court asserted. The federal government also took up the issue of working conditions, but that case resulted in the same outcome as in the *Lochner* case.<sup>12</sup>

## Cooperative Federalism

The **Great Depression** of the 1930s brought economic hardships the nation had never witnessed before. Between 1929 and 1933, the national unemployment rate reached 25 percent, industrial output dropped by half, stock market assets lost more than half their value,

11. *Lochner v. New York*, 198 U.S. 45 (1905).

12. *Hammer v. Dagenhart*, 247 U.S. 251 (1918).

thousands of banks went out of business, and the gross domestic product shrunk by one-quarter.<sup>13</sup>

Given the magnitude of the economic depression, there was pressure on the national government to coordinate a robust national response along with the states.



A line outside a Chicago soup kitchen in 1931, in the midst of the Great Depression. The sign above reads "Free Soup, Coffee, and Doughnuts for the Unemployed."

13. Nicholas Crafts and Peter Fearon. 2010. "Lessons from the 1930s Great Depression," *Oxford Review of Economic Policy* 26: 286–287; Gene Smiley. "The Concise Encyclopedia of Economics: Great Depression." <http://www.econlib.org/library/Enc/GreatDepression.html>

**Cooperative federalism** was born of necessity and lasted well into the twentieth century as the national and state governments each found it beneficial. Under this model, both levels of government coordinated their actions to solve national problems, such as the Great Depression and the civil rights struggle of the following decades. In contrast to dual federalism, it erodes the jurisdictional boundaries between the states and national government, leading to a blending of layers as in a marble cake. The era of cooperative federalism contributed to the gradual incursion of national authority into the jurisdictional domain of the states, as well as the expansion of the national government's power in concurrent policy areas.<sup>14</sup>

The **New Deal** programs President Franklin D. **Roosevelt** proposed as a means to tackle the Great Depression ran afoul of the dual-federalism mindset of the justices on the Supreme Court in the 1930s. The court struck down key pillars of the New Deal—the **National Industrial Recovery Act** and the **Agricultural Adjustment Act**, for example—on the grounds that the federal government was operating in matters that were within the purview of the states. The court's obstructionist position infuriated Roosevelt, leading him in 1937 to propose a court-packing plan that would add one new justice for each one over the age of seventy, thus allowing the president to make a maximum of six new appointments. Before Congress took action on the proposal, the Supreme Court began leaning in support of the New Deal as Chief Justice Charles Evans **Hughes** and Justice Owen **Roberts** changed their view on federalism.<sup>15</sup>

In **National Labor Relations Board (NLRB) v. Jones and Laughlin**

14. Marbach et al, *Federalism in America: An Encyclopedia*.

15. Jeff Shesol. 2010. *Supreme Power: Franklin Roosevelt vs. The Supreme Court*. New York: W. W. Norton.

**Steel**,<sup>16</sup> for instance, the Supreme Court ruled the **National Labor Relations Act** of 1935 constitutional, asserting that Congress can use its authority under the commerce clause to regulate both manufacturing activities and labor-management relations. The New Deal changed the relationship Americans had with the national government. Before the **Great Depression**, the government offered little in terms of financial aid, social benefits, and economic rights. After the New Deal, it provided old-age pensions (Social Security), unemployment insurance, agricultural subsidies, protections for organizing in the workplace, and a variety of other public services created during Roosevelt's administration.

In the 1960s, President Lyndon **Johnson's** administration expanded the national government's role in society even more. **Medicaid** (which provides medical assistance to the indigent), **Medicare** (which provides health insurance to the elderly and disabled), and school nutrition programs were created. The **Elementary and Secondary Education Act** (1965), the **Higher Education Act** (1965), and the **Head Start** preschool program (1965) were established to expand educational opportunities and equality. The **Clean Air Act** (1965), the **Highway Safety Act** (1966), and the **Fair Packaging and Labeling Act** (1966) promoted environmental and consumer protection. Finally, laws were passed to promote urban renewal, public housing development, and affordable housing. In addition to these Great Society programs, the **Civil Rights Act** (1964) and the **Voting Rights Act** (1965) gave the federal government effective tools to promote civil rights equality across the country.

16. *National Labor Relations Board (NLRB) v. Jones & Laughlin Steel*, 301 U.S. 1 (1937).



(a)



(b)

*Lady Bird Johnson, the First Lady, reads to students enrolled in Head Start (a) at the Kemper School in Washington, DC, on March 19, 1966. President Obama visits a Head Start classroom (b) in Lawrence, Kansas, on January 22, 2015.*

While the era of cooperative federalism witnessed a broadening of federal powers in concurrent and state policy domains, it is also the era of a deepening coordination between the states and the federal government in Washington. Nowhere is this clearer than with respect to the social welfare and social insurance programs created during the New Deal and Great Society eras, most of which are administered by both state and federal authorities and are jointly funded. The **Social Security Act** of 1935, which created federal subsidies for state-administered programs for the elderly; people with handicaps; dependent mothers; and children, gave state and local officials wide discretion over eligibility and benefit levels. The unemployment insurance program, also created by the Social Security Act, requires states to provide jobless benefits, but it allows them significant latitude to decide the level of tax to impose on businesses in order to fund the program as well as the duration and replacement rate of unemployment benefits. A similar multilevel division of labor governs Medicaid and Children's Health Insurance.<sup>17</sup>

17. Lawrence R. Jacobs and Theda Skocpol. 2014.

Thus, the era of cooperative federalism left two lasting attributes on federalism in the United States. First, a nationalization of politics emerged as a result of federal legislative activism aimed at addressing national problems such as marketplace inefficiencies, social and political inequality, and poverty. The nationalization process expanded the size of the federal administrative apparatus and increased the flow of federal grants to state and local authorities, which have helped offset the financial costs of maintaining a host of New Deal- and Great Society-era programs. The second lasting attribute is the flexibility that states and local authorities were given in the implementation of federal social welfare programs. One consequence of administrative flexibility, however, is that it has led to cross-state differences in the levels of benefits and coverage.<sup>18</sup>

## New Federalism

During the administrations of Presidents Richard **Nixon** (1969–1974) and Ronald **Reagan** (1981–1989), attempts were made to reverse the process of nationalization—that is, to restore states’ prominence in policy areas into which the federal government had moved in the past. **New federalism** is premised on the idea that the

“Progressive Federalism and the Contested Implemented of Obama’s Health Reform,” In *The Politics of Major Policy Reform in Postwar America*, eds. Jeffrey A. Jenkins and Sidney M. Milkis. New York: Cambridge University Press.

18. R. Kent Weaver. 2000. *Ending Welfare as We Know It*. Washington, DC: The Brookings Institution.

decentralization of policies enhances administrative efficiency, reduces overall public spending, and improves policy outcomes. During Nixon's administration, **general revenue sharing** programs were created that distributed funds to the state and local governments with minimal restrictions on how the money was spent. The election of Ronald Reagan heralded the advent of a "devolution revolution" in U.S. federalism, in which the president pledged to return authority to the states according to the Constitution. In the **Omnibus Budget Reconciliation Act** of 1981, congressional leaders together with President Reagan consolidated numerous federal grant programs related to social welfare and reformulated them in order to give state and local administrators greater discretion in using federal funds.<sup>19</sup>

However, Reagan's track record in promoting new federalism was inconsistent. This was partly due to the fact that the president's devolution agenda met some opposition from Democrats in Congress, moderate Republicans, and interest groups, preventing him from making further advances on that front. For example, his efforts to completely devolve Aid to Families With Dependent Children (a New Deal-era program) and food stamps (a Great Society-era program) to the states were rejected by members of Congress, who feared states would underfund both programs, and by members of the National Governors' Association, who believed the proposal would be too costly for states. Reagan terminated general revenue sharing in 1986.<sup>20</sup>

Several Supreme Court rulings also promoted new federalism by hemming in the scope of the national government's power,

19. Enter your footnote content here.

20. Dilger, "Federal Grants to State and Local Governments," 30–31.

especially under the commerce clause. For example, in **United States v. Lopez**, the court struck down the **Gun-Free School Zones Act** of 1990, which banned gun possession in school zones.<sup>21</sup>

It argued that the regulation in question did not “substantively affect interstate commerce.” The ruling ended a nearly sixty-year period in which the court had used a broad interpretation of the commerce clause that by the 1960s allowed it to regulate numerous local commercial activities.<sup>22</sup>

However, many would say that the years since the 9/11 attacks have swung the pendulum back in the direction of central federal power. The creation of the **Department of Homeland Security** federalized disaster response power in Washington, and the **Transportation Security Administration** was created to federalize airport security. Broad new federal policies and mandates have also been carried out in the form of the Faith-Based Initiative and **No Child Left Behind** (during the George W. Bush administration) and the **Affordable Care Act** (during Barack Obama’s administration).

## Cooperative Federalism versus New Federalism

Morton **Grodzins** coined the cake analogy of federalism in the 1950s while conducting research on

21. *United States v. Lopez*, 514 U.S. 549 (1995).

22. See *Printz v. United States*, 521 U.S. 898 (1997).



the evolution of American federalism. Until then most scholars had thought of federalism as a layer cake, but according to Grodzins the 1930s ushered in “marble-cake federalism”: “The American form of government is often, but erroneously, symbolized by a three-layer cake. A far more accurate image is the rainbow or marble cake, characterized by an inseparable mingling of differently colored ingredients, the colors appearing in vertical and diagonal strands and unexpected whirls. As colors are mixed in the marble cake, so functions are mixed in the American federal system.”<sup>23</sup>

23. Morton Grodzins. 2004. “The Federal System.” In *American Government Readings and Cases*, ed. P. Woll. New York: Pearson Longman, 74–78.

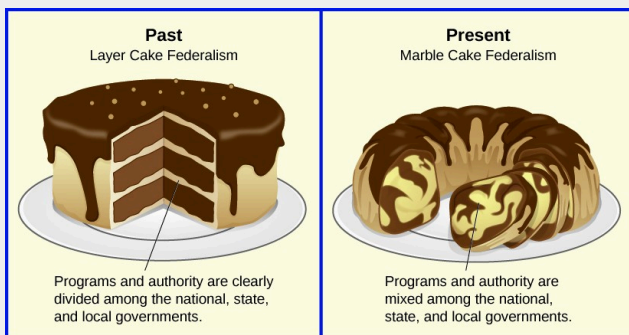


Figure 5. Morton Grodzins, a professor of political science at the University of Chicago, coined the expression “marble-cake federalism” in the 1950s to explain the evolution of federalism in the United States.

Cooperative federalism has several merits:

- Because state and local governments have varying fiscal capacities, the national government's involvement in state activities such as education, health, and social welfare is necessary to ensure some degree of uniformity in the provision of public services to citizens in richer and poorer states.
- The problem of collective action, which dissuades state and local authorities from raising regulatory standards for fear they will be disadvantaged as others lower theirs, is resolved by requiring state and local authorities to meet minimum federal standards (e.g., minimum wage and air quality).

- Federal assistance is necessary to ensure state and local programs (e.g., water and air pollution controls) that generate positive externalities are maintained. For example, one state's environmental regulations impose higher fuel prices on its residents, but the externality of the cleaner air they produce benefits neighboring states. Without the federal government's support, this state and others like it would underfund such programs.

New federalism has advantages as well:

- Because there are economic, demographic, social, and geographical differences among states, one-size-fits-all features of federal laws are suboptimal. Decentralization accommodates the diversity that exists across states.
- By virtue of being closer to citizens, state and local authorities are better than federal agencies at discerning the public's needs.
- Decentralized federalism fosters a marketplace of innovative policy ideas as states compete against each other to minimize administrative costs and maximize policy output.

Federalism in the United States has gone through several phases of evolution during which the relationship between the federal and state governments has varied. In the era of dual federalism, both levels of government stayed within their own jurisdictional spheres. During the era of cooperative federalism, the federal government became active in policy areas previously handled by the states. The

1970s ushered in an era of new federalism and attempts to decentralize policy management.

PART IV

3. THE TEXAS LEGISLATURE



# 9. Qualifications and Organization

## *Learning Objectives*

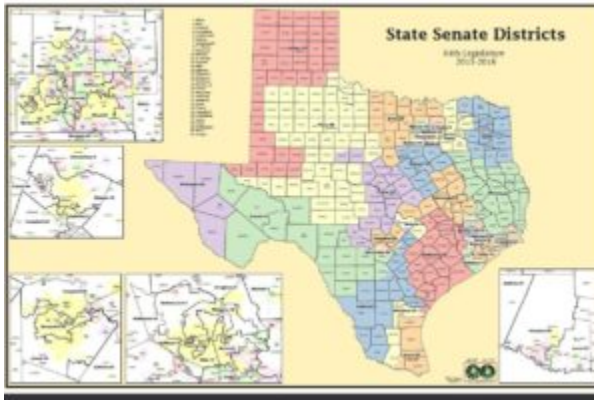
By the end of this section, you will be able to:

- Discuss the structure of the Texas Legislature
- Explain how Texas Congressional Districts are created
- Describe the qualifications and to become a member of Texas Congress

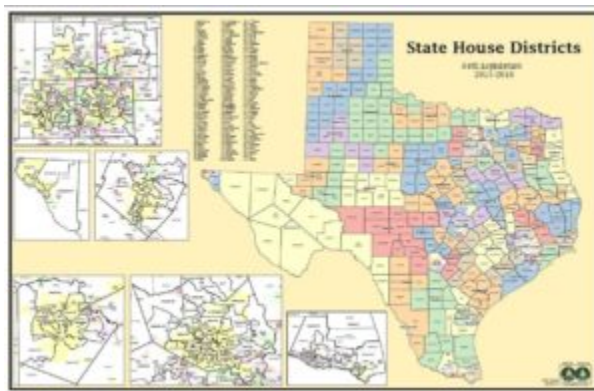
## Structure of Texas Legislature & Congressional Districts

Article 3 of the Texas Constitution describes the legislative department (branch) of Texas. Texas Legislature utilizes a **bicameral** system with the Texas Senate being the upper house, and the Texas House of Representatives the lower house. There are a total of 181 members of the Texas Legislature: 31 Senators, and 150 members of the House. Texas uses “**single-member districts**,” meaning each member of the Texas Legislature represents one congressional district. Every ten years, after the U.S. census, the congressional

districts are redrawn to maintain **proportional representation** (This is also called reapportionment).<sup>12</sup>



*Texas Senate Congressional District Map*



*Texas House Congressional District Map*

1. <http://www.tlc.state.tx.us/redist/districts/senate.html>
2. <http://www.tlc.state.tx.us/redist/districts/house.html>



The redistricting process in Texas is as follows:

1. U.S. **Census** conducted every 10 years and data is delivered to the Texas Legislature no later than April 1st of the year following the census;
2. Texas Legislature begins to draw plans and enact a bill for the new state congressional district lines;
3. If Legislature cannot enact a new congressional district map during the first regular session after the census has been conducted, then the **Legislative Redistricting Board** (LRB) becomes responsible for reapportionment<sup>3</sup>. The LRB is made up of the: Lieutenant Governor, Speaker of the House, Attorney General, Comptroller, and Commission of the General Land Office.<sup>4</sup>

Texas Legislature uses **biennial** sessions which means they meet every two years on odd numbered years, for 140 days. The Governor has the power to call a special session outside of the “140 days.” Texas Legislature has two presiding officers: The Lieutenant Governor (currently Dan Patrick), who is elected by Texans, presides over the Texas Senate. The Speaker of the House (currently Joe Straus), is elected by members of the Texas House of Representatives, presides over the lower house.<sup>5</sup>

3. Texas Constitution, Article 3, Section 28 (1951) created the LRB
4. <http://www.tlc.state.tx.us/redist/process/LRB.html>
5. <http://www.capitol.state.tx.us/>

# Qualifications to become a member of Texas Legislature

The following are the legal requirements in order for someone to meet the qualifications to become a member of the Texas Legislature. Texas legislators receive an annual salary of \$7,200, plus a per diem of \$190 for every day they are in session <sup>6</sup>:

- Texas Senator
  - U.S. Citizen
  - 5 years as a resident of Texas
  - 12 months as a resident of their District
  - At least 26 years old
  - 4 year terms with unlimited term limit
- Texas Representative (House)
  - U.S. Citizen
  - 2 years as a resident of Texas
  - 12 months as a resident of their District
  - At least 21 years old
  - 2 year terms with unlimited term limit

6. <http://www.sos.state.tx.us/elections/candidates/guide/qualifications.shtml#b>

# 10. How a Bill Becomes Law in Texas

## *Learning Objectives*

By the end of this section, you will be able to explain how a bill becomes law in Texas

## *How a Bill becomes Law in Texas*



*How a Bill becomes Law in Texas*

1. **Introduction**– Only a member of Texas Legislature can introduce a bill to their respective chamber. For example only a Texas Senator can introduce a bill in the Senate. The bill will also be assigned a number according to the order it was introduced (i.e. first bill introduced in the House would be HB-1). The bill must be introduced separately in both chambers and if increasing taxes or raising funds are required from the bill, it must begin in the House. Bills must be introduced the first 60 days of the regular session, after that introduction of the bill requires a four-fifths from either chamber, unless the Governor has declared an emergency and the bill pertains to that emergency. Once the bill is introduced a caption (short description of the bill) is read aloud, this is also considered the first reading, where after the presiding officer assigns the bill to a committee.
2. **Committee Action**– The Committee (Also called “**Little Legislators**”) will hear testimony for or against the bill, and decide to take no action or issue a report on the bill. If no action is ever taken the bill dies; the Committee’s Report will include a record of how everyone voted, the recommendations regarding the bill.
3. **Floor Action**: Once a copy of the Committee’s Report is sent to all members of the Texas Legislature, the bill is read again by caption, then debated by Legislators. The members of that chamber then cast their votes, either through voice or a record voted, on the bill. The bill needs to obtain a majority vote in order for it to pass; once it passes it is sent to the other side of the chamber.

4. **Conference Committee:** A Conference Committee is only necessary if there are two different versions of the same bill. Conference Committees are made up of 5 members from each chamber, and at least 3 out of the 5 members from each chamber must approve the bill in order for it to be considered passing- If this occurs the bill is signed by the presiding officers of each chamber and sent to the Governor.
5. **Governor's Desk:** The Texas Governor has 4 options when a bill reaches his or her desk: a) Sign it in to law; b) Not sign it, and if Congress is in session the bill becomes law within 10 days without his/her signature, or within 20 days if Congress is not in session; c) **Veto** the bill, which means it is denied, the veto can be overridden by a 2/3rds vote from the Legislature; or d) **Line-item veto**, which means the Governor eliminates certain parts of the bill without killing the entire document (this type of veto can only be used on state budget bill).



*Photo showing Texas House of Representatives in session*

Note: Proposed **Texas Constitutional Amendments** occur in joint resolutions, instead of bills, and need a 2/3rds vote from both chambers- if approved the joint resolution is sent to the **Texas Secretary of State**

**Office** where the people will decide the fate of the proposed amendment.<sup>1</sup>

1. <http://www.tlc.state.tx.us/docs/legref/gtli.pdf#page=7>

PART V

## 4. THE EXECUTIVE BRANCH





## II. The Governor

### *Learning Objectives*

By the end of this section, you will be able to:

- Explain the qualifications of the Texas Governor
- Discuss the roles and responsibilities of the Texas Governor

## Qualifications and Roles for Texas Governor

The current Governor is **Greg Abbott**. The Governor of Texas is elected by Texans every four years with unlimited terms, with the following qualifications:

1. Must be at least 30 years old;
2. Resident of Texas for at least 5 years immediately before the election;
3. Must be a U.S. citizen.

The roles and responsibilities of the Texas Governor are:

- Signing or vetoing bills passed by the Legislature.
- Serving as commander-in-chief of the state's military forces.
- Convening special sessions of the Legislature for specific

purposes.

- Delivering a report on the condition of the state to the Legislature at the beginning of each regular session.
- Estimating of the amounts of money required to be raised by taxation.
- Accounting for all public monies received and paid out by him and recommending a budget for the next two years.
- Granting reprieves and commutations of punishment and pardons upon the recommendation of the Board of Pardons and Paroles and revoking conditional pardons.
- Declaring special elections to fill vacancies in certain elected offices.
- Filling judicial vacancies.
- Appointing qualified Texans to state offices that carry out the laws and direct the policies of state government. Some of these offices are filled by appointment only. Others are ordinarily elected by the people, but the governor must occasionally appoint individuals to fill vacancies. The governor also appoints Texans to a wide range of advisory bodies and task forces that assist him with specific issues.<sup>1</sup>

1. <http://gov.texas.gov/about/duties>

## 12. The Texas Plural Executive

### *Learning Objectives*

By the end of this section, you will be able to:

- Explain the plural executive of Texas Government
- Explain the roles of the plural executive

### Texas Plural Executive

**Article 4** of the Texas Constitution describes the executive department (branch) of Texas. Texas utilizes a “plural executive” which means the power of the Governor are limited and distributed amongst other government officials. In other words, there is not one government official in Texas that is solely responsible for the Texas Executive Branch. Below are some of the members of the Texas Plural Executive and their roles:

- **Lieutenant Governor:** Serves as the presiding officer of the Texas Senate, first in line of succession for Governor, member of the Legislative Redistricting Board, Chair of the Legislative Budget Board, elected to 4 years terms by the public with no term limits. Dan Patrick is the current Texas Lieutenant Governor.<sup>1</sup>
- **Attorney General:** Serves as the lawyer for the state of Texas, including representing the state on civil matters, and

responsible for the interpretation of the constitutionality of laws. The Attorney General is elected by the people to 4 year terms with no term limits. The current Texas Attorney General is Ken Paxton.<sup>2</sup>

- **Secretary of State:** The Texas Secretary of State is appointed by the Texas Governor and confirmed by the Texas Senate. The Secretary of State serves as the chief election officer (meaning the office ensures that county governments abide by election rules), officially attests the signature of the Texas Governor on official documents, and advises the Governor on Texas border and Mexican affairs. Rolando Pablos is the current Texas Secretary of State.<sup>3</sup>
- **Commissioner of the General Land Office:** The Commissioner is elected by the people to one 4 year term. George P. Bush (son of Jeb Bush) runs the Texas General Land Office, which manages and administers mineral leases and state lands. Even though this office is part of the Executive Branch, the Office of the Commissioner of the General Land Office is authorized by Article 14, Section 1 of the Texas Constitution.<sup>4</sup>
- **Comptroller of Public Accounts:** The Comptroller serves as the chief tax collector and accounting officer. This office is also responsible for certifying the biennial budget of the state. Glenn Hegar currently serves as the Texas Comptroller and is elected by the people to 4 years terms with no term limits.<sup>5</sup>
- **Other members of the Texas Plural Executive include:**

1. <https://www.ltgov.state.tx.us/>

2. <https://www.texasattorneygeneral.gov/>

3. <http://www.sos.state.tx.us/index.html>

4. <http://www.glo.texas.gov/>

Commissioner of Agriculture, Railroad Commission, State Board of Education, Elected/Appointed Boards and Commissions, Appointed Agency Directors.

5. <https://www.comptroller.texas.gov/>



PART VI

# 5. THE TEXAS JUSTICE SYSTEM





# 13. Jurisdiction, Types of Law, and the Selection of Judges

## *Learning Objectives*

By the end of this section, you will be able to:

- Discuss the different types of jurisdiction
- Discuss the different types of law
- Describe the selection process, and qualifications, for Texas Judges

## Types of Jurisdictions

Every court system has jurisdiction over certain cases, from enforcing traffic laws to hearing capital murder charges. There are three types of jurisdictions:

1. **Original Jurisdiction**– the court that gets to hear the case first. For example Municipal courts typically have original jurisdiction over traffic offenses that occur within city limits.
2. **Appellate Jurisdiction**– the power for a higher court to review a lower court's decision. For example, the Texas Court of Appeals has appellate jurisdiction over the District Courts (See the hierarchy of Texas Court Structure in this Unit).
3. **Exclusive Jurisdiction**– only that court can hear a specific

case. For example only the Texas Court of Criminal Appeals Court can hear appeals for death penalty sentences.

# Types of Law

There are two basic types of law in any legal system- Civil and Criminal. Below is a table differentiating the two:

Types of Law				
	Definition	Punishment	Burden of Proof	Examples
Civil	Concerns private rights	Relief or remedy	Preponderance of the evidence	Divorce, law suit
Criminal	This type of case violates a specific penal law.	Fine, imprisonment, or both	Beyond a reasonable doubt	Traffic violation, felony charge

There are two types of crime: misdemeanors and felonies.

Misdemeanors are considered minor crimes, and felonies are defined as major crimes.<sup>1</sup>

Offense
<b>Capital Murder (Capital Felony)</b> – Examples: Murder of a law enforcement official, prison guard, or firefighter on duty; commits murder with other types of felonies; murder for hire; mass murder; murder of someone under the age of 10
<b>First degree felony</b> – Examples: Murder; theft of property worth over \$200,000
<b>Second degree felony</b> – Examples: Manslaughter; theft of property worth between \$100,000-200,000
<b>Third degree felony</b> – Examples: Impersonating someone online; theft of property worth \$20,000-100,000
<b>State jail felony</b> – Examples: Possession of 4 ounces to 1lb of marijuana; theft of property worth \$15,000-20,000
<b>Class A Misdemeanor</b> – Examples: Resisting arrests; theft of property worth \$500-1,500
<b>Class B Misdemeanor</b> – Examples: Terroristic threat; theft of property worth \$20-500
<b>Class C Misdemeanor</b> – Examples: Sexting with someone 17 or younger; theft of property worth less than \$20

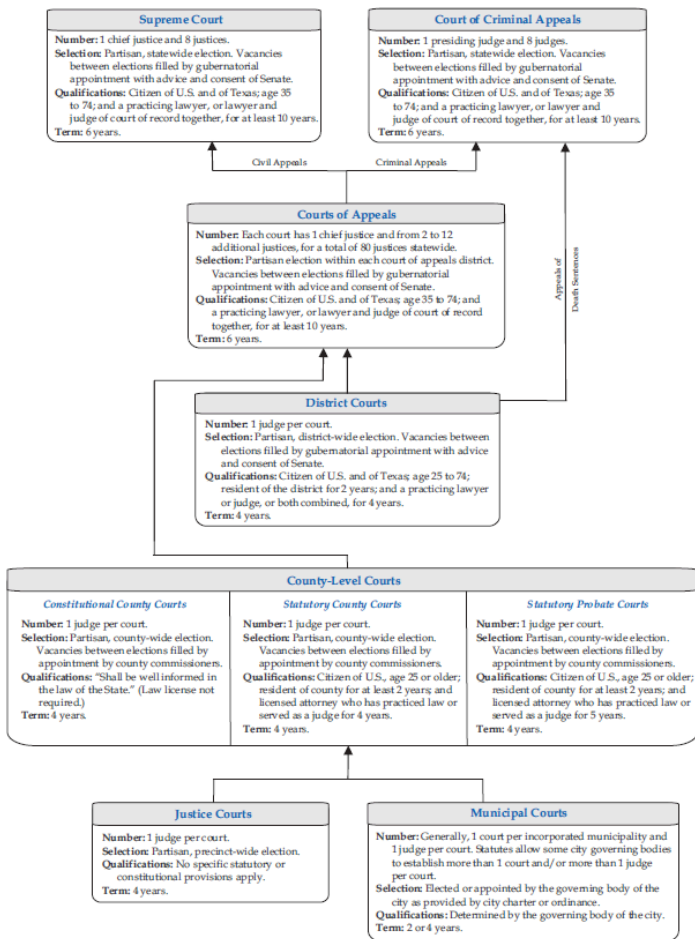
1. Texas Penal Code  
<http://www.statutes.legis.state.tx.us/?link=PE>

# Selection of Judges

There are two basic methods used to select judges: 1. election 2. merit plan. Sometimes the merit plan is referred to as the **Missouri Plan**, and consists of an individual selected to become a judge based on their qualifications and/or experience. Texas elects their judges (except at some of the municipal levels), and the table below depicts the specifics for each level of court.<sup>2</sup>

2. <http://courts.state.tx.us/>

## Judge Qualifications and Selection in the State of Texas



### Selection and Qualification of Texas Judges

# 14. Court Organization

## *Learning Objectives*

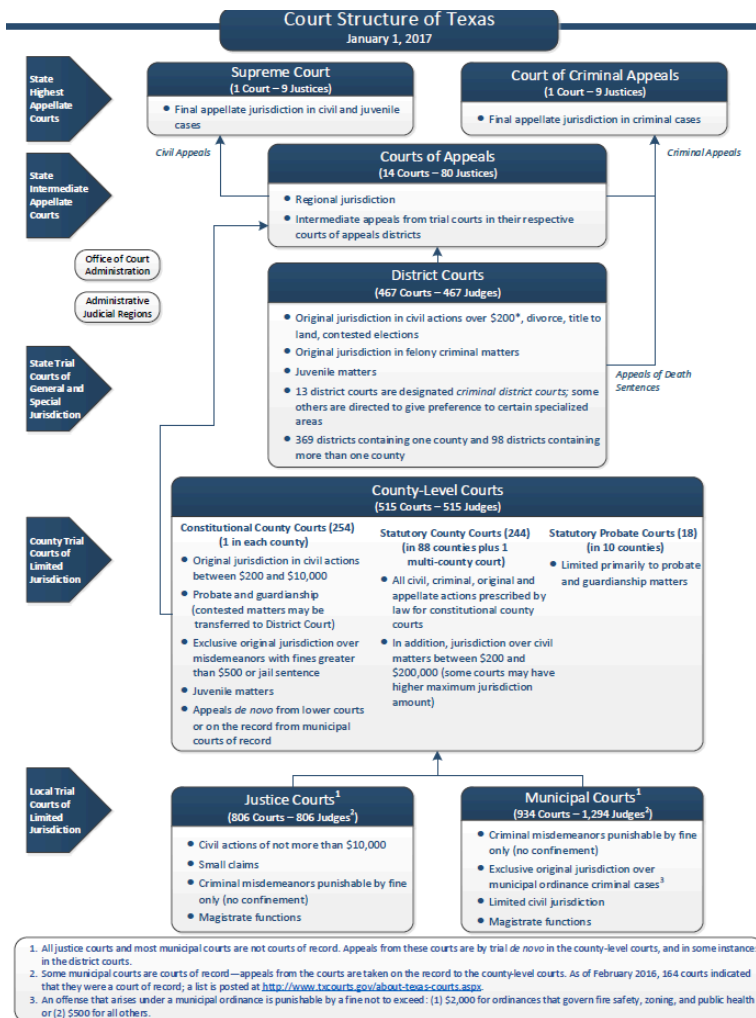
By the end of this section, you will be able to:

- Discuss the structure of the Texas Court System

## Structure of the Texas Court System

The structure of the Texas court system is set up as a **bifurcated** system, meaning there are two highest courts of appeals for criminal and civil cases. The table below depicts the structure of the Texas court system with some additional jurisdiction, and court information. Note that **Juvenile Courts** preside in the District Courts- In Texas a juvenile is defined as young as 10 years old, and a juvenile can be convicted as an adult as young as 14 years old.<sup>1</sup>

1. <http://www.txcourts.gov/media/1436909/court-structure-chart-jan-2017.pdf>



## Structure of the Texas Court System

# 15. Texas Criminal Justice Process

## *Learning Objectives*

By the end of this section, you will be able to:

- Discuss the steps in the Texas Criminal Justice process

## Texas Criminal Justice Process

The Texas court systems have two conflicting goals: they must protect the people and the accused. Therefore the state of Texas must ensure that every person is treated equally in legal matters- this is known as due process. The steps in the Texas criminal justice process are: 1. Arrest, 2. Indictment, 3. Plea bargaining, 4. Trial, and 5. Post-trial.

1. **Arrest.** One aspect pertinent to arrest are the Miranda Rights. Miranda Rights derived from the landmark U.S. Supreme Court case **Miranda vs. Arizona** (1966). During the Miranda case the question was whether or not procedures must be utilized by law enforcement officials to ensure that an individual's 5th Amendment Self-incrimination rights are not violated. The United States Supreme Court ruled that a person must be



made aware of their rights prior to being questioned.<sup>1</sup> Once an arrest is made, the defendant is arraigned and bond is set.

**Arraignment** is when a defendant is formally charged and made aware of their rights. After this the defendant may receive **bail**, although bail is not guaranteed (Texas Constitution Article 1, Section 11 & 11a-b).

2. **Indictment.** If the charge is a **felony**, than an indictment must occur for the process to continue. A grand jury is in charge of determining whether there is enough evidence to move forward with the charge- 9 out of 12 grand jury members must agree that the process can move forward. If this occurs it is known as a “**true bill**” (indictment), if not it is known as a “**No bill**.”
3. **Plea bargaining.** Due to the fact that there are **overcrowded dockets**, plea bargaining is the most common method for resolving criminal cases in Texas. Plea bargaining is when the defendant and the prosecutor negotiate a deal to avoid having to go to trial- the concept is that this saves time and money.
4. **Trial.** If the case reaches trial, the defendant may choose to have a **trial by jury** (guaranteed by the Texas Constitution Article 1, Section 15); or waive that right and choose trial by a presiding judge. Texas utilizes an adversary system, which means the two sides will attempt to convince the jury or judge why they are correct.
5. **Post Trial.** Post trial is the final step where the defendant, if found guilty, will receive a form of rehabilitation or punishment. Some examples of rehabilitation or punishment are prison time, probation, parole, house arrest, and fines.

1. <http://www.uscourts.gov/educational-resources/educational-activities/facts-and-case-summary-miranda-v-arizona>

# 16. Civil Liberties and Civil Rights

## *Learning Objectives*

By the end of this section, you will be able to:

- Define civil liberties and civil rights

## Defining Civil Liberties and Civil Rights

To be more precise in their language, political scientists and legal experts make a distinction between civil liberties and civil rights, even though the Constitution has been interpreted to protect both. We typically envision civil liberties as being limitations on government power, intended to protect freedoms that governments may not legally intrude on. For example, the Texas Constitution's Article 1 Section 6 denies the government the power to prohibit "the freedom of worship" of religion; the states and the national government cannot forbid people to follow a religion of their choice, even if politicians and judges think the religion is misguided, blasphemous, or otherwise inappropriate. You are free to create your own religion and recruit followers to it (subject to the U.S. Supreme Court deeming it a religion), even if both society and government disapprove of its tenets. That said, the way you practice your religion may be regulated if it impinges on the rights of others. Similarly, the Texas Constitution's Article 1 Section 13 states the

government cannot impose “cruel and unusual punishments” on individuals for their criminal acts. Although the definitions of *cruel* and *unusual* have expanded over the years, as we will see later in this chapter, the courts have generally and consistently interpreted this provision as making it unconstitutional for government officials to torture suspects.<sup>1</sup>

**Civil rights**, on the other hand, are guarantees that government officials will treat people equally and that decisions will be made on the basis of merit rather than race, gender, or other personal characteristics. Because of the Constitution’s civil rights guarantee, it is unlawful for a school or university run by a state government to treat students differently based on their race, ethnicity, age, sex, or national origin. In the 1960s and 1970s, many states had separate schools where only students of a certain race or gender were able to study. However, the courts decided that these policies violated the civil rights of students who could not be admitted because of those rules.<sup>2</sup>

**Civil rights** are, at the most fundamental level, guarantees by the government that it will treat people equally, particularly people belonging to groups that have historically been denied the same rights and opportunities as others. The proclamation that “all men are created equal” appears in the Declaration of Independence, the due process clause of the Fifth and Fourteenth Amendments to the U.S. Constitution, and the Texas Constitution’s Article 1 Section 3a requires that the federal government treat people equally. According to Chief Justice Earl Warren in the Supreme Court case

1. <http://www.statutes.legis.state.tx.us/SOTWDocs/CN/htm/CN.1.htm>

2. *Green v. County School Board of New Kent County*, 391 U.S. 430 (1968); *Allen v. Wright*, 468 U.S. 737 (1984).

of *Bolling v. Sharpe* (1954), “discrimination may be so unjustifiable as to be violative of due process.”<sup>3</sup>

We can contrast civil rights with civil liberties, which are limitations on government power designed to protect our fundamental freedoms. For example, the Texas Constitution’s Article 1 Section 13 the application of “cruel and unusual punishments” to those convicted of crimes, a limitation on government power. As another example, the guarantee of equal protection means the laws and the Constitution must be applied on an equal basis, limiting the government’s ability to discriminate or treat some people differently, unless the unequal treatment is based on a valid reason, such as age. A law that imprisons Asian Americans twice as long as Latinos for the same offense, or a law that says people with disabilities don’t have the right to contact members of Congress while other people do, would treat some people differently from others for no valid reason and might well be unconstitutional. According to the Supreme Court’s interpretation of the **Equal Protection Clause**, “all persons similarly circumstanced shall be treated alike.”<sup>4</sup>

3. *Bolling v. Sharpe*, 347 U.S. 497 (1954).

4. *Phyller v. Doe*, 457 U.S. 202 (1982); *F. S. Royster Guano v. Virginia*, 253 U.S. 412 (1920).

PART VII

# 6. POLITICAL PARTICIPATION



# 17. Voting

## Learning Objectives

By the end of this section you will be able to:

- Identify ways the U.S. government has promoted voter rights and registration
- Summarize similarities and differences in states' voter registration methods
- Analyze ways states increase voter registration and decrease fraud
- Discuss the voting requirements in Texas
- Understand the factors that affect voter turnout
- Analyze the factors that typically affect a voter's decision

Before most voters are allowed to cast a ballot, they must register to vote in their state. This process may be as simple as checking a box on a driver's license application or as difficult as filling out a long form with complicated questions. Registration allows governments to determine which citizens are allowed to vote and, in some cases, from which list of candidates they may select a party nominee. Ironically, while government wants to increase voter turnout, the registration process may prevent various groups of citizens and non-citizens from participating in the electoral process.

## Voter Registration Across the United States

Elections are state-by-state contests. They include general elections for president and statewide offices (e.g., governor and U.S.

senator), and they are often organized and paid for by the states. Because political cultures vary from state to state, the process of voter registration similarly varies. For example, suppose an 85-year-old retiree with an expired driver's license wants to register to vote. He or she might be able to register quickly in California or Florida, but a current government ID might be required prior to registration in Texas or Indiana.

The varied registration and voting laws across the United States have long caused controversy. In the aftermath of the Civil War, southern states enacted literacy tests, grandfather clauses, and other requirements intended to disenfranchise black voters in Alabama, Georgia, and Mississippi. Literacy tests were long and detailed exams on local and national politics, history, and more. They were often administered arbitrarily with more blacks required to take them than whites.<sup>1</sup>

**Poll taxes** required voters to pay a fee to vote. Grandfather clauses exempted individuals from taking literacy tests or paying poll taxes if they or their fathers or grandfathers had been permitted to vote prior to a certain point in time. While the Supreme Court determined that grandfather clauses were unconstitutional in 1915, states continued to use poll taxes and literacy tests to deter potential voters from registering.<sup>2</sup>

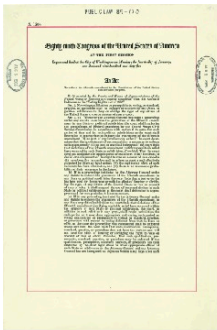
States also ignored instances of violence and intimidation against African Americans wanting to register or vote.<sup>3</sup>

The ratification of the **Twenty-Fourth Amendment** in 1964 ended poll taxes, but the passage of the **Voting Rights Act** (VRA) in 1965

1. Stephen Medvic. 2014. *Campaigns and Elections: Players and Processes*, 2nd ed. New York: Routledge.
2. *Guinn v. United States*, 238 U.S. 347 (1915).
3. Medvic, *Campaigns and Elections*.



had a more profound effect. The act protected the rights of minority voters by prohibiting state laws that denied voting rights based on race. The VRA gave the attorney general of the United States authority to order federal examiners to areas with a history of discrimination. These examiners had the power to oversee and monitor voter registration and elections. States found to violate provisions of the VRA were required to get any changes in their election laws approved by the U.S. attorney general or by going through the court system. However, in *Shelby County v. Holder* (2013), the Supreme Court, in a 5–4 decision, threw out the standards and process of the VRA, effectively gutting the landmark legislation.<sup>4</sup>



(a)



(b)

*The Voting Rights Act (a) was signed into law by President Lyndon B. Johnson (b, left) on August 6, 1965, in the presence of major figures of the civil rights movement, including Rosa Parks and Martin Luther King Jr. (b, center).*

The effects of the VRA were visible almost immediately. In Mississippi, only 6.7 percent of blacks were registered to vote in 1965; however, by the fall of 1967, nearly 60 percent were registered.

4. *Shelby County v. Holder*, 570 U.S. \_\_\_\_ (2013).

Alabama experienced similar effects, with African American registration increasing from 19.3 percent to 51.6 percent. Voter turnout across these two states similarly increased. Mississippi went from 33.9 percent turnout to 53.2 percent, while Alabama increased from 35.9 percent to 52.7 percent between the 1964 and 1968 presidential elections.<sup>5</sup>

Following the implementation of the VRA, many states have sought other methods of increasing voter registration. Several states make registering to vote relatively easy for citizens who have government documentation. Oregon has few requirements for registering and registers many of its voters automatically. North Dakota has no registration at all. In 2002, Arizona was the first state to offer online voter registration, which allowed citizens with a driver's license to register to vote without any paper application or signature. The system matches the information on the application to information stored at the Department of Motor Vehicles, to ensure each citizen is registering to vote in the right precinct. Citizens without a driver's license still need to file a paper application. More than eighteen states have moved to online registration or passed laws to begin doing so. The National Conference of State Legislatures estimates, however, that adopting an online voter registration system can initially cost a state between \$250,000 and \$750,000.<sup>6</sup>

Other states have decided against **online registration** due to

5. Bernard Grofman, Lisa Handley, and Richard G. Niemi. 1992. *Minority Representation and the Quest for Voting Equality*. New York: Cambridge University Press, 25.
6. "The Canvass," April 2014, Issue 48, <http://www.ncsl.org/research/elections-and-campaigns/states-and-election-reform-the-canvass-april-2014.aspx>.

concerns about voter fraud and security. Legislators also argue that online registration makes it difficult to ensure that only citizens are registering and that they are registering in the correct precincts. As technology continues to update other areas of state recordkeeping, online registration may become easier and safer. In some areas, citizens have pressured the states and pushed the process along. A bill to move registration online in Florida stalled for over a year in the legislature, based on security concerns. With strong citizen support, however, it was passed and signed in 2015, despite the governor's lingering concerns. In other states, such as Texas, both the government and citizens are concerned about identity fraud, so traditional paper registration is still preferred.

## How Does Someone Register to Vote?

The **National Commission on Voting Rights** completed a study in September 2015 that found state registration laws can either raise or reduce voter turnout rates, especially among citizens who are young or whose income falls below the poverty line. States with simple voter registration had more registered citizens.<sup>7</sup>

In all states except **North Dakota**, a citizen wishing to vote must complete an application. Whether the form is online or on paper, the prospective voter will list his or her name, residency address, and in many cases party identification (with Independent as an

7. Tova Wang and Maria Peralta. 22 September 2015. "New Report Released by National Commission on Voting Rights: More Work Needed to Improve Registration and Voting in the U.S." <http://votingrightstoday.org/ncvr/resources/electionadmin>.

option) and affirm that he or she is competent to vote. States may also have a **residency requirement**, which establishes how long a citizen must live in a state before becoming eligible to register: it is often 30 days. Beyond these requirements, there may be an oath administered or more questions asked, such as felony convictions. If the application is completely online and the citizen has government documents (e.g., driver's license or state identification card), the system will compare the application to other state records and accept an online signature or affidavit if everything matches up correctly. Citizens who do not have these state documents are often required to complete paper applications. States without online registration often allow a citizen to fill out an application on a website, but the citizen will receive a paper copy in the mail to sign and mail back to the state.

Another aspect of registering to vote is the timeline. States may require registration to take place as much as thirty days before voting, or they may allow same-day registration. Maine first implemented **same-day registration** in 1973. Fourteen states and the District of Columbia now allow voters to register the day of the election if they have proof of residency, such as a driver's license or utility bill. Many of the more populous states (e.g., Michigan and Texas), require registration forms to be mailed thirty days before an election. Moving means citizens must re-register or update addresses. College students, for example, may have to re-register or update addresses each year as they move. States that use same-day registration had a 4 percent higher voter turnout in the 2012 presidential election than states that did not.<sup>8</sup>

## 8. Ibid.



turnout.<sup>9</sup> In fact, for two years following the passage of the act, voter turnout decreased slightly.<sup>10</sup>

It appears that the main users of the expedited system were those already intending to vote. One study, however, found that preregistration may have a different effect on youth than on the overall voter pool; in Florida, it increased turnout of young voters by 13 percent.<sup>11</sup>

In 2015, Oregon made news when it took the concept of Motor Voter further. When citizens turn eighteen, the state now automatically registers most of them using driver's license and state identification information. When a citizen moves, the voter rolls are updated when the license is updated. While this policy has been controversial, with some arguing that private information may become public or that Oregon is moving toward mandatory voting,

9. Royce Crocker, "The National Voter Registration Act of 1993: History, Implementation, and Effects," *Congressional Research Service*, CRS Report R40609, September 18, 2013, <https://www.fas.org/sgp/crs/misc/R40609.pdf>.

10. "National General Election VEP Turnout Rates, 1789–Present," <http://www.electproject.org/national-1789-present> (November 4, 2015).

11. John B. Holbein, D. Sunshine Hillygus. 2015. "Making Young Voters: The Impact of Preregistration on Youth Turnout." *American Journal of Political Science* (March). doi:10.1111/ajps.12177.

automatic registration is consistent with the state's efforts to increase registration and turnout.<sup>12</sup>

Oregon's example offers a possible solution to a recurring problem for states—maintaining accurate voter registration rolls. During the 2000 election, in which George W. Bush won Florida's electoral votes by a slim majority, attention turned to the state's election procedures and voter registration rolls. Journalists found that many states, including Florida, had large numbers of phantom voters on their rolls, voters had moved or died but remained on the states' voter registration rolls.<sup>13</sup>

The **Help America Vote Act of 2002** (HAVA) was passed in order to reform voting across the states and reduce these problems. As part of the Act, states were required to update voting equipment, make voting more accessible to the disabled, and maintain computerized voter rolls that could be updated regularly.<sup>14</sup>

Over a decade later, there has been some progress. In Louisiana, voters are placed on ineligible lists if a voting registrar is notified

12. Russell Berman, "Should Voter Registration Be Automatic?" *Atlantic*, 20 March 2015; Maria L. La Ganga, "Under New Oregon Law, All Eligible Voters are Registered Unless They Opt Out," *Los Angeles Times*, 17 March 2015.
13. "'Unusable' Voter Rolls," *Wall Street Journal*, 7 November 2000.
14. "One Hundred Seventh Congress of the United States of America at the Second Session," 23 January 2002. [http://www.eac.gov/assets/1/workflow\\_staging/Page/41.PDF](http://www.eac.gov/assets/1/workflow_staging/Page/41.PDF).

that they have moved or become ineligible to vote. If the voter remains on this list for two general elections, his or her registration is cancelled. In Oklahoma, the registrar receives a list of deceased residents from the Department of Health.<sup>15</sup>

Twenty-nine states now participate in the **Interstate Voter Registration Crosscheck Program**, which allows states to check for duplicate registrations.<sup>16</sup>

At the same time, Florida's use of the federal **Systematic Alien Verification for Entitlements** (SAVE) database has proven to be controversial, because county elections supervisors are allowed to remove voters deemed ineligible to vote.<sup>17</sup> Despite these efforts, a study commissioned by the Pew Charitable Trust found twenty-four million voter registrations nationwide were no longer valid.<sup>18</sup>

**Pew** is now working with eight states to update their voter

15. "Voter List Accuracy,"<sup>11</sup> February 2014.  
<http://www.ncsl.org/research/elections-and-campaigns/voter-list-accuracy.aspx>

16. Brad Bryant and Kay Curtis, eds. December 2013.  
"Interstate Crosscheck Program Grows,"  
[http://www.kssos.org/forms/communication/canvassing\\_kansas/dec13.pdf](http://www.kssos.org/forms/communication/canvassing_kansas/dec13.pdf).

17. Troy Kinsey, "Proposed Bills Put Greater Scrutiny on Florida's Voter Purges," *Bay News*, 9 November 2015.

18. Pam Fessler, "Study: 1.8 Million Dead People Still Registered to Vote," *National Public Radio*, 14 February 2013; "Report: Inaccurate, Costly, an Inefficient," *The Pew Charitable Trusts*, February 14, 2012.



registration rolls and encouraging more states to share their rolls in an effort to find duplicates.<sup>19</sup>

## Who Is Allowed to Register?

In order to be eligible to vote in the United States, a person must be a citizen, resident, and eighteen years old. But states often place additional requirements on the right to vote. The most common requirement is that voters must be mentally competent and not currently serving time in jail. Some states enforce more stringent or unusual requirements on citizens who have committed crimes. Florida and Kentucky permanently bar felons and ex-felons from voting unless they obtain a pardon from the governor, while Mississippi and Nevada allow former felons to apply to have their voting rights restored.<sup>20</sup>

On the other end of the spectrum, Vermont does not limit voting based on incarceration unless the crime was election fraud.<sup>21</sup> Maine citizens serving in Maine prisons also may vote in elections.

Beyond those jailed, some citizens have additional expectations placed on them when they register to vote. Wisconsin requires that

19. Fessler, “Study: 1.8 Million Dead People Still Registered to Vote.”

20. “Felon Voting Rights,” 15 July 2014. <http://www.ncsl.org/research/elections-and-campaigns/felon-voting-rights.aspx>.

21. Wilson Ring, “Vermont, Maine Only States to Let Inmates Vote,” *Associated Press*, 22 October 2008.

voters “not wager on an election,” and Vermont citizens must recite the “Voter’s Oath” before they register, swearing to cast votes with a conscience and “without fear or favor of any person.”<sup>22</sup>

## Voter Decision Making

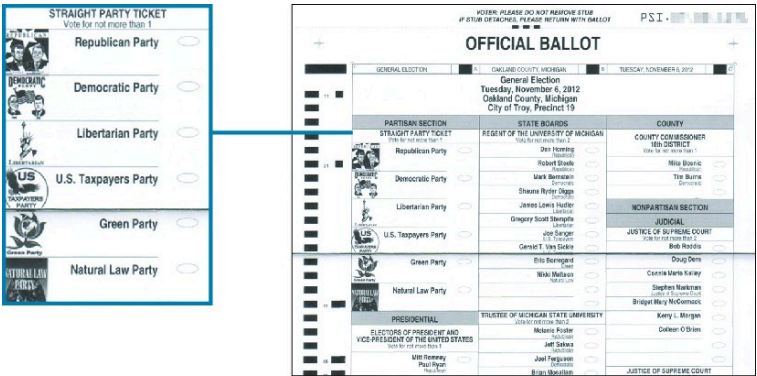
When citizens do vote, how do they make their decisions? The election environment is complex and most voters don’t have time to research everything about the candidates and issues. Yet they will need to make a fully rational assessment of the choices for an elected office. To meet this goal, they tend to take shortcuts.

One popular shortcut is simply to vote using party affiliation. Many political scientists consider party-line voting to be rational behavior because citizens register for parties based upon either position preference or socialization. Similarly, candidates align with parties based upon their issue positions. A Democrat who votes for a Democrat is very likely selecting the candidate closest to his or her personal ideology. While party identification is a voting cue, it also makes for a logical decision.

Citizens also use party identification to make decisions via **straight-ticket voting**—choosing every Republican or Democratic Party member on the ballot. In some states, such as Texas or Michigan, selecting one box at the top of the ballot gives a single party all the votes on the ballot. Straight-ticket voting does cause problems in states that include non-partisan positions on the ballot. In Michigan, for example, the top of the ballot (presidential, gubernatorial, senatorial and representative seats) will be partisan,

22. “Voter’s Qualifications and Oath,” <https://votesmart.org/elections/ballot-measure/1583/voters-qualifications-and-oath#.VjQOJH6rS00> (November 12, 2015).

and a straight-ticket vote will give a vote to all the candidates in the selected party. But the middle or bottom of the ballot includes seats for local offices or judicial seats, which are non-partisan. These offices would receive no vote, because the straight-ticket votes go only to partisan seats. In 2010, actors from the former political drama *The West Wing* came together to create an advertisement for Mary McCormack's sister Bridget, who was running for a non-partisan seat on the Michigan Supreme Court. The ad reminded straight-ticket voters to cast a ballot for the court seats as well; otherwise, they would miss an important election. McCormack won the seat.



Voters in Michigan can use straight-ticket voting. To fill out their ballot, they select one box at the top to give a single party all the votes on the ballot.

Straight-ticket voting does have the advantage of reducing **ballot fatigue**. Ballot fatigue occurs when someone votes only for the top or important ballot positions, such as president or governor, and stops voting rather than continue to the bottom of a long ballot. In 2012, for example, 70 percent of registered voters in Colorado cast a ballot for the presidential seat, yet only 54 percent voted yes or no

on retaining Nathan B. Coats for the state supreme court.<sup>23</sup> Voters make decisions based upon candidates' physical characteristics, such as attractiveness or facial features.<sup>24</sup>

They may also vote based on gender or race, because they assume the elected official will make policy decisions based on a demographic shared with the voters. Candidates are very aware of voters' focus on these non-political traits. In 2008, a sizable portion of the electorate wanted to vote for either Hillary Clinton or Barack Obama because they offered new demographics—either the first woman or the first black president. Demographics hurt John McCain that year, because many people believed that at 71 he was too old to be president.<sup>25</sup>

Hillary Clinton was criticized in 2008 on the grounds that she had not aged gracefully and wore pantsuits. In essence, attractiveness

23. "Presidential Electors," <http://www.sos.state.co.us/pubs/elections/Results/Abstract/2012/general/president.html> (July 15, 2015); "Judicial Retention–Supreme Court," <http://www.sos.state.co.us/pubs/elections/Results/Abstract/2012/general/retention/supremeCourt.html> (July 15, 2015).

24. Lasse Laustsen. 2014. "Decomposing the Relationship Between Candidates' Facial Appearance and Electoral Success," *Political Behavior* 36, No. 4: 777–791.

25. Alan Silverleib. 15 June 2008. "Analysis: Age an Issue in the 2008 Campaign?" <http://www.cnn.com/2008/POLITICS/06/15/mccain.age/index.html?iref=newssearch>.

can make a candidate appear more competent, which in turn can help him or her ultimately win.<sup>26</sup>

Aside from party identification and demographics, voters will also look at issues or the economy when making a decision. For some single-issue voters, a candidate's stance on abortion rights will be a major factor, while other voters may look at the candidates' beliefs on the Second Amendment and gun control. Single-issue voting may not require much more effort by the voter than simply using party identification; however, many voters are likely to seek out a candidate's position on a multitude of issues before making a decision. They will use the information they find in several ways.

*Retrospective voting* occurs when the voter looks at the candidate's past actions and the past economic climate and makes a decision only using these factors. This behavior may occur during economic downturns or after political scandals, when voters hold politicians accountable and do not wish to give the representative a second chance. *Pocketbook voting* occurs when the voter looks at his or her personal finances and circumstances to decide how to vote. Someone having a harder time finding employment or seeing investments suffer during a particular candidate or party's control of government will vote for a different candidate or party than the incumbent. *Prospective voting* occurs when the voter applies information about a candidate's past behavior to decide how the candidate will act in the future. For example, will the candidate's voting record or actions help the economy and better prepare him or her to be president during an economic downturn? The challenge of this voting method is that the voters must use a lot of information, which might be conflicting or unrelated, to make an educated guess about how the candidate will perform in the future. Voters do appear to rely on prospective and retrospective voting more often than on pocketbook voting.

26. Laustsen. "Decomposing the Relationship," 777–791.

In some cases, a voter may cast a ballot strategically. In these cases, a person may vote for a second- or third-choice candidate, either because his or her preferred candidate cannot win or in the hope of preventing another candidate from winning. This type of voting is likely to happen when there are multiple candidates for one position or multiple parties running for one seat.<sup>27</sup>

In Florida and Oregon, for example, Green Party voters (who tend to be liberal) may choose to vote for a Democrat if the Democrat might otherwise lose to a Republican. Similarly, in Georgia, while a Libertarian may be the preferred candidate, the voter would rather have the Republican candidate win over the Democrat and will vote accordingly.<sup>28</sup>

One other way voters make decisions is through incumbency. In essence, this is retrospective voting, but it requires little of the voter. In congressional and local elections, incumbents win reelection up to 90 percent of the time, a result called the incumbency advantage. What contributes to this advantage and often persuades competent challengers not to run? First, incumbents have name recognition and voting records. The media is more likely to interview them because they have advertised their name over several elections and have voted on legislation affecting the state or district. Incumbents also have won election before, which increases the odds that political action committees and

27. R. Michael Alvarez and Jonathan Nagler. 2000. "A New Approach for Modelling Strategic Voting in Multiparty Elections," *British Journal of Political Science* 30, No. 1: 57-75.

28. Nathan Thornburgh, "Could Third-Party Candidates Be Spoilers?" *Time*, 3 November 2008.

interest groups will give them money; most interest groups will not give money to a candidate destined to lose.

Incumbents also have franking privileges, which allows them a limited amount of free mail to communicate with the voters in their district. While these mailings may not be sent in the days leading up to an election—sixty days for a senator and ninety days for a House member—congressional representatives are able to build a free relationship with voters through them.<sup>29</sup> Moreover, incumbents have existing campaign organizations, while challengers must build new organizations from the ground up. Lastly, incumbents have more money in their war chests than most challengers.

Another incumbent advantage is gerrymandering, the drawing of district lines to guarantee a desired electoral outcome. Every ten years, following the U.S. Census, the number of House of Representatives members allotted to each state is determined based on a state's population. If a state gains or loses seats in the House, the state must redraw districts to ensure each district has an equal number of citizens. States may also choose to redraw these districts at other times and for other reasons.<sup>30</sup> If the district is drawn to ensure that it includes a majority of Democratic or Republican Party members within its boundaries, for instance, then candidates from those parties will have an advantage.

Gerrymandering helps local legislative candidates and members

29. Matthew E. Glassman, "Congressional Franking Privilege: Background and Current Legislation," *Congressional Research Service*, CRS Report RS22771, December 11, 2007, <http://fas.org/sgp/crs/misc/RS22771.pdf>.

30. *League of United Latin American Citizens v. Perry*, 548 U.S. 399 (2006).

of the House of Representatives, who win reelection over 90 percent of the time. Senators and presidents do not benefit from gerrymandering because they are not running in a district. Presidents and senators win states, so they benefit only from war chests and name recognition. This is one reason why senators running in 2014, for example, won reelection only 82 percent of the time.<sup>31</sup>

## Texas Voter Requirements

Texas voter requirements are:<sup>32</sup>

- Must be a U.S. citizen
- Must be a resident of the county
- Must be at least 18 years old (a person may register to vote at 17 years and 10 months)
- Not a convicted felon (Eligible to vote once the person's sentence is complete)
- Not declared mentally incapacitated by a court of law
- Must present an acceptable form of photo identification

Texas also has **absentee voting** (where an individual does not need to be physically present at the poll to cast their ballot), and early voting (17 days before and 4 days until the regular election).

31. "Reelection Rates of the Years," <https://www.opensecrets.org/bigpicture/reelect.php> (November 2, 2015).

32. <http://www.votetexas.gov/register-to-vote/need-id>



# 18. Elections

## *Learning Objectives*

By the end of this section, you will be able to:

- Compare the primary and caucus systems
- Discuss the three types of elections used in Texas

## Primary Election versus Caucus

The most common method of picking a party nominee for state, local, and presidential contests is the primary. Party members use a ballot to indicate which candidate they desire for the party nominee. Despite the ease of voting using a ballot, **primary elections** have a number of rules and variations that can still cause confusion for citizens. In a closed primary, only members of the political party selecting nominees may vote. A registered Green Party member, for example, is not allowed to vote in the Republican or Democratic primary. Parties prefer this method, because it ensures the nominee is picked by voters who legitimately support the party. An open primary allows all voters to vote. In this system, a Green Party member is allowed to pick either a Democratic or Republican ballot when voting.

Despite the common use of the primary system, at least five states (Alaska, Hawaii, Idaho, Colorado, and Iowa) regularly use caucuses for presidential, state, and local-level nominations. A **caucus** is a

meeting of party members in which nominees are selected informally. Caucuses are less expensive than primaries because they rely on voting methods such as dropping marbles in a jar, placing names in a hat, standing under a sign bearing the candidate's name, or taking a voice vote. Volunteers record the votes and no poll workers need to be trained or compensated. The party members at the caucus also help select delegates, who represent their choice at the party's state- or national-level nominating convention. The caucus has its proponents and opponents. Many argue that it is more interesting than the primary and brings out more sophisticated voters, who then benefit from the chance to debate the strengths and weaknesses of the candidates. The caucus system is also more transparent than ballots. The local party members get to see the election outcome and pick the delegates who will represent them at the national convention. There is less of a possibility for deception or dishonesty. Opponents point out that caucuses take two to three hours and are intimidating to less experienced voters. These factors, they argue, lead to lower voter turnout. And they have a point—voter turnout for a caucus is generally 20 percent lower than for a primary.<sup>1</sup>

Regardless of which nominating system the states and parties choose, states must also determine which day they wish to hold their nomination. When the nominations are for state-level office, such as governor, the state legislatures receive little to no input from the national political parties. In presidential election years, however, the national political parties pressure most states to hold their primaries or caucuses in March or later. Only Iowa, New Hampshire, and South Carolina are given express permission by the national parties to hold presidential primaries or caucuses in January or February. Both political parties protect the three states'

1. "Voter Turnout," <http://www.electproject.org/home/voter-turnout/voter-turnout-data>. (November 3, 2015).

status as the first states to host caucuses and primaries, due to tradition and the relative ease of campaigning in these smaller states.

## Types of Elections in Texas

Texas uses three types of elections: 1. Primaries, 2. General, and 3. Special.

1. **Primary Elections** in Texas are open-primaries, although if a majority vote is not reached a run off election is required. Run off elections are closed-primaries. The goal of Texas primary elections is to choose the best candidate to represent their political party.
2. **General Elections**– General, or regular, elections will determine a winner and a plurality vote is required. The goal of a general election is to win office.
3. **Special Elections**– Special elections are called by the Texas Legislature and are typically used for constitutional amendments or filling vacant offices.

# 19. Public Opinion

## *Learning Objectives*

By the end of this section, you will be able to:

- Define public opinion and political socialization
- Explain the process and role of political socialization in the U.S. political system
- Compare the ways in which citizens learn political information
- Explain how beliefs and ideology affect the formation of public opinion
- Explain how information about public opinion is gathered
- Identify common ways to measure and quantify public opinion
- Analyze polls to determine whether they accurately measure a population's opinions
- Explain the circumstances that lead to public opinion affecting policy
- Compare the effects of public opinion on government branches and figures
- Identify situations that cause conflicts in public opinion

The collection of public opinion through polling and interviews is a part of American political culture. Politicians want to know what the public thinks. Campaign managers want to know how citizens will vote. Media members seek to write stories about what Americans

want. Every day, polls take the pulse of the people and report the results. And yet we have to wonder: Why do we care what people think?

## What Is Public Opinion?

**Public opinion** is a collection of popular views about something, perhaps a person, a local or national event, or a new idea. For example, each day, a number of polling companies call Americans at random to ask whether they approve or disapprove of the way the president is guiding the economy.<sup>1</sup>

When situations arise internationally, polling companies survey whether citizens support U.S. intervention in places like Syria or Ukraine. These individual opinions are collected together to be analyzed and interpreted for politicians and the media. The analysis examines how the public feels or thinks, so politicians can use the

1. Gallup. 2015. "Gallup Daily: Obama Job Approval." *Gallup*. June 6, 2015. <http://www.gallup.com/poll/113980/Gallup-Daily-Obama-Job-Approval.aspx> (February 17, 2016); Rasmussen Reports. 2015. "Daily Presidential Tracking Poll." *Rasmussen Reports* June 6, 2015. [http://www.rasmussenreports.com/public\\_content/politics/obama\\_administration/daily\\_presidential\\_tracking\\_poll](http://www.rasmussenreports.com/public_content/politics/obama_administration/daily_presidential_tracking_poll) (February 17, 2016); Roper Center. 2015. "Obama Presidential Approval." *Roper Center*. June 6, 2015. <http://www.ropercenter.uconn.edu/polls/presidential-approval/> (February 17, 2016).

information to make decisions about their future legislative votes, campaign messages, or propaganda.

But where do people's opinions come from? Most citizens base their political opinions on their beliefs<sup>2</sup> and their attitudes, both of which begin to form in childhood. *Beliefs* are closely held ideas that support our values and expectations about life and politics. For example, the idea that we are all entitled to equality, liberty, freedom, and privacy is a belief most people in the United States share. We may acquire this belief by growing up in the United States or by having come from a country that did not afford these valued principles to its citizens.

Our *attitudes* are also affected by our personal beliefs and represent the preferences we form based on our life experiences and values. A person who has suffered racism or bigotry may have a skeptical attitude toward the actions of authority figures, for example.

Over time, our beliefs and our attitudes about people, events, and ideas will become a set of norms, or accepted ideas, about what we may feel should happen in our society or what is right for the government to do in a situation. In this way, attitudes and beliefs form the foundation for opinions.

## Political Socialization

At the same time that our beliefs and attitudes are forming during childhood, we are also being *socialized*; that is, we are learning from many information sources about the society and community in which we live and how we are to behave in it. **Political socialization**

2. V. O. Key, Jr. 1966. *The Responsible Electorate*. Harvard University: Belknap Press.

is the process by which we are trained to understand and join a country's political world, and, like most forms of socialization, it starts when we are very young. We may first become aware of politics by watching a parent or guardian vote, for instance, or by hearing presidents and candidates speak on television or the Internet, or seeing adults honor the American flag at an event. As socialization continues, we are introduced to basic political information in school. We recite the Pledge of Allegiance and learn about the Founding Fathers, the Constitution, the two major political parties, the three branches of government, and the economic system.



(a)



(b)

Political socialization begins early. Hans **Enoksen**, former prime minister of Greenland, receives a helping hand at the polls from five-year-old Pipaluk Petersen (a). Intelligence Specialist Second Class Tashawbaba **McHerrin** (b) hands a U.S. flag to a child visiting the USS Enterprise during Fleet Week in Port Everglades, Florida. (credit a: modification of work by Leiff Josefsen; credit b: modification of work by Matthew Keane, U.S. Navy)

By the time we complete school, we have usually acquired the information necessary to form political views and be contributing members of the political system. A young man may realize he prefers the Democratic Party because it supports his views on social programs and education, whereas a young woman may decide she wants to vote for the Republican Party because its platform echoes her beliefs about economic growth and family values.

Accounting for the process of socialization is central to our understanding of public opinion, because the beliefs we acquire early in life are unlikely to change dramatically as we grow older.<sup>3</sup>

Our **political ideology**, made up of the attitudes and beliefs that help shape our opinions on political theory and policy, is rooted in who we are as individuals. Our ideology may change subtly as we grow older and are introduced to new circumstances or new information, but our underlying beliefs and attitudes are unlikely to change very much, unless we experience events that profoundly affect us. For example, family members of 9/11 victims became more Republican and more political following the terrorist attacks.<sup>4</sup>

Similarly, young adults who attended political protest rallies in the 1960s and 1970s were more likely to participate in politics in general than their peers who had not protested.<sup>5</sup>

If enough beliefs or attitudes are shattered by an event, such as an economic catastrophe or a threat to personal safety, ideology shifts may affect the way we vote. During the 1920s, the Republican Party

3. John Zaller. 1992. *The Nature and Origins of Mass Opinion*. Cambridge: Cambridge University Press.
4. Eitan Hersh. 2013. "Long-Term Effect of September 11 on the Political Behavior of Victims' Families and Neighbors." *Proceedings of the National Academy of Sciences of the United States of America* 110 (52): 20959–63.
5. M. Kent Jennings. 2002. "Generation Units and the Student Protest Movement in the United States: An Intra- and Intergenerational Analysis." *Political Psychology* 23 (2): 303–324.



controlled the House of Representatives and the Senate, sometimes by wide margins.<sup>6</sup>

After the stock market collapsed and the nation slid into the Great Depression, many citizens abandoned the Republican Party. In 1932, voters overwhelmingly chose Democratic candidates, for both the presidency and Congress. The Democratic Party gained registered members and the Republican Party lost them.<sup>7</sup>

Citizens' beliefs had shifted enough to cause the control of Congress to change from one party to the other, and Democrats continued to hold Congress for several decades. Another sea change occurred in Congress in the 1994 elections when the Republican Party took control of both the House and the Senate for the first time in over forty years.

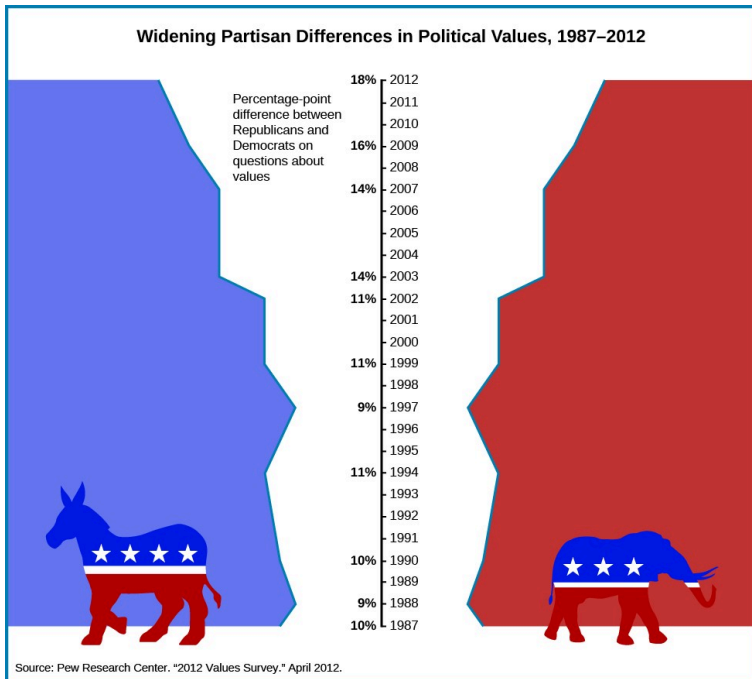
Today, polling agencies have noticed that citizens' beliefs have become far more polarized, or widely opposed, over the last decade.<sup>8</sup>

6. United States Senate. 2015. "Party Division in the Senate, 1789-Present," *United States Senate*. June 5, 2015. [http://www.senate.gov/pagelayout/history/one\\_item\\_and\\_teasers/partydiv.htm](http://www.senate.gov/pagelayout/history/one_item_and_teasers/partydiv.htm) (February 17, 2016). History, Art & Archives. 2015. "Party Divisions of the House of Representatives: 1789-Present." *United States House of Representatives*. June 5, 2015. <http://history.house.gov/Institution/Party-Divisions/Party-Divisions/> (February 17, 2016).
7. V. O. Key Jr. 1955. "A Theory of Critical Elections." *Journal of Politics* 17 (1): 3-18.
8. Pew Research Center. 2014. "Political Polarization in the

To track this polarization, Pew Research conducted a study of Republican and Democratic respondents over a twenty-five-year span. Every few years, Pew would poll respondents, asking them whether they agreed or disagreed with statements. These statements are referred to as “value questions” or “value statements,” because they measure what the respondent values. Examples of statements include “Government regulation of business usually does more harm than good,” “Labor unions are necessary to protect the working person,” and “Society should ensure all have equal opportunity to succeed.” After comparing such answers for twenty-five years, Pew Research found that Republican and Democratic respondents are increasingly answering these questions very differently. This is especially true for questions about the government and politics. In 1987, 58 percent of Democrats and 60 percent of Republicans agreed with the statement that the government controlled too much of our daily lives. In 2012, 47 percent of Democrats and 77 percent of Republicans agreed with the statement. This is an example of polarization, in which members of one party see government from a very different perspective than the members of the other party.<sup>9</sup>

American Public.” *Pew Research Center*. June 12, 2014. <http://www.people-press.org/2014/06/12/political-polarization-in-the-american-public/> (February 17, 2016).

9. Pew Research Center. 2015. “American Values Survey.” *Pew Research Center*. <http://www.people-press.org/values-questions/> (February 17, 2016).



Over the years, Democrats and Republicans have moved further apart in their beliefs about the role of government. In 1987, Republican and Democratic answers to forty-eight values questions differed by an average of only 10 percent, but that difference has grown to 18 percent over the last twenty-five years.

Political scientists noted this and other changes in beliefs following the 9/11 terrorist attacks on the United States, including an increase in the level of trust in government<sup>10</sup> and a new willingness to limit

10. Virginia Chanley. 2002. "Trust in Government in the Aftermath of 9/11: Determinants and Consequences." *Political Psychology* 23 (3): 469–483.

liberties for groups or citizens who “[did] not fit into the dominant cultural type.”<sup>11</sup>

According to some scholars, these shifts led partisanship to become more polarized than in previous decades, as more citizens began thinking of themselves as conservative or liberal rather than moderate.<sup>12</sup>

Some believe 9/11 caused a number of citizens to become more conservative overall, although it is hard to judge whether such a shift will be permanent.<sup>13</sup>

## Socialization Agents

An **agent** of political socialization is a source of political information intended to help citizens understand how to act in their political system and how to make decisions on political matters. The information may help a citizen decide how to vote, where to donate money, or how to protest decisions made by the government.

The most prominent agents of socialization are family and school. Other influential agents are social groups, such as religious

11. Deborah Schildkraut. 2002. “The More Things Change... American Identity and Mass and Elite Responses to 9/11.” *Political Psychology* 23 (3): 532.
12. Joseph Bafumi and Robert Shapiro. 2009. “A New Partisan Voter.” *The Journal of Politics* 71 (1): 1–24.
13. Liz Marlantes, “After 9/11, the Body Politic Tilts to Conservatism,” *Christian Science Monitor*, 16 January 2002.

institutions and friends, and the media. Political socialization is not unique to the United States. Many nations have realized the benefits of socializing their populations. China, for example, stresses nationalism in schools as a way to increase national unity.<sup>14</sup>

In the United States, one benefit of socialization is that our political system enjoys diffuse support, which is support characterized by a high level of stability in politics, acceptance of the government as legitimate, and a common goal of preserving the system.<sup>15</sup>

These traits keep a country steady, even during times of political or social upheaval. But diffuse support does not happen quickly, nor does it occur without the help of agents of political socialization.

For many children, family is the first introduction to politics. Children may hear adult conversations at home and piece together the political messages their parents support. They often know how their parents or grandparents plan to vote, which in turn can socialize them into political behavior such as political party membership.<sup>16</sup>

14. Liping Weng. 2010. "Shanghai Children's Value Socialization and Its Change: A Comparative Analysis of Primary School Textbooks." *China Media Research* 6 (3): 36–43.
15. David Easton. 1965. *A Systems Analysis of Political Life*. New York: John Wiley.
16. Angus Campbell, Philip Converse, Warren Miller, and Donald Stokes. 2008. *The American Voter: Unabridged Edition*. Chicago: University of Chicago Press. Michael S. Lewis-Beck, William G. Jacoby, Helmut Norpoth, and

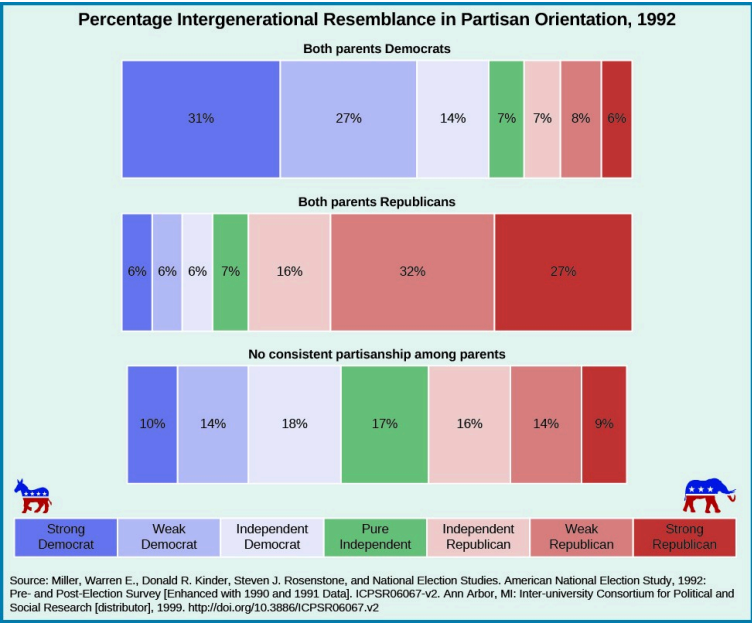
Children who accompany their parents on Election Day in November are exposed to the act of voting and the concept of civic duty, which is the performance of actions that benefit the country or community. Families active in community projects or politics make children aware of community needs and politics.

Introducing children to these activities has an impact on their future behavior. Both early and recent findings suggest that children adopt some of the political beliefs and attitudes of their parents.<sup>17</sup>

Children of Democratic parents often become registered Democrats, whereas children in Republican households often become Republicans. Children living in households where parents do not display a consistent political party loyalty are less likely to be strong Democrats or strong Republicans, and instead are often independents.<sup>18</sup>

Herbert F. Weisberg. 2008. *American Vote Revisited*. Ann Arbor: University of Michigan Press.

17. Russell Dalton. 1980. "Reassessing Parental Socialization: Indicator Unreliability versus Generational Transfer." *American Political Science Review* 74 (2): 421–431.
18. Michael S. Lewis-Beck, William G. Jacoby, Helmut Norpoth, and Herbert F. Weisberg. 2008. *American Vote Revisited*. Ann Arbor: University of Michigan Press.



*A parent's political orientation often affects the political orientation of his or her child.*

While family provides an informal political education, schools offer a more formal and increasingly important one. The early introduction is often broad and thematic, covering explorers, presidents, victories, and symbols, but generally the lessons are idealized and do not discuss many of the specific problems or controversies connected with historical figures and moments. George Washington's contributions as our first president are highlighted, for instance, but teachers are unlikely to mention that he owned slaves. Lessons will also try to personalize government and make leaders relatable to children. A teacher might discuss Abraham Lincoln's childhood struggle to get an education despite the death of his mother and his family's poverty. Children learn to respect government, follow laws, and obey the requests of police, firefighters, and other first responders. The Pledge of Allegiance

becomes a regular part of the school day, as students learn to show respect to our country's symbols such as the flag and to abstractions such as liberty and equality.

As students progress to higher grades, lessons will cover more detailed information about the history of the United States, its economic system, and the workings of the government. Complex topics such as the legislative process, checks and balances, and domestic policymaking are covered. Introductory economics classes teach about the various ways to build an economy, explaining how the capitalist system works. Many high schools have implemented civic volunteerism requirements as a way to encourage students to participate in their communities. Many offer Advanced Placement classes in U.S. government and history, or other honors-level courses, such as International Baccalaureate or dual-credit courses. These courses can introduce detail and realism, raise controversial topics, and encourage students to make comparisons and think critically about the United States in a global and historical context. College students may choose to pursue their academic study of the U.S. political system further, become active in campus advocacy or rights groups, or run for any of a number of elected positions on campus or even in the local community. Each step of the educational system's socialization process will ready students to make decisions and be participating members of political society.

We are also socialized outside our homes and schools. When citizens attend religious ceremonies, as 70 percent of Americans in a recent survey claimed,<sup>19</sup> they are socialized to adopt beliefs that

19. Michael Lipka. 2013. "What Surveys Say about Workshop Attendance—and Why Some Stay Home." *Pew Research Center*. September 13, 2013. <http://www.pewresearch.org/fact-tank/2013/09/13/>



affect their politics. Religion leaders often teach on matters of life, death, punishment, and obligation, which translate into views on political issues such as abortion, euthanasia, the death penalty, and military involvement abroad. Political candidates speak at religious centers and institutions in an effort to meet like-minded voters. For example, Senator Ted Cruz (R-TX) announced his 2016 presidential bid at Liberty University, a fundamentalist Christian institution. This university matched Cruz's conservative and religious ideological leanings and was intended to give him a boost from the faith-based community.

Friends and peers too have a socializing effect on citizens. Communication networks are based on trust and common interests, so when we receive information from friends and neighbors, we often readily accept it because we trust them.<sup>20</sup>

Information transmitted through social media like Facebook is also likely to have a socializing effect. Friends “like” articles and information, sharing their political beliefs and information with one another.

Media—newspapers, television, radio, and the Internet—also socialize citizens through the information they provide. For a long time, the media served as gatekeepers of our information, creating reality by choosing what to present. If the media did not cover an

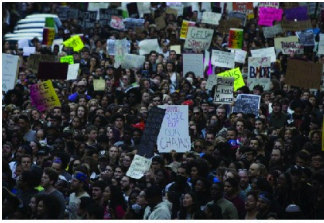
what-surveys-say-about-worship-attendance-and-why-some-stay-home/ (February 17, 2016).

20. Arthur Lupia and Mathew D. McCubbins. 1998. *The Democratic Dilemma: Can Citizens Learn What They Need to Know?* New York: Cambridge University Press. John Barry Ryan. 2011. “Social Networks as a Shortcut to Correct Voting.” *American Journal of Political Science* 55 (4): 753–766.

issue or event, it was as if it did not exist. With the rise of the Internet and social media, however, traditional media have become less powerful agents of this kind of socialization.

Another way the media socializes audiences is through framing, or choosing the way information is presented. Framing can affect the way an event or story is perceived. Candidates described with negative adjectives, for instance, may do poorly on Election Day. Consider the recent demonstrations over the deaths of Michael Brown in Ferguson, Missouri, and of Freddie Gray in Baltimore, Maryland. Both deaths were caused by police actions against unarmed African American men. Brown was shot to death by an officer on August 9, 2014. Gray died from spinal injuries sustained in transport to jail in April 2015. Following each death, family, friends, and sympathizers protested the police actions as excessive and unfair. While some television stations framed the demonstrations as riots and looting, other stations framed them as protests and fights against corruption. The demonstrations contained both riot and protest, but individuals' perceptions were affected by the framing chosen by their preferred information sources.<sup>21</sup>

21. Sarah Bowen. 2015. "A Framing Analysis of Media Coverage of the Rodney King Incident and Ferguson, Missouri, Conflicts." *Elon Journal of Undergraduate Research in Communications* 6 (1): 114–124.



(a)



(b)

*Images of protestors from the Baltimore “uprising” (a) and from the Baltimore “riots” (b) of April 25, 2015. (credit a: modification of work by Pete Santilli Live Stream/YouTube; credit b: modification of work by “Newzulu”/YouTube)*

Finally, media information presented as fact can contain covert or overt political material. Covert content is political information provided under the pretense that it is neutral. A magazine might run a story on climate change by interviewing representatives of only one side of the policy debate and downplaying the opposing view, all without acknowledging the one-sided nature of its coverage. In contrast, when the writer or publication makes clear to the reader or viewer that the information offers only one side of the political debate, the political message is overt content. Political commentators like Rush Limbaugh and publications like *Mother Jones* openly state their ideological viewpoints. While such overt political content may be offensive or annoying to a reader or viewer, all are offered the choice whether to be exposed to the material.

## Socialization and Ideology

The socialization process leaves citizens with attitudes and beliefs that create a personal ideology. Ideologies depend on attitudes and beliefs, and on the way we prioritize each belief over the others. Most citizens hold a great number of beliefs and attitudes about government action. Many think government should provide for the

common defense, in the form of a national military. They also argue that government should provide services to its citizens in the form of free education, unemployment benefits, and assistance for the poor.

When asked how to divide the national budget, Americans reveal priorities that divide public opinion. Should we have a smaller military and larger social benefits, or a larger military budget and limited social benefits? This is the *guns versus butter* debate, which assumes that governments have a finite amount of money and must choose whether to spend a larger part on the military or on social programs. The choice forces citizens into two opposing groups.

Divisions like these appear throughout public opinion. Assume we have four different people named Garcia, Chin, Smith, and Dupree. Garcia may believe that the United States should provide a free education for every citizen all the way through college, whereas Chin may believe education should be free only through high school. Smith might believe children should be covered by health insurance at the government's expense, whereas Dupree believes all citizens should be covered. In the end, the way we prioritize our beliefs and what we decide is most important to us determines whether we are on the liberal or conservative end of the political spectrum, or somewhere in between.

## Ideologies and the Ideological Spectrum

One useful way to look at ideologies is to place them on a spectrum that visually compares them based on what they prioritize. Liberal ideologies are traditionally put on the left and conservative ideologies on the right. (This placement dates from the French Revolution and is why liberals are called left-wing and conservatives are called right-wing.) The ideologies at the ends of the spectrum are the most extreme; those in the middle are moderate. Thus, people who identify with left- and right-wing ideologies identify

with beliefs to the left and right ends of the spectrum, while moderates balance the beliefs at the extremes of the spectrum.

In the United States, ideologies at the right side of the spectrum prioritize government control over personal freedoms. They range from fascism to authoritarianism to conservatism. Ideologies on the left side of the spectrum prioritize equality and range from communism to socialism to liberalism. Moderate ideologies fall in the middle and try to balance the two extremes.



*People who espouse left-wing ideologies in the United States identify with beliefs on the left side of the spectrum that prioritize equality, whereas those on the right side of the spectrum emphasize control.*

Fascism promotes total control of the country by the ruling party or political leader. This form of government will run the economy, the military, society, and culture, and often tries to control the private lives of its citizens. Authoritarian leaders control the politics, military, and government of a country, and often the economy as well.

Conservative governments attempt to hold tight to the traditions of a nation by balancing individual rights with the good of the community. Traditional conservatism supports the authority of the monarchy and the church, believing government provides the rule of law and maintains a society that is safe and organized. Modern conservatism differs from traditional conservatism in assuming elected government will guard individual liberties and provide laws. Modern conservatives also prefer a smaller government that stays out of the economy, allowing the market and business to determine prices, wages, and supply.

Classical liberalism believes in individual liberties and rights. It is

based on the idea of free will, that people are born equal with the right to make decisions without government intervention. It views government with suspicion, since history includes many examples of monarchs and leaders who limited citizens' rights. Today, modern liberalism focuses on equality and supports government intervention in society and the economy if it promotes equality. Liberals expect government to provide basic social and educational programs to help everyone have a chance to succeed.

Under socialism, the government uses its authority to promote social and economic equality within the country. Socialists believe government should provide everyone with expanded services and public programs, such as health care, subsidized housing and groceries, childhood education, and inexpensive college tuition. Socialism sees the government as a way to ensure all citizens receive both equal opportunities and equal outcomes. Citizens with more wealth are expected to contribute more to the state's revenue through higher taxes that pay for services provided to all. Socialist countries are also likely to have higher minimum wages than non-socialist countries.

In theory, communism promotes common ownership of all property, means of production, and materials. This means that the government, or states, should own the property, farms, manufacturing, and businesses. By controlling these aspects of the economy, Communist governments can prevent the exploitation of workers while creating an equal society. Extreme inequality of income, in which some citizens earn millions of dollars a year and other citizens merely hundreds, is prevented by instituting wage controls or by abandoning currency altogether. Communism presents a problem, however, because the practice differs from the theory. The theory assumes the move to communism is supported

and led by the proletariat, or the workers and citizens of a country.<sup>22</sup>

Human rights violations by governments of actual Communist countries make it appear the movement has been driven not by the people, but by leadership.

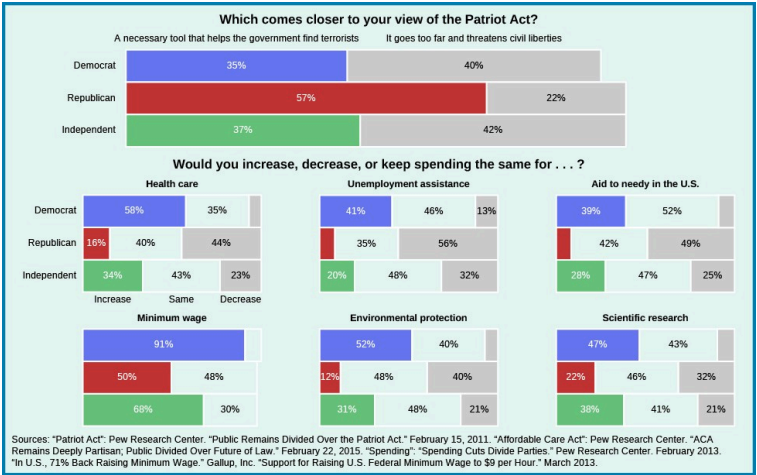
We can characterize economic variations on these ideologies by adding another dimension to the ideological spectrum above—whether we prefer that government control the state economy or stay out of it. The extremes are a command economy, such as existed in the former Soviet Russia, and a laissez-faire (“leave it alone”) economy, such as in the United States prior to the 1929 market crash, when banks and corporations were largely unregulated. Communism prioritizes control of both politics and economy, while libertarianism is its near-opposite. Libertarians believe in individual rights and limited government intervention in private life and personal economic decisions. Government exists to maintain freedom and life, so its main function is to ensure domestic peace and national defense. Libertarians also believe the national government should maintain a military in case of international threats, but that it should not engage in setting minimum wages or ruling in private matters, like same-sex marriage or the right to abortion.<sup>23</sup>

The point where a person's ideology falls on the spectrum gives us some insight to his or her opinions. Though people can sometimes be liberal on one issue and conservative on another, a citizen to

22. Frederick Engels. 1847. *The Principles of Communism*. Trans. Paul Sweezy. <https://www.marxists.org/archive/marx/works/1847/11/prin-com.htm> (February 17, 2016).

23. Libertarian Party. 2014. “Libertarian Party Platform.” June. <http://www.lp.org/platform> (February 17, 2016).

the left of liberalism, near socialism, would likely be happy with the passage of the Raise the Wage Act of 2015, which would eventually increase the minimum wage from \$7.25 to \$12 an hour. A citizen falling near conservatism would believe the Patriot Act is reasonable, because it allows the FBI and other government agencies to collect data on citizens' phone calls and social media communications to monitor potential terrorism. A citizen to the right of the spectrum is more likely to favor cutting social services like unemployment and Medicaid.



Public opinion on a given issue may differ dramatically depending on the political ideology or party of those polled.

# Taking a Poll

Most public opinion polls aim to be accurate, but this is not an easy task. **Political polling** is a science. From design to implementation,



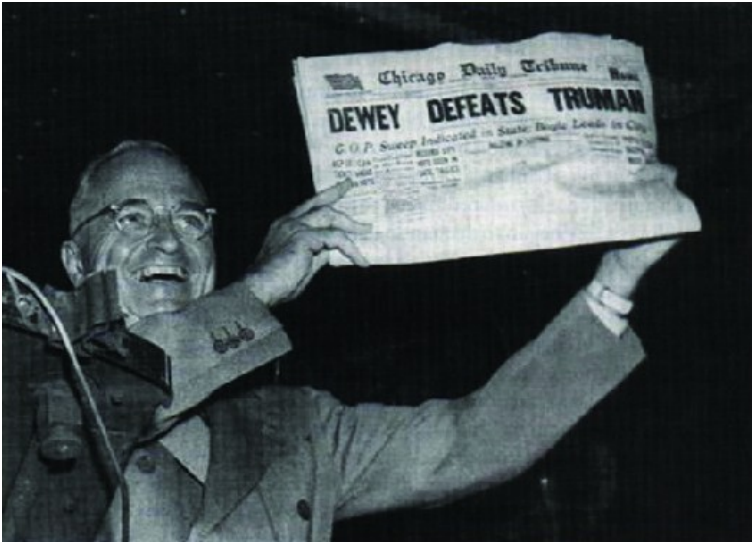
polls are complex and require careful planning and care. Mitt Romney's campaign polls are only a recent example of problems stemming from polling methods. Our history is littered with examples of polling companies producing results that incorrectly predicted public opinion due to poor survey design or bad polling methods.

In 1936, *Literary Digest* continued its tradition of polling citizens to determine who would win the presidential election. The magazine sent opinion cards to people who had a subscription, a phone, or a car registration. Only some of the recipients sent back their cards. The result? Alf Landon was predicted to win 55.4 percent of the popular vote; in the end, he received only 38 percent.<sup>24</sup>

Franklin D. Roosevelt won another term, but the story demonstrates the need to be scientific in conducting polls.

A few years later, Thomas Dewey lost the 1948 presidential election to Harry Truman, despite polls showing Dewey far ahead and Truman destined to lose. More recently, John Zogby, of Zogby Analytics, went public with his prediction that John Kerry would win the presidency against incumbent president George W. Bush in 2004, only to be proven wrong on election night. These are just a few cases, but each offers a different lesson. In 1948, pollsters did not poll up to the day of the election, relying on old numbers that did not include a late shift in voter opinion. Zogby's polls did not represent likely voters and incorrectly predicted who would vote and for whom. These examples reinforce the need to use scientific methods when conducting polls, and to be cautious when reporting the results.

24. Arthur Evans, "Predict Landon Electoral Vote to be 315 to 350," *Chicago Tribune*, 18 October 1936.



*Polling process errors can lead to incorrect predictions. On November 3, the day after the 1948 presidential election, a jubilant Harry S. Truman triumphantly displays the inaccurate headline of the Chicago Daily Tribune announcing Thomas Dewey's supposed victory (credit: David Erickson/Flickr).*

Most polling companies employ statisticians and methodologists trained in conducting polls and analyzing data. A number of criteria must be met if a poll is to be completed scientifically. First, the methodologists identify the desired population, or group, of respondents they want to interview. For example, if the goal is to project who will win the presidency, citizens from across the United States should be interviewed. If we wish to understand how voters in Colorado will vote on a proposition, the population of respondents should only be Colorado residents. When surveying on elections or policy matters, many polling houses will interview only respondents who have a history of voting in previous elections, because these voters are more likely to go to the polls on Election Day. Politicians are more likely to be influenced by the opinions of proven voters than of everyday citizens. Once the desired

population has been identified, the researchers will begin to build a sample that is both random and representative.

A **random sample** consists of a limited number of people from the overall population, selected in such a way that each has an equal chance of being chosen. In the early years of polling, telephone numbers of potential respondents were arbitrarily selected from various areas to avoid regional bias. While landline phones allow polls to try to ensure randomness, the increasing use of cell phones makes this process difficult. Cell phones, and their numbers, are portable and move with the owner. To prevent errors, polls that include known cellular numbers may screen for zip codes and other geographic indicators to prevent regional bias. A representative sample consists of a group whose demographic distribution is similar to that of the overall population. For example, nearly 51 percent of the U.S. population is female.<sup>25</sup>

To match this demographic distribution of women, any poll intended to measure what most Americans think about an issue should survey a sample containing slightly more women than men.

Pollsters try to interview a set number of citizens to create a reasonable sample of the population. This **sample size** will vary based on the size of the population being interviewed and the level of accuracy the pollster wishes to reach. If the poll is trying to reveal the opinion of a state or group, such as the opinion of Wisconsin voters about changes to the education system, the sample size may vary from five hundred to one thousand respondents and produce results with relatively low error. For a poll to predict what

25. United States Census Bureau. 2012. "Age and Sex Composition in the United States: 2012." *United States Census Bureau*. <http://www.census.gov/population/age/data/2012comp.html> (February 17, 2016).

Americans think nationally, such as about the White House's policy on greenhouse gases, the sample size should be larger.

The sample size varies with each organization and institution due to the way the data are processed. Gallup often interviews only five hundred respondents, while Rasmussen Reports and Pew Research often interview one thousand to fifteen hundred respondents.<sup>26</sup> Academic organizations, like the American National Election Studies, have interviews with over twenty-five-hundred respondents.<sup>27</sup>

A larger sample makes a poll more accurate, because it will have relatively fewer unusual responses and be more representative of the actual population. Pollsters do not interview more respondents than necessary, however. Increasing the number of respondents will increase the accuracy of the poll, but once the poll has enough respondents to be representative, increases in accuracy become minor and are not cost-effective.<sup>28</sup>

26. Rasmussen Reports. 2015. "Daily Presidential Tracking Poll." *Rasmussen Reports*. September 27, 2015. [http://www.rasmussenreports.com/public\\_content/politics/obama\\_administration/daily\\_presidential\\_tracking\\_poll](http://www.rasmussenreports.com/public_content/politics/obama_administration/daily_presidential_tracking_poll) (February 17, 2016); Pew Research Center. 2015. "Sampling." *Pew Research Center*. <http://www.pewresearch.org/methodology/u-s-survey-research/sampling/> (February 17, 2016).
27. American National Election Studies Data Center. 2016. [http://electionstudies.org/studypages/download/datacenter\\_all\\_NoData.php](http://electionstudies.org/studypages/download/datacenter_all_NoData.php) (February 17, 2016).
28. Michael W. Link and Robert W. Oldendick. 1997. "Good"

When the sample represents the actual population, the poll's accuracy will be reflected in a lower margin of error. The margin of error is a number that states how far the poll results may be from the actual opinion of the total population of citizens. The lower the margin of error, the more predictive the poll. Large margins of error are problematic. For example, if a poll that claims Hillary Clinton is likely to win 30 percent of the vote in the 2016 New York Democratic primary has a margin of error of  $\pm 6$ , it tells us that Clinton may receive as little as 24 percent of the vote ( $30 - 6$ ) or as much as 36 percent ( $30 + 6$ ). A lower margin of error is clearly desirable because it gives us the most precise picture of what people actually think or will do.

With many polls out there, how do you know whether a poll is a good poll and accurately predicts what a group believes? First, look for the numbers. Polling companies include the margin of error, polling dates, number of respondents, and population sampled to show their scientific reliability. Was the poll recently taken? Is the question clear and unbiased? Was the number of respondents high enough to predict the population? Is the margin of error small? It is worth looking for this valuable information when you interpret poll results. While most polling agencies strive to create quality polls, other organizations want fast results and may prioritize immediate numbers over random and representative samples. For example,

Polls / “Bad” Polls—How Can You Tell? Ten Tips for Consumers of Survey Research.” *South Carolina Policy Forum*. <http://www.ipspr.sc.edu/publication/Link.htm> (February 17, 2016); Pew Research Center. 2015. “Sampling.” Pew Research Center. <http://www.pewresearch.org/methodology/u-s-survey-research/sampling/> (February 17, 2016).

instant polling is often used by news networks to quickly assess how well candidates are performing in a debate.

## Technology and Polling

The days of randomly walking neighborhoods and phone book cold-calling to interview random citizens are gone. Scientific polling has made interviewing more deliberate. Historically, many polls were conducted in person, yet this was expensive and yielded problematic results.

In some situations and countries, face-to-face interviewing still exists. Exit polls, focus groups, and some public opinion polls occur in which the interviewer and respondents communicate in person. Exit polls are conducted in person, with an interviewer standing near a polling location and requesting information as voters leave the polls. Focus groups often select random respondents from local shopping places or pre-select respondents from Internet or phone surveys. The respondents show up to observe or discuss topics and are then surveyed.



On November 6, 2012, the Connect2Mason.com team conducts exit surveys at the polls on the George Mason University campus. (credit: Mason Votes/Flickr).

When organizations like Gallup or Roper decide to conduct face-to-face public opinion polls, however, it is a time-consuming and expensive process. The organization must randomly select households or polling locations within neighborhoods, making sure there is a representative household or location in each neighborhood.<sup>29</sup>

Then it must survey a representative number of neighborhoods from within a city. At a polling location, interviewers may have

29. “Roper Center. 2015. “Polling Fundamentals – Sampling.” Roper. <http://www.ropercenter.uconn.edu/support/polling-fundamentals-sampling/> (February 17, 2016).

directions on how to randomly select voters of varied demographics. If the interviewer is looking to interview a person in a home, multiple attempts are made to reach a respondent if he or she does not answer. Gallup conducts face-to-face interviews in areas where less than 80 percent of the households in an area have phones, because it gives a more representative sample.<sup>30</sup>

News networks use face-to-face techniques to conduct exit polls on Election Day.

Most polling now occurs over the phone or through the Internet. Some companies, like Harris Interactive, maintain directories that include registered voters, consumers, or previously interviewed respondents. If pollsters need to interview a particular population, such as political party members or retirees of a specific pension fund, the company may purchase or access a list of phone numbers for that group. Other organizations, like Gallup, use random-digit-dialing (RDD), in which a computer randomly generates phone numbers with desired area codes. Using RDD allows the pollsters to include respondents who may have unlisted and cellular numbers.<sup>31</sup>

Questions about ZIP code or demographics may be asked early in the poll to allow the pollsters to determine which interviews to continue and which to end early.

The interviewing process is also partly computerized. Many polls are now administered through computer-assisted telephone interviewing (CATI) or through robo-polls. A CATI system calls

30. Gallup. 2015. "How Does the Gallup World Poll Work?" *Gallup*. <http://www.gallup.com/178667/gallup-world-poll-work.aspx> (February 17, 2016).

31. Gallup. 2015. "Does Gallup Call Cellphones?" *Gallup*. <http://www.gallup.com/poll/110383/does-gallup-call-cell-phones.aspx> (February 17, 2016).



random telephone numbers until it reaches a live person and then connects the potential respondent with a trained interviewer. As the respondent provides answers, the interviewer enters them directly into the computer program. These polls may have some errors if the interviewer enters an incorrect answer. The polls may also have reliability issues if the interviewer goes off the script or answers respondents' questions.

Robo-polls are entirely computerized. A computer dials random or pre-programmed numbers and a prerecorded electronic voice administers the survey. The respondent listens to the question and possible answers and then presses numbers on the phone to enter responses. Proponents argue that respondents are more honest without an interviewer. However, these polls can suffer from error if the respondent does not use the correct keypad number to answer a question or misunderstands the question. Robo-polls may also have lower response rates, because there is no live person to persuade the respondent to answer. There is also no way to prevent children from answering the survey. Lastly, the Telephone Consumer Protection Act (1991) made automated calls to cell phones illegal, which leaves a large population of potential respondents inaccessible to robo-polls.<sup>32</sup>

The latest challenges in telephone polling come from the shift in phone usage. A growing number of citizens, especially younger citizens, use only cell phones, and their phone numbers are no longer based on geographic areas. The millennial generation (currently aged 18–33) is also more likely to text than to answer an unknown call, so it is harder to interview this demographic group.

32. Mark Blumenthal, "The Case for Robo-Pollsters: Automated Interviewers Have Their Drawbacks, But Fewer Than Their Critics Suggest," *National Journal*, 14 September 2009.

Polling companies now must reach out to potential respondents using email and social media to ensure they have a representative group of respondents.

Yet, the technology required to move to the Internet and handheld devices presents further problems. Web surveys must be designed to run on a varied number of browsers and handheld devices. Online polls cannot detect whether a person with multiple email accounts or social media profiles answers the same poll multiple times, nor can they tell when a respondent misrepresents demographics in the poll or on a social media profile used in a poll. These factors also make it more difficult to calculate response rates or achieve a representative sample. Yet, many companies are working with these difficulties, because it is necessary to reach younger demographics in order to provide accurate data.<sup>33</sup>

## Problems in Polling

For a number of reasons, polls may not produce accurate results. Two important factors a polling company faces are timing and human nature. Unless you conduct an **exit poll** during an election and interviewers stand at the polling places on Election Day to ask voters how they voted, there is always the possibility the poll results will be wrong. The simplest reason is that if there is time between the poll and Election Day, a citizen might change his or her mind, lie, or choose not to vote at all. Timing is very important during elections, because surprise events can shift enough opinions to change an election result. Of course, there are many other reasons

33. Mark Blumenthal, "Is Polling As We Know It Doomed?" *National Journal*, 10 August 2009.

why polls, even those not time-bound by elections or events, may be inaccurate.

Polls begin with a list of carefully written questions. The questions need to be free of framing, meaning they should not be worded to lead respondents to a particular answer. For example, take two questions about presidential approval. Question 1 might ask, “Given the high unemployment rate, do you approve of the job President Obama is doing?” Question 2 might ask, “Do you approve of the job President Obama is doing?” Both questions want to know how respondents perceive the president’s success, but the first question sets up a frame for the respondent to believe the economy is doing poorly before answering. This is likely to make the respondent’s answer more negative. Similarly, the way we refer to an issue or concept can affect the way listeners perceive it. The phrase “estate tax” did not rally voters to protest the inheritance tax, but the phrase “death tax” sparked debate about whether taxing estates imposed a double tax on income.<sup>34</sup>

Many polling companies try to avoid leading questions, which lead respondents to select a predetermined answer, because they want to know what people really think. Some polls, however, have a different goal. Their questions are written to guarantee a specific outcome, perhaps to help a candidate get press coverage or gain momentum. These are called push polls. In the 2016 presidential primary race, MoveOn tried to encourage Senator Elizabeth Warren (D-MA) to enter the race for the Democratic nomination. Its poll used leading questions for what it termed an “informed ballot,” and, to show that Warren would do better than Hillary Clinton, it

34. Frank Luntz. 2007. *Words That Work: It’s Not What You Say, It’s What People Hear*. New York: Hyperion.

included ten positive statements about Warren before asking whether the respondent would vote for Clinton or Warren.<sup>35</sup>

The poll results were blasted by some in the media for being fake.



(a)



(b)

Senator Elizabeth Warren (a) poses with Massachusetts representatives Joseph P. Kennedy III (left) and Barney Frank (right) at the 2012 Boston Pride Parade. Senator Hillary Clinton (b) during her 2008 presidential campaign in Concord, New Hampshire (credit a: modification of work by “ElizabethForMA”/Flickr; credit b: modification of work by Marc Nozell)

Sometimes lack of knowledge affects the results of a poll. Respondents may not know that much about the polling topic but are unwilling to say, “I don’t know.” For this reason, surveys may contain a quiz with questions that determine whether the respondent knows enough about the situation to answer survey questions accurately. A poll to discover whether citizens support changes to the Affordable Care Act or Medicaid might first ask who these programs serve and how they are funded. Polls about territory seizure by the Islamic State (or ISIS) or Russia’s aid to rebels in Ukraine may include a set of questions to determine whether the respondent reads or hears any international news. Respondents

35. Aaron Blake, “This terrible polls shows Elizabeth Warren beating Hillary Clinton,” *Washington Post*, 11 February 2015.

who cannot answer correctly may be excluded from the poll, or their answers may be separated from the others.

People may also feel social pressure to answer questions in accordance with the norms of their area or peers.<sup>36</sup>

If they are embarrassed to admit how they would vote, they may lie to the interviewer. In the 1982 governor's race in California, Tom Bradley was far ahead in the polls, yet on Election Day he lost. This result was nicknamed the Bradley effect, on the theory that voters who answered the poll were afraid to admit they would not vote for a black man because it would appear politically incorrect and racist.

In 2010, Proposition 19, which would have legalized and taxed marijuana in California, met with a new version of the Bradley effect. Nate Silver, a political blogger, noticed that polls on the marijuana proposition were inconsistent, sometimes showing the proposition would pass and other times showing it would fail. Silver compared the polls and the way they were administered, because some polling companies used an interviewer and some used robo-calling. He then proposed that voters speaking with a live interviewer gave the socially acceptable answer that they would vote against Proposition 19, while voters interviewed by a computer felt free to be honest.<sup>37</sup>

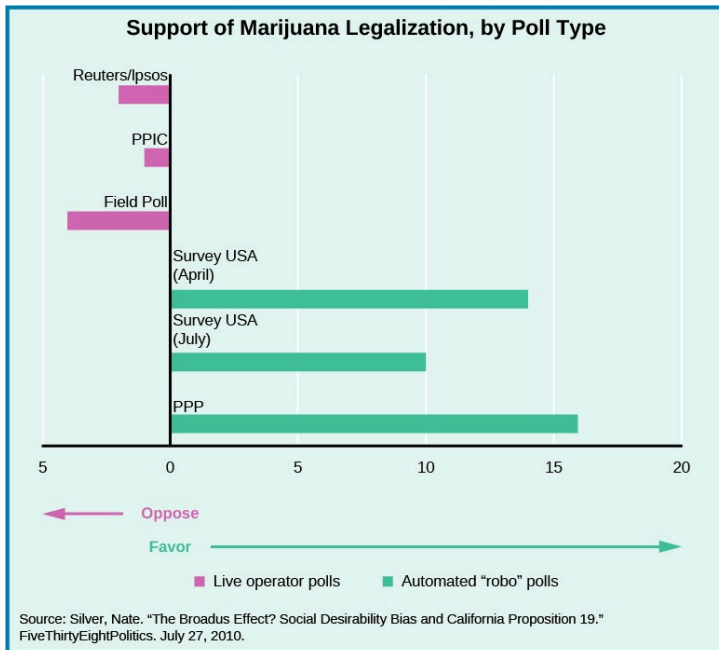
36. Nate Silver. 2010. "The Broadus Effect? Social Desirability Bias and California Proposition 19." *FiveThirtyEightPolitics*. July 27, 2010. <http://fivethirtyeight.com/features/broadus-effect-social-desirability-bias/> (February 18, 2016).

37. Nate Silver. 2010. "The Broadus Effect? Social Desirability Bias and California Proposition 19." *FiveThirtyEightPolitics*. July 27, 2010.

While this theory has not been proven, it is consistent with other findings that interviewer demographics can affect respondents' answers. African Americans, for example, may give different responses to interviewers who are white than to interviewers who are black.<sup>38</sup>

<http://fivethirtyeight.com/features/broadus-effect-social-desirability-bias/> (February 18, 2016).

38. D. Davis. 1997. "The Direction of Race of Interviewer Effects among African-Americans: Donning the Black Mask." *American Journal of Political Science* 41 (1): 309-322.



*In 2010, polls about California's Proposition 19 were inconsistent, depending on how they were administered, with voters who spoke with a live interviewer declaring they would vote against Proposition 19 and voters who were interviewed via a computer declaring support for the legislation. The measure was defeated on Election Day.*

## Push Polls

One of the newer byproducts of polling is the creation of push polls, which consist of political campaign information presented as polls. A respondent is called and asked a series of questions about his or her position or candidate selections. If the respondent's answers are for the wrong candidate, the next questions will give negative information about the candidate in an effort to change the voter's mind.

In 2014, a fracking ban was placed on the ballot in a town in Texas. Fracking, which includes injecting pressurized water into drilled wells, helps energy companies collect additional gas from the earth. It is controversial, with opponents arguing it causes water pollution, sound pollution, and earthquakes. During the campaign, a number of local voters received a call that polled them on how they planned to vote on the proposed fracking ban.<sup>39</sup>

If the respondent was unsure about or planned to vote for the ban, the questions shifted to provide negative information about the organizations proposing the ban. One question asked, “If you knew the following, would it change your vote . . . two Texas railroad commissioners, the state agency that oversees oil and gas in Texas, have raised concerns about Russia’s involvement in the anti-fracking efforts in the U.S.?” The question played upon voter fears about Russia and international instability in order to convince them to vote against the fracking ban.

These techniques are not limited to issue votes; candidates have used them to attack their opponents. The hope is that voters will think the poll is legitimate and believe the negative information provided by a “neutral” source.

## Public Opinion and Elections

Elections are the events on which opinion polls have the greatest

39. Kate Sheppard, “Top Texas Regulator: Could Russia be Behind City’s Proposed Fracking Ban?” *Huffington Post*, 16 July 2014. [http://www.huffingtonpost.com/2014/07/16/fracking-ban-denton-russia\\_n\\_5592661.html](http://www.huffingtonpost.com/2014/07/16/fracking-ban-denton-russia_n_5592661.html) (February 18, 2016).



measured effect. Public opinion polls do more than show how we feel on issues or project who might win an election. The media use public opinion polls to decide which candidates are ahead of the others and therefore of interest to voters and worthy of interview. From the moment President Obama was inaugurated for his second term, speculation began about who would run in the 2016 presidential election. Within a year, potential candidates were being ranked and compared by a number of newspapers.<sup>40</sup>

The speculation included favorability polls on Hillary Clinton, which measured how positively voters felt about her as a candidate. The media deemed these polls important because they showed Clinton as the frontrunner for the Democrats in the next election.<sup>41</sup>

During presidential primary season, we see examples of the bandwagon effect, in which the media pays more attention to candidates who poll well during the fall and the first few primaries. Bill Clinton was nicknamed the “Comeback Kid” in 1992, after he placed second in the New Hampshire primary despite accusations of adultery with Gennifer Flowers. The media’s attention on Clinton

40. Paul Hitlin. 2013. “The 2016 Presidential Media Primary Is Off to a Fast Start.” *Pew Research Center*. October 3, 2013. <http://www.pewresearch.org/fact-tank/2013/10/03/the-2016-presidential-media-primary-is-off-to-a-fast-start/> (February 18, 2016).
41. Pew Research Center, 2015. “Hillary Clinton’s Favorability Ratings over Her Career.” *Pew Research Center*. June 6, 2015. <http://www.pewresearch.org/wp-content/themes/pewresearch/static/hillary-clintons-favorability-ratings-over-her-career/> (February 18, 2016).

gave him the momentum to make it through the rest of the primary season, ultimately winning the Democratic nomination and the presidency.

Polling is also at the heart of horserace coverage, in which, just like an announcer at the racetrack, the media calls out every candidate's move throughout the presidential campaign. Horserace coverage can be neutral, positive, or negative, depending upon what polls or facts are covered. During the 2012 presidential election, the Pew Research Center found that both Mitt Romney and President Obama received more negative than positive horserace coverage, with Romney's growing more negative as he fell in the polls.<sup>42</sup>

**Horserace coverage** is often criticized for its lack of depth; the stories skip over the candidates' issue positions, voting histories, and other facts that would help voters make an informed decision. Yet, horserace coverage is popular because the public is always interested in who will win, and it often makes up a third or more of news stories about the election.<sup>43</sup>

Exit polls, taken the day of the election, are the last election polls conducted by the media. Announced results of these surveys can deter voters from going to the polls if they believe the election has already been decided.

42. Pew Research Center. 2012. "Winning the Media Campaign." Pew Research Center. November 2, 2012. <http://www.journalism.org/2012/11/02/winning-media-campaign-2012/> (February 18, 2016).

43. Pew Research Center. 2012. "Fewer Horserace Stories- and Fewer Positive Obama Stories-Than in 2008." Pew Research Center. November 2, 2012. <http://www.journalism.org/2012/11/01/press-release-6/> (February 18, 2016).



*In 2016, Republican presidential candidate Donald Trump became the center of the media's horserace coverage. As the field winnowed from over twenty candidates down to three, the media incessantly compared everyone else in the field to Trump. (credit: Max Goldberg)*

Public opinion polls also affect how much money candidates receive in campaign donations. Donors assume public opinion polls are accurate enough to determine who the top two to three primary candidates will be, and they give money to those who do well. Candidates who poll at the bottom will have a hard time collecting donations, increasing the odds that they will continue to do poorly. This was apparent in the run-up to the 2016 presidential election. Bernie Sanders, Hillary Clinton, and Martin O'Malley each campaigned in the hope of becoming the Democratic presidential nominee. In June 2015, 75 percent of Democrats likely to vote in their state primaries said they would vote for Clinton, while 15

percent of those polled said they would vote for Sanders. Only 2 percent said they would vote for O'Malley.<sup>44</sup>

During this same period, Clinton raised \$47 million in campaign donations, Sanders raised \$15 million, and O'Malley raised \$2 million.<sup>45</sup>

By September 2015, 23 percent of likely Democratic voters said they would vote for Sanders,<sup>46</sup> and his summer fundraising total increased accordingly.<sup>47</sup>

Presidents running for reelection also must perform well in public

44. Patrick O'Connor. 2015. "WSJ/NBC Poll Finds Hillary Clinton in a Strong Position." *Wall Street Journal*. June 23, 2015. <http://www.wsj.com/articles/new-poll-finds-hillary-clinton-tops-gop-presidential-rivals-1435012049>.

45. Federal Elections Commission. 2015. "Presidential Receipts." [http://www.fec.gov/press/summaries/2016/tables/presidential/presreceipts\\_2015\\_q2.pdf](http://www.fec.gov/press/summaries/2016/tables/presidential/presreceipts_2015_q2.pdf) (February 18, 2016).

46. Susan Page and Paulina Firozi, "Poll: Hillary Clinton Still Leads Sanders and Biden But By Less," *USA Today*, 1 October 2015.

47. Dan Merica, and Jeff Zeleny. 2015. "Bernie Sanders Nearly Outraises Clinton, Each Post More Than \$20 Million." CNN. October 1, 2015. [http://www.cnn.com/2015/09/30/politics/bernie-sanders-hillary-clinton-fundraising/index.html?eref=rss\\_politics](http://www.cnn.com/2015/09/30/politics/bernie-sanders-hillary-clinton-fundraising/index.html?eref=rss_politics) (February 18, 2016).

opinion polls, and being in office may not provide an automatic advantage. Americans often think about both the future and the past when they decide which candidate to support.<sup>48</sup>

They have three years of past information about the sitting president, so they can better predict what will happen if the incumbent is reelected. That makes it difficult for the president to mislead the electorate. Voters also want a future that is prosperous. Not only should the economy look good, but citizens want to know they will do well in that economy.<sup>49</sup>

For this reason, daily public approval polls sometimes act as both a referendum of the president and a predictor of success.

## Public Opinion and Government

The relationship between public opinion polls and government action is murkier than that between polls and elections. Like the news media and campaign staffers, members of the three branches of government are aware of public opinion. But do politicians use public opinion polls to guide their decisions and actions?

The short answer is “sometimes.” The public is not perfectly informed about politics, so politicians realize public opinion may not always be the right choice. Yet many political studies, from

48. Robert S. Erikson, Michael B. MacKuen, and James A. Stimson. 2000. “Bankers or Peasants Revisited: Economic Expectations and Presidential Approval.” *Electoral Studies* 19: 295–312.

49. Erikson et al, “Bankers or Peasants Revisited: Economic Expectations and Presidential Approval.

the *American Voter* in the 1920s to the *American Voter Revisited* in the 2000s, have found that voters behave rationally despite having limited information. Individual citizens do not take the time to become fully informed about all aspects of politics, yet their collective behavior and the opinions they hold as a group make sense. They appear to be informed just enough, using preferences like their political ideology and party membership, to make decisions and hold politicians accountable during an election year.

Overall, the collective public opinion of a country changes over time, even if party membership or ideology does not change dramatically. As James Stimson's prominent study found, the public's mood, or collective opinion, can become more or less liberal from decade to decade. While the initial study on public mood revealed that the economy has a profound effect on American opinion,<sup>50</sup>

further studies have gone beyond to determine whether public opinion, and its relative liberalness, in turn affect politicians and institutions. This idea does not argue that opinion never affects policy directly, rather that collective opinion also affects the politician's decisions on policy.<sup>51</sup>

Individually, of course, politicians cannot predict what will happen in the future or who will oppose them in the next few elections. They can look to see where the public is in agreement as a body. If public mood changes, the politicians may change positions to match the public mood. The more savvy politicians look carefully

50. Michael B. MacKuen, Robert S. Erikson, and James A. Stimson. 1989. "Macropartisanship." *American Political Science Review* 83 (4): 1125–1142.

51. James A. Stimson, Michael B. Mackuen, and Robert S. Erikson. 1995. "Dynamic Representation." *American Political Science Review* 89 (3): 543–565.

to recognize when shifts occur. When the public is more or less liberal, the politicians may make slight adjustments to their behavior to match. Politicians who frequently seek to win office, like House members, will pay attention to the long- and short-term changes in opinion. By doing this, they will be less likely to lose on Election Day.<sup>52</sup> Presidents and justices, on the other hand, present a more complex picture.

Public opinion of the president is different from public opinion of Congress. Congress is an institution of 535 members, and opinion polls look at both the institution and its individual members. The president is both a person and the head of an institution. The media pays close attention to any president's actions, and the public is generally well informed and aware of the office and its current occupant. Perhaps this is why public opinion has an inconsistent effect on presidents' decisions. As early as Franklin D. Roosevelt's administration in the 1930s, presidents have regularly polled the public, and since Richard Nixon's term (1969–1974), they have admitted to using polling as part of the decision-making process.

Presidential responsiveness to public opinion has been measured in a number of ways, each of which tells us something about the effect of opinion. One study examined whether presidents responded to public opinion by determining how often they wrote amicus briefs and asked the court to affirm or reverse cases. It found that the public's liberal (or non-liberal) mood had an effect, causing presidents to pursue and file briefs in different cases.<sup>53</sup>

But another author found that the public's level of liberalness is ignored when conservative presidents, such as Ronald Reagan or George W. Bush, are elected and try to lead. In one example, our five

52. Stimson et al, "Dynamic Representation."

53. Stimson et al, "Dynamic Representation."

most recent presidents' moods varied from liberal to non-liberal, while public sentiment stayed consistently liberal.<sup>54</sup>

While the public supported liberal approaches to policy, presidential action varied from liberal to non-liberal.

Overall, it appears that presidents try to move public opinion towards personal positions rather than moving themselves towards the public's opinion.<sup>55</sup>

If presidents have enough public support, they use their level of public approval indirectly as a way to get their agenda passed. Immediately following Inauguration Day, for example, the president enjoys the highest level of public support for implementing campaign promises. This is especially true if the president has a *mandate*, which is more than half the popular vote. Barack Obama's recent 2008 victory was a mandate with 52.9 percent of the popular vote and 67.8 percent of the Electoral College vote.<sup>56</sup>

When presidents have high levels of public approval, they are likely to act quickly and try to accomplish personal policy goals. They can use their position and power to focus media attention on an issue. This is sometimes referred to as the bully pulpit approach. The term "bully pulpit" was coined by President Theodore Roosevelt, who believed the presidency commanded the attention of the media and could be used to appeal directly to the people.

54. Dan Wood. 2009. *Myth of Presidential Representation*. New York: Cambridge University Press, 96-97.

55. Wood, *Myth of Presidential Representation*.

56. U.S. Election Atlas. 2015. "United States Presidential Election Results." U.S. *Election Atlas*. June 22, 2015. <http://uselectionatlas.org/RESULTS/> (February 18, 2016).



Roosevelt used his position to convince voters to pressure Congress to pass laws.

Increasing partisanship has made it more difficult for presidents to use their power to get their own preferred issues through Congress, however, especially when the president's party is in the minority in Congress.<sup>57</sup>

For this reason, modern presidents may find more success in using their popularity to increase media and social media attention on an issue. Even if the president is not the reason for congressional action, he or she can cause the attention that leads to change.<sup>58</sup>

Presidents may also use their popularity to ask the people to act. In October 2015, following a shooting at Umpqua Community College in Oregon, President Obama gave a short speech from the West Wing of the White House. After offering his condolences and prayers to the community, he remarked that prayers and condolences were no longer enough, and he called on citizens to push Congress for a change in gun control laws. President Obama had proposed gun control reform following the 2012 shooting at Sandy Hook Elementary in Connecticut, but it did not pass Congress. This time, the president asked citizens to use gun control as a voting issue and push for reform via the ballot box.

57. Richard Fleisher, and Jon R. Bond. 1996. "The President in a More Partisan Legislative Arena." *Political Research Quarterly* 49 no. 4 (1996): 729–748.

58. George C. Edwards III, and B. Dan Wood. 1999. "Who Influences Whom? The President, Congress, and the Media." *American Political Science Review* 93 (2): 327–344.



*In the wake of a shooting at Umpqua Community College in Oregon in October 2015, President Obama called for a change in gun control laws (credit: The White House).*

In some instances, presidents may appear to directly consider public opinion before acting or making decisions. In 2013, President Obama announced that he was considering a military strike on Syria in reaction to the Syrian government's illegal use of sarin gas on its own citizens. Despite agreeing that this chemical attack on the Damascan suburbs was a war crime, the public was against U.S. involvement. Forty-eight percent of respondents said they opposed airstrikes, and only 29 percent were in favor. Democrats were especially opposed to military intervention.<sup>59</sup>

59. Pew Research Center. 2013. "Public Opinion Runs Against Syrian Airstrikes." Pew Research Center. September 4, 2013. <http://www.people-press.org/2013/09/03/public-opinion-runs-against-syrian-airstrikes/> (February 18, 2016).

President Obama changed his mind and ultimately allowed Russian president Vladimir Putin to negotiate Syria's surrender of its chemical weapons.

However, further examples show that presidents do not consistently listen to public opinion. After taking office in 2009, President Obama did not order the closing of Guantanamo Bay prison, even though his proposal to do so had garnered support during the 2008 election. President Bush, despite growing public disapproval for the war in Iraq, did not end military support in Iraq after 2006. And President Bill Clinton, whose White House pollsters were infamous for polling on everything, sometimes ignored the public if circumstances warranted.<sup>60</sup>

In 1995, despite public opposition, Clinton guaranteed loans for the Mexican government to help the country out of financial insolvency. He followed this decision with many speeches to help the American public understand the importance of stabilizing Mexico's economy. Individual examples like these make it difficult to persuasively identify the direct effects of public opinion on the presidency.

While presidents have at most only two terms to serve and work, members of Congress can serve as long as the public returns them to office. We might think that for this reason public opinion is important to representatives and senators, and that their behavior, such as their votes on domestic programs or funding, will change to match the expectation of the public. In a more liberal time, the public may expect to see more social programs. In a non-liberal

60. Paul Bedard. 2013. "Poll-Crazed Clinton Even Polled on His Dog's Name." *Washington Examiner*. April 30, 2013. <http://www.washingtonexaminer.com/poll-crazed-bill-clinton-even-polled-on-his-dogs-name/article/2528486>.

time, the public mood may favor austerity, or decreased government spending on programs. Failure to recognize shifts in public opinion may lead to a politician's losing the next election.<sup>61</sup>

House of Representatives members, with a two-year term, have a more difficult time recovering from decisions that anger local voters. And because most representatives continually fundraise, unpopular decisions can hurt their campaign donations. For these reasons, it seems representatives should be susceptible to polling pressure. Yet one study, by James Stimson, found that the public mood does not directly affect elections, and shifts in public opinion do not predict whether a House member will win or lose. These elections are affected by the president on the ticket, presidential popularity (or lack thereof) during a midterm election, and the perks of incumbency, such as name recognition and media coverage. In fact, a later study confirmed that the incumbency effect is highly predictive of a win, and public opinion is not.<sup>62</sup>

In spite of this, we still see policy shifts in Congress, often matching the policy preferences of the public. When the shifts happen within the House, they are measured by the way members vote. The study's authors hypothesize that House members alter their votes to match the public mood, perhaps in an effort to strengthen their electoral chances.<sup>63</sup>

The Senate is quite different from the House. Senators do not enjoy the same benefits of incumbency, and they win reelection at

61. Stimson et al, "Dynamic Representation."

62. Suzanna De Boef, and James A. Stimson. 1995. "The Dynamic Structure of Congressional Elections." *Journal of Politics* 57 (3): 630–648.

63. Stimson et al, "Dynamic Representation."

lower rates than House members. Yet, they do have one advantage over their colleagues in the House: Senators hold six-year terms, which gives them time to engage in fence-mending to repair the damage from unpopular decisions. In the Senate, Stimson's study confirmed that opinion affects a senator's chances at reelection, even though it did not affect House members. Specifically, the study shows that when public opinion shifts, fewer senators win reelection. Thus, when the public as a whole becomes more or less liberal, new senators are elected. Rather than the senators shifting their policy preferences and voting differently, it is the new senators who change the policy direction of the Senate.<sup>64</sup>

Beyond voter polls, congressional representatives are also very interested in polls that reveal the wishes of interest groups and businesses. If AARP, one of the largest and most active groups of voters in the United States, is unhappy with a bill, members of the relevant congressional committees will take that response into consideration. If the pharmaceutical or oil industry is unhappy with a new patent or tax policy, its members' opinions will have some effect on representatives' decisions, since these industries contribute heavily to election campaigns.

There is some disagreement about whether the Supreme Court follows public opinion or shapes it. The lifetime tenure the justices enjoy was designed to remove everyday politics from their decisions, protect them from swings in political partisanship, and allow them to choose whether and when to listen to public opinion. More often than not, the public is unaware of the Supreme Court's decisions and opinions. When the justices accept controversial cases, the media tune in and ask questions, raising public awareness and affecting opinion. But do the justices pay attention to the polls when they make decisions?

Studies that look at the connection between the Supreme Court

64. Stimson et al, "Dynamic Representation."

and public opinion are contradictory. Early on, it was believed that justices were like other citizens: individuals with attitudes and beliefs who would be affected by political shifts.<sup>65</sup>

Later studies argued that Supreme Court justices rule in ways that maintain support for the institution. Instead of looking at the short term and making decisions day to day, justices are strategic in their planning and make decisions for the long term.<sup>66</sup>

Other studies have revealed a more complex relationship between public opinion and judicial decisions, largely due to the difficulty of measuring where the effect can be seen. Some studies look at the number of reversals taken by the Supreme Court, which are decisions with which the Court overturns the decision of a lower court. In one study, the authors found that public opinion slightly affects cases accepted by the justices.<sup>67</sup>

In a study looking at how often the justices voted liberally on a decision, a stronger effect of public opinion was revealed.<sup>68</sup>

65. Benjamin Cardozo. 1921. *The Nature of the Judicial Process*. New Haven: Yale University Press.

66. Jack Knight, and Lee Epstein. 1998. *The Choices Justices Make*. Washington DC: CQ Press.

67. Kevin T. McGuire, Georg Vanberg, Charles E Smith, and Gregory A. Caldeira. 2009. "Measuring Policy Content on the U.S. Supreme Court." *Journal of Politics* 71 (4): 1305–1321.

68. Kevin T. McGuire, and James A. Stimson. 2004. "The Least Dangerous Branch Revisited: New Evidence on Supreme

Whether the case or court is currently in the news may also matter. A study found that if the majority of Americans agree on a policy or issue before the court, the court's decision is likely to agree with public opinion.<sup>69</sup>

A second study determined that public opinion is more likely to affect ignored cases than heavily reported ones.<sup>70</sup>

In these situations, the court was also more likely to rule with the majority opinion than against it. For example, in *Town of Greece v. Galloway* (2014), a majority of the justices decided that ceremonial prayer before a town meeting was not a violation of the Establishment Clause.<sup>71</sup>

The fact that 78 percent of U.S. adults recently said religion is fairly to very important to their lives Gallup. 2015.<sup>72</sup> and 61 percent supported prayer in school<sup>73</sup> may

Court Responsiveness to Public Preferences.” *Journal of Politics* 66 (4): 1018–1035.

69. Thomas Marshall. 1989. *Public Opinion and the Supreme Court*. Boston: Unwin Hyman.

70. Christopher J. Casillas, Peter K. Enns, and Patrick C. Wohlfarth. 2011. “How Public Opinion Constrains the U.S. Supreme Court.” *American Journal of Political Science* 55 (1): 74–88.

71. *Town of Greece v. Galloway* 572 U.S. \_\_\_\_ (2014).

72. “Religion.” Gallup. June 18, 2015. <http://www.gallup.com/poll/1690/Religion.aspx> (February 18, 2016).

73. Rebecca Riffkin. 2015. “In U.S., Support for Daily Prayer

explain why public support for the Supreme Court did not fall after this decision.<sup>74</sup>

Overall, however, it is clear that public opinion has a less powerful effect on the courts than on the other branches and on politicians.<sup>75</sup>

Perhaps this is due to the lack of elections or justices' lifetime tenure, or perhaps we have not determined the best way to measure the effects of public opinion on the Court.

in Schools Dips Slightly." *Gallup*. September 25, 2015. <http://www.gallup.com/poll/177401/support-daily-prayer-schools-dips-slightly.aspx>.

74. Gallup. 2015. "Supreme Court." *Gallup*. <http://www.gallup.com/poll/4732/supreme-court.aspx> (February 18, 2016).

75. Stimson et al, "Dynamic Representation."



## 20. The Media

### *Learning Objectives*

By the end of this section, you will be able to:

- Explain what the media are and how they are organized
- Describe the main functions of the media in a free society
- Compare different media formats and their respective audiences
- Compare the ways in which the government oversees and influences media programming
- Identify forms of bias that exist in news coverage and ways the media can present biased coverage
- Explain how the media cover politics and issues
- Evaluate the impact of the media on politics and policymaking

Ours is an exploding media system. What started as print journalism was subsequently supplemented by radio coverage, then network television, followed by cable television. Now, with the addition of the Internet, blogs and social media—a set of applications or web platforms that allow users to immediately communicate with one another—give citizens a wide variety of sources for instant news of all kinds. The Internet also allows citizens to initiate public discussion by uploading images and video for viewing, such as videos documenting interactions between citizens and the police, for example. Provided we are connected digitally, we have a

bewildering amount of choices for finding information about the world. In fact, some might say that compared to the tranquil days of the 1970s, when we might read the morning newspaper over breakfast and take in the network news at night, there are now too many choices in today's increasingly complex world of information. This reality may make the news media all the more important to structuring and shaping narratives about U.S. politics. Or the proliferation of competing information sources like blogs and social media may actually weaken the power of the news media relative to the days when news media monopolized our attention.

## Media Basics

The term **media** defines a number of different communication formats from television media, which share information through broadcast airwaves, to print media, which rely on printed documents. The collection of all forms of media that communicate information to the general public is called mass media, including television, print, radio, and Internet. One of the primary reasons citizens turn to the media is for news. We expect the media to cover important political and social events and information in a concise and neutral manner.

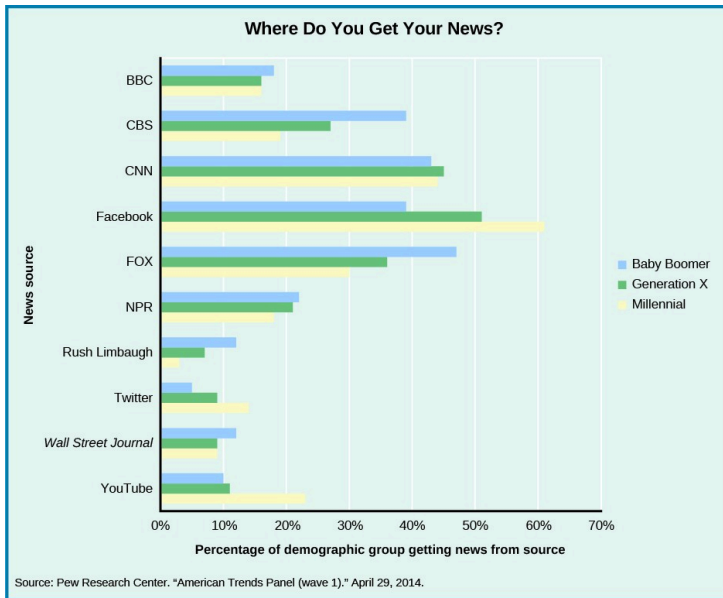
To accomplish its work, the media employs a number of people in varied positions. Journalists and reporters are responsible for uncovering news stories by keeping an eye on areas of public interest, like politics, business, and sports. Once a journalist has a lead or a possible idea for a story, he or she researches background information and interviews people to create a complete and balanced account. Editors work in the background of the newsroom, assigning stories, approving articles or packages, and editing content for accuracy and clarity. Publishers are people or companies that own and produce print or digital media. They oversee both the content and finances of the publication, ensuring

the organization turns a profit and creates a high-quality product to distribute to consumers. Producers oversee the production and finances of visual media, like television, radio, and film.

The work of the news media differs from public relations, which is communication carried out to improve the image of companies, organizations, or candidates for office. Public relations is not a neutral information form. While journalists write stories to inform the public, a public relations spokesperson is paid to help an individual or organization get positive press. Public relations materials normally appear as press releases or paid advertisements in newspapers and other media outlets. Some less reputable publications, however, publish paid articles under the news banner, blurring the line between journalism and public relations.

## Media Types

Each form of media has its own complexities and is used by different demographics. **Millennials** (currently aged 18–33) are more likely to get news and information from social media, such as YouTube, Twitter, and Facebook, while **baby boomers** (currently aged 50–68) are most likely to get their news from television, either national broadcasts or local news.



*Age greatly influences the choice of news sources. Baby boomers are more likely to get news and information from television, while members of generation X and millennials are more likely to use social media.*

Television alone offers viewers a variety of formats. Programming may be scripted, like dramas or comedies. It may be unscripted, like game shows or reality programs, or informative, such as news programming. Although most programs are created by a television production company, national networks—like CBS or NBC—purchase the rights to programs they distribute to local stations across the United States. Most local stations are affiliated with a national network corporation, and they broadcast national network programming to their local viewers.

Before the existence of cable and fiber optics, networks needed to own local affiliates to have access to the local station's transmission towers. Towers have a limited radius, so each network needed an affiliate in each major city to reach viewers. While cable technology

has lessened networks' dependence on aerial signals, some viewers still use antennas and receivers to view programming broadcast from local towers.

Affiliates, by agreement with the networks, give priority to network news and other programming chosen by the affiliate's national media corporation. Local affiliate stations are told when to air programs or commercials, and they diverge only to inform the public about a local or national emergency. For example, ABC affiliates broadcast the popular television show *Once Upon a Time* at a specific time on a specific day. Should a fire threaten homes and businesses in a local area, the affiliate might preempt it to update citizens on the fire's dangers and return to regularly scheduled programming after the danger has ended.

Most affiliate stations will show local news before and after network programming to inform local viewers of events and issues. Network news has a national focus on politics, international events, the economy, and more. Local news, on the other hand, is likely to focus on matters close to home, such as regional business, crime, sports, and weather.<sup>1</sup>

The *NBC Nightly News*, for example, covers presidential campaigns and the White House or skirmishes between North Korea and South Korea, while the NBC affiliate in Los Angeles (KNBC-TV) and the NBC affiliate in Dallas (KXAS-TV) report on the governor's activities or weekend festivals in the region.

Cable programming offers national networks a second method to directly reach local viewers. As the name implies, cable stations transmit programming directly to a local cable company hub, which then sends the signals to homes through coaxial or fiber optic cables. Because cable does not broadcast programming through the

1. Jeremy Lipschultz and Michael Hilt. 2003. "Race and Local Television News Crime Coverage," *Studies in Media & Information Literacy Education* 3, No. 4: 1-10.

airwaves, cable networks can operate across the nation directly without local affiliates. Instead they purchase broadcasting rights for the cable stations they believe their viewers want. For this reason, cable networks often specialize in different types of programming.

The Cable News Network (CNN) was the first news station to take advantage of this specialized format, creating a 24-hour news station with live coverage and interview programs. Other news stations quickly followed, such as MSNBC and FOX News. A viewer might tune in to Nickelodeon and catch family programs and movies or watch ESPN to catch up with the latest baseball or basketball scores. The Cable-Satellite Public Affairs Network, known better as C-SPAN, now has three channels covering Congress, the president, the courts, and matters of public interest.

Cable and satellite providers also offer on-demand programming for most stations. Citizens can purchase cable, satellite, and Internet subscription services (like Netflix) to find programs to watch instantly, without being tied to a schedule. Initially, on-demand programming was limited to rebroadcasting old content and was commercial-free. Yet many networks and programs now allow their new programming to be aired within a day or two of its initial broadcast. In return they often add commercials the user cannot fast-forward or avoid. Thus networks expect advertising revenues to increase.<sup>2</sup>

The on-demand nature of the Internet has created many opportunities for news outlets. While early media providers were those who could pay the high cost of printing or broadcasting, modern media require just a URL and ample server space. The ease of online publication has made it possible for more niche media

2. Lucas Shaw, "TV Networks Offering More On Demand to Reduce Ad-Skipping," *Bloomberg Technology*, 24 September 2014.

outlets to form. The websites of the *New York Times* and other newspapers often focus on matters affecting the United States, while channels like BBC America present world news. FOX News presents political commentary and news in a conservative vein, while the Internet site Daily Kos offers a liberal perspective on the news. Politico.com is perhaps the leader in niche journalism.

Unfortunately, the proliferation of online news has also increased the amount of poorly written material with little editorial oversight, and readers must be cautious when reading Internet news sources. Sites like BuzzFeed allow members to post articles without review by an editorial board, leading to articles of varied quality and accuracy. The Internet has also made publication speed a consideration for professional journalists. No news outlet wants to be the last to break a story, and the rush to publication often leads to typographical and factual errors. Even large news outlets, like the Associated Press, have published articles with errors in their haste to get a story out.

The Internet also facilitates the flow of information through social media, which allows users to instantly communicate with one another and share with audiences that can grow exponentially. Facebook and Twitter have millions of daily users. Social media changes more rapidly than the other media formats. While people in many different age groups use sites like Facebook, Twitter, and YouTube, other sites like Snapchat and Yik Yak appeal mostly to younger users. The platforms also serve different functions. Tumblr and Reddit facilitate discussion that is topic-based and controversial, while Instagram is mostly social. A growing number of these sites also allow users to comment anonymously, leading to increases in threats and abuse. The site 4chan, for example, was linked to the 2015 shooting at an Oregon community college.<sup>3</sup>

Regardless of where we get our information, the various media

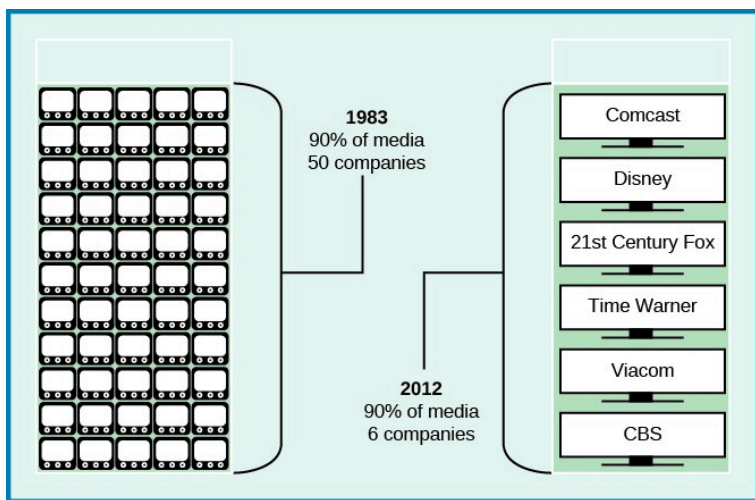
### 3. Daniel Marans, "Did the Oregon Shooter Warn of His Plans on 4chan?" *Huffington Post*, 1 October 2015.

avenues available today, versus years ago, make it much easier for everyone to be engaged. The question is: Who controls the media we rely on? Most media are controlled by a limited number of conglomerates. A conglomerate is a corporation made up of a number of companies, organizations, and media networks. In the 1980s, more than fifty companies owned the majority of television and radio stations and networks. Now, only six conglomerates control most of the broadcast media in the United States: CBS Corporation, Comcast, Time Warner, 21st Century Fox (formerly News Corporation), Viacom, and The Walt Disney Company.<sup>4</sup>

The Walt Disney Company, for example, owns the ABC Television Network, ESPN, A&E, and Lifetime, in addition to the Disney Channel. Viacom owns BET, Comedy Central, MTV, Nickelodeon, and Vh2. Time Warner owns Cartoon Network, CNN, HBO, and TNT, among others. While each of these networks has its own programming, in the end, the conglomerate can make a policy that affects all stations and programming under its control.

4. Vanna Le, "Global 2000: The World's Largest Media Companies of 2014," *Forbes*, 7 May 2014.





*In 1983, fifty companies owned 90 percent of U.S. media. By 2012, just six conglomerates controlled the same percentage of U.S. media outlets.*

Conglomerates can create a monopoly on information by controlling a sector of a market. When a media conglomerate has policies or restrictions, they will apply to all stations or outlets under its ownership, potentially limiting the information citizens receive. Conglomerate ownership also creates circumstances in which censorship may occur. iHeartMedia (formerly Clear Channel Media) owns music, radio, and billboards throughout the United States, and in 2010, the company refused to run several billboard ads for the St. Pete Pride Festival and Promenade in St. Petersburg, Florida. The festival organizers said the content of two ads, a picture of same-sex couples in close contact with one another, was the reason the ads were not run. Because iHeartMedia owns most of the billboards in the area, this limitation was problematic for the

festival and decreased awareness of the event. Those in charge of the festival viewed the refusal as censorship.<sup>5</sup>

Newspapers too have experienced the pattern of concentrated ownership. Gannett Company, while also owning television media, holds a large number of newspapers and news magazines in its control. Many of these were acquired quietly, without public notice or discussion. Gannett's 2013 acquisition of publishing giant A.H. Belo Corporation caused some concern and news coverage, however. The sale would have allowed Gannett to own both an NBC and a CBS affiliate in St. Louis, Missouri, giving it control over programming and advertising rates for two competing stations. The U.S. Department of Justice required Gannett to sell the station owned by Belo to ensure market competition and multi-ownership in St. Louis.<sup>6</sup>

These changes in the format and ownership of media raise the question whether the media still operate as an independent source of information. Is it possible that corporations and CEOs now control the information flow, making profit more important than the impartial delivery of information? The reality is that media outlets, whether newspaper, television, radio, or Internet, are businesses. They have expenses and must raise revenues. Yet at the same time, we expect the media to entertain, inform, and alert us without bias. They must provide some public services, while following laws and regulations. Reconciling these goals may not always be possible.

5. Stephanie Hayes, "Clear Channel Rejects St. Pete Pride Billboards, Organizers Say," *Tampa Bay Times*, 11 June 2010.
6. Meg James, "DOJ Clears Gannett-Belo Deal but Demands Sale of St. Louis TV Station," *Los Angeles Times*, 16 December 2013.

## Functions of the Media

The media exist to fill a number of functions. Whether the medium is a newspaper, a radio, or a television newscast, a corporation behind the scenes must bring in revenue and pay for the cost of the product. Revenue comes from advertising and sponsors, like McDonald's, Ford Motor Company, and other large corporations. But corporations will not pay for advertising if there are no viewers or readers. So all programs and publications need to entertain, inform, or interest the public and maintain a steady stream of consumers. In the end, what attracts viewers and advertisers is what survives.

The media are also **watchdogs** of society and of public officials. Some refer to the media as the *fourth estate*, with the branches of government being the first three estates and the media equally participating as the fourth. This role helps maintain democracy and keeps the government accountable for its actions, even if a branch of the government is reluctant to open itself to public scrutiny. As much as social scientists would like citizens to be informed and involved in politics and events, the reality is that we are not. So the media, especially journalists, keep an eye on what is happening and sounds an alarm when the public needs to pay attention.<sup>7</sup>

The media also engages in **agenda setting**, which is the act of choosing which issues or topics deserve public discussion. For example, in the early 1980s, famine in Ethiopia drew worldwide attention, which resulted in increased charitable giving to the country. Yet the famine had been going on for a long time before it was discovered by western media. Even after the discovery, it

7. John Zaller. 2003. "A New Standard of News Quality: Burglar Alarms for the Monitorial Citizen," *Political Communication* 20, No. 2: 109–130.

took video footage to gain the attention of the British and U.S. populations and start the aid flowing.<sup>8</sup>

Today, numerous examples of agenda setting show how important the media are when trying to prevent further emergencies or humanitarian crises. In the spring of 2015, when the Dominican Republic was preparing to exile Haitians and undocumented (or under documented) residents, major U.S. news outlets remained silent. However, once the story had been covered several times by Al Jazeera, a state-funded broadcast company based in Qatar, ABC, the *New York Times*, and other network outlets followed.<sup>9</sup> With major network coverage came public pressure for the U.S. government to act on behalf of the Haitians.<sup>10</sup>

Before the Internet, traditional media determined whether citizen photographs or video footage would become “news.” In 1991, a private citizen’s camcorder footage showed four police officers beating an African American motorist named Rodney King in Los

8. Suzanne Ranks, “Ethiopian Famine: How Landmark BBC Report Influenced Modern Coverage,” *Guardian*, 22 October 2014.
9. Hisham Aidi, “Haitians in the Dominican Republic in Legal Limbo,” *Al Jazeera*, 10 April 2015.
10. “Pressure the Government of the Dominican Republic to Stop its Planned ‘Cleaning’ of 250,000 Black Dominicans,” <https://petitions.whitehouse.gov/petition/pressure-government-dominican-republic-stop-its-planned-cleaning-250000-black-dominicans> (November 26, 2015); Led Black, “Prevent Humanitarian Tragedy in Dominican Republic,” CNN, 23 June 2015.

Angeles. After appearing on local independent television station, KTLA-TV, and then the national news, the event began a national discussion on police brutality and ignited riots in Los Angeles.<sup>11</sup>

The agenda-setting power of traditional media has begun to be appropriated by social media and smartphones, however. Tumblr, Facebook, YouTube, and other Internet sites allow witnesses to instantly upload images and accounts of events and forward the link to friends. Some uploads go viral and attract the attention of the mainstream media, but large network newscasts and major newspapers are still more powerful at initiating or changing a discussion.

The media also promote the public good by offering a platform for public debate and improving citizen awareness. Network news informs the electorate about national issues, elections, and international news. The *New York Times*, *Los Angeles Times*, *NBC Nightly News*, and other outlets make sure voters can easily find out what issues affect the nation. Is terrorism on the rise? Is the dollar weakening? The network news hosts national debates during presidential elections, broadcasts major presidential addresses, and interviews political leaders during times of crisis. Cable news networks now provide coverage of all these topics as well.

Local news has a larger job, despite small budgets and fewer resources. Local government and local economic policy have a strong and immediate effect on citizens. Is the city government planning on changing property tax rates? Will the school district change the way Common Core tests are administered? When and where is the next town hall meeting or public forum to be held? Local and social media provide a forum for protest and discussion of issues that matter to the community.

11. Erik Ortiz, "George Holliday, Who Taped Rodney King Beating, Urges Others to Share Videos," NBC, 9 June 2015.



*Meetings of local governance, such as this meeting of the Independence City Council in Missouri, are rarely attended by more than gadflies and journalists. (credit: “MoBikeFed”/Flickr)*

While journalists reporting the news try to present information in an unbiased fashion, sometimes the public seeks opinion and analysis of complicated issues that affect various populations differently, like healthcare reform and the Affordable Care Act. This type of coverage may come in the form of editorials, commentaries, Op-Ed columns, and blogs. These forums allow the editorial staff and informed columnists to express a personal belief and attempt to persuade. If opinion writers are trusted by the public, they have influence.

Walter Cronkite, reporting from Vietnam, had a loyal following. In a broadcast following the Tet Offensive in 1968, Cronkite expressed concern that the United States was mired in a conflict that would

end in a stalemate.<sup>12</sup> His coverage was based on opinion after viewing the war from the ground.<sup>13</sup>

Although the number of people supporting the war had dwindled by this time, Cronkite's commentary bolstered opposition. Like editorials, commentaries contain opinion and are often written by specialists in a field. Larry Sabato, a prominent political science professor at the University of Virginia, occasionally writes his thoughts for the *New York Times*. These pieces are based on his expertise in politics and elections.<sup>14</sup> Blogs offer more personalized coverage, addressing specific concerns and perspectives for a limited group of readers. Nate Silver's blog, *FiveThirtyEight*, focuses on elections and politics.

## Media Effects and Bias

Concerns about the effects of media on consumers and the existence and extent of media bias go back to the 1920s. Reporter and commentator Walter Lippmann noted that citizens have limited

12. "Walter Cronkite's 'We Are Mired in Stalemate' Broadcast, February 27, 1968" *Digital History*, [http://www.digitalhistory.uh.edu/active\\_learning/explorations/vietnam/cronkite.cfm](http://www.digitalhistory.uh.edu/active_learning/explorations/vietnam/cronkite.cfm) (November 29, 2015).
13. Joel Achenbach, "Cronkite and Vietnam," *Washington Post*, 18 May 2012.
14. Larry Sabato, "Our Leaders, Surprise, Have Strong Views," *New York Times*, 23 February 2009.

personal experience with government and the world and posited that the media, through their stories, place ideas in citizens' minds. These ideas become part of the citizens' frame of reference and affect their decisions. Lippmann's statements led to the hypodermic theory, which argues that information is "shot" into the receiver's mind and readily accepted.<sup>15</sup>

Yet studies in the 1930s and 1940s found that information was transmitted in two steps, with one person reading the news and then sharing the information with friends. People listened to their friends, but not to those with whom they disagreed. The newspaper's effect was thus diminished through conversation. This discovery led to the minimal effects theory, which argues the media have little effect on citizens and voters.<sup>16</sup>

By the 1970s, a new idea, the cultivation theory, hypothesized that media develop a person's view of the world by presenting a perceived reality.<sup>17</sup> What we see on a regular basis is our reality. Media can then set norms for readers and viewers by choosing what is covered or discussed.

In the end, the consensus among observers is that media have some effect, even if the effect is subtle. This raises the question of

15. Walter Lippmann. 1922. *Public Opinion*. <http://xroads.virginia.edu/~hyper/Lippman/contents.html> (August 29, 2015).
16. Bernard Berelson, Paul Lazarsfeld, and William McPhee. 1954. *Voting*. Chicago: University of Chicago Press.
17. George Gerbner, Larry Gross, Michael Morgan, Nancy Signorielli, and Marilyn Jackson-Beeck. 1979. "The Demonstration of Power: Violence Profile," *Journal of Communication* 29, No.10: 177-196.



how the media, even general newscasts, can affect citizens. One of the ways is through framing: the creation of a narrative, or context, for a news story. The news often uses frames to place a story in a context so the reader understands its importance or relevance. Yet, at the same time, framing affects the way the reader or viewer processes the story.

**Episodic framing** occurs when a story focuses on isolated details or specifics rather than looking broadly at a whole issue. **Thematic framing** takes a broad look at an issue and skips numbers or details. It looks at how the issue has changed over a long period of time and what has led to it. For example, a large, urban city is dealing with the problem of an increasing homeless population, and the city has suggested ways to improve the situation. If journalists focus on the immediate statistics, report the current percentage of homeless people, interview a few, and look at the city's current investment in a homeless shelter, the coverage is episodic. If they look at homelessness as a problem increasing everywhere, examine the reasons people become homeless, and discuss the trends in cities' attempts to solve the problem, the coverage is thematic. Episodic frames may create more sympathy, while a thematic frame may leave the reader or viewer emotionally disconnected and less sympathetic.



*Civil war in Syria has led many to flee the country, including this woman living in a Syrian refugee camp in Jordan in September 2015. Episodic framing of the stories of Syrian refugees, and their deaths, turned government inaction into action. (credit: Enes Reyhan)*

Framing can also affect the way we see race, socioeconomics, or other generalizations. For this reason, it is linked to priming: when media coverage predisposes the viewer or reader to a particular perspective on a subject or issue. If a newspaper article focuses on unemployment, struggling industries, and jobs moving overseas, the reader will have a negative opinion about the economy. If then asked whether he or she approves of the president's job performance, the reader is primed to say no. Readers and viewers are able to fight priming effects if they are aware of them or have prior information about the subject.

## Coverage Effects on Governance and Campaigns

When it is spotty, the media's coverage of campaigns and

government can sometimes affect the way government operates and the success of candidates. In 1972, for instance, the McGovern-Fraser reforms created a voter-controlled primary system, so party leaders no longer pick the presidential candidates. Now the media are seen as kingmakers and play a strong role in influencing who will become the Democratic and Republican nominees in presidential elections. They can discuss the candidates' messages, vet their credentials, carry sound bites of their speeches, and conduct interviews. The candidates with the most media coverage build momentum and do well in the first few primaries and caucuses. This, in turn, leads to more media coverage, more momentum, and eventually a winning candidate. Thus, candidates need the media.

In the 1980s, campaigns learned that tight control on candidate information created more favorable media coverage. In the presidential election of 1984, candidates Ronald Reagan and George H. W. Bush began using an issue-of-the-day strategy, providing quotes and material on only one topic each day. This strategy limited what journalists could cover because they had only limited quotes and sound bites to use in their reports. In 1992, both Bush's and Bill Clinton's campaigns maintained their carefully drawn candidate images by also limiting photographers and television journalists to photo opportunities at rallies and campaign venues. The constant control of the media became known as the "bubble," and journalists were less effective when they were in the campaign's bubble. Reporters complained this coverage was campaign advertising rather than journalism, and a new model emerged with the 1996 election.<sup>18</sup>

Campaign coverage now focuses on the spectacle of the season, rather than providing information about the candidates. Colorful

18. Elizabeth A. Skewes. 2007. *Message Control: How News Is Made on the Presidential Campaign Trail*. Maryland: Rowman & Littlefield, 79.

personalities, strange comments, lapse of memories, and embarrassing revelations are more likely to get air time than the candidates' issue positions. Candidate Donald Trump may be the best example of shallower press coverage of a presidential election. Some argue that newspapers and news programs are limiting the space they allot to discussion of the campaigns.<sup>19</sup> Others argue that citizens want to see updates on the race and electoral drama, not boring issue positions or substantive reporting.<sup>20</sup> It may also be that journalists have tired of the information games played by politicians and have taken back control of the news cycles.<sup>21</sup>

All these factors have likely led to the shallow press coverage we see today, sometimes dubbed **pack journalism** because journalists follow one another rather than digging for their own stories. Television news discusses the strategies and blunders of the election, with colorful examples. Newspapers focus on polls. In an analysis of the 2012 election, Pew Research found that 64 percent of stories and coverage focused on campaign strategy. Only 9 percent covered domestic issue positions; 6 percent covered the candidates'

19. Stephen Farnsworth and S. Robert Lichter. 2012. "Authors' Response: Improving News Coverage in the 2012 Presidential Campaign and Beyond," *Politics & Policy* 40, No. 4: 547–556.
20. "Early Media Coverage Focuses on Horse Race," *PBS News Hour*, 12 June 2007.
21. Stephen Ansolabehere, Roy Behr, and Shanto Iyengar. 1992. *The Media Game: American Politics in the Television Age*. New York: Macmillan.

public records; and, 1 percent covered their foreign policy positions.<sup>22</sup>

For better or worse, coverage of the candidates' statements get less air time on radio and television, and sound bites, or clips, of their speeches have become even shorter. In 1968, the average sound bite from Richard Nixon was 42.3 seconds, while a recent study of television coverage found that sound bites had decreased to only eight seconds in the 2004 election.<sup>23</sup>

The clips chosen to air were attacks on opponents 40 percent of the time. Only 30 percent contained information about the candidate's issues or events. The study also found the news showed images of the candidates, but for an average of only twenty-five seconds while the newscaster discussed the stories.<sup>24</sup> This study supports the argument that shrinking sound bites are a way for journalists to control the story and add their own analysis rather than just report on it.<sup>25</sup>

22. "Frames of Campaign Coverage," Pew Research Center, 23 April 2012, <http://www.journalism.org/2012/04/23/frames-campaign-coverage>.

23. Kiku Adatto. May 28, 1990. "The Incredible Shrinking Sound Bite," *New Republic* 202, No. 22: 20–23.

24. Erik Bucy and Maria Elizabeth Grabe. 2007. "Taking Television Seriously: A Sound and Image Bite Analysis of Presidential Campaign Coverage, 1992–2004," *Journal of Communication* 57, No. 4: 652–675.

25. Craig Fehrman, "The Incredible Shrinking Sound Bite," *Boston Globe*, 2 January 2011, <http://www.boston.com/>

Candidates are given a few minutes to try to argue their side of an issue, but some say television focuses on the argument rather than on information. In 2004, Jon Stewart of Comedy Central's *The Daily Show* began attacking the CNN program *Crossfire* for being theater, saying the hosts engaged in reactionary and partisan arguing rather than true debating.<sup>26</sup> Some of Stewart's criticisms resonated, even with host Paul Begala, and *Crossfire* was later pulled from the air.<sup>27</sup>

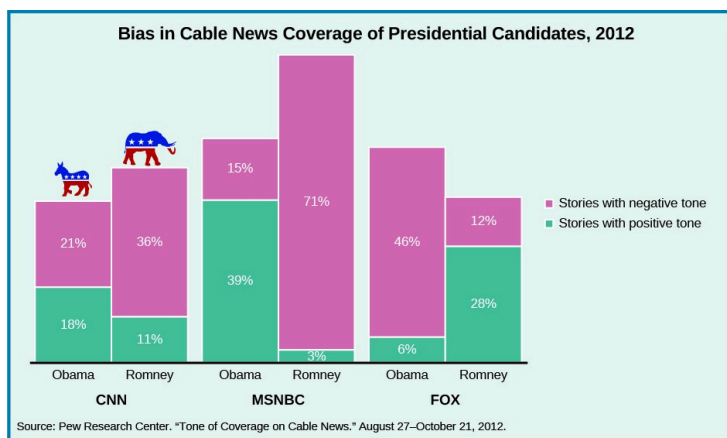
The media's discussion of campaigns has also grown negative. Although biased campaign coverage dates back to the period of the partisan press, the increase in the number of cable news stations has made the problem more visible. Stations like FOX News and MSNBC are overt in their use of bias in framing stories. During the 2012 campaign, seventy-one of seventy-four MSNBC stories about Mitt Romney were highly negative, while FOX News' coverage of Obama had forty-six out of fifty-two stories with negative information. The major networks—ABC, CBS, and NBC—were somewhat more balanced, yet the overall coverage of both candidates tended to be negative.<sup>28</sup>

bostonglobe/ideas/articles/2011/01/02/  
the\_incredible\_shrinking\_sound\_bite/.

26. "Crossfire: Jon Stewart's America," CNN, 15 October 2004, <http://www.cnn.com/TRANSCRIPTS/0410/15/cf.01.html>.

27. Paul Begala, "Begala: The day Jon Stewart blew up my show," CNN, 12 February 2015.

28. Pew Research Center: Journalism & Media Staff, "Coverage of the Candidates by Media Sector and Cable Outlet," 1 November 2012.



*Media coverage of campaigns is increasingly negative, with cable news stations demonstrating more bias in their framing of stories during the 2012 campaign.*

Due in part to the lack of substantive media coverage, campaigns increasingly use social media to relay their message. Candidates can create their own sites and pages and try to spread news through supporters to the undecided. In 2012, both Romney and Obama maintained Facebook, Twitter, and YouTube accounts to provide information to voters. Yet, on social media, candidates still need to combat negativity, from both the opposition and supporters. Stories about Romney that appeared in the mainstream media were negative 38 percent of the time, while his coverage in Facebook news was negative 62 percent of the time and 58 percent of the time on Twitter.<sup>29</sup>

Once candidates are in office, the chore of governing begins,

29. "Winning the Media Campaign 2012," Pew Research Center, 2 November 2012.

with the added weight of media attention. Historically, if presidents were unhappy with their press coverage, they used personal and professional means to change its tone. Franklin D. Roosevelt, for example, was able to keep journalists from printing stories through gentleman's agreements, loyalty, and the provision of additional information, sometimes off the record. The journalists then wrote positive stories, hoping to keep the president as a source. John F. Kennedy hosted press conferences twice a month and opened the floor for questions from journalists, in an effort to keep press coverage positive.<sup>30</sup>

When presidents and other members of the White House are not forthcoming with information, journalists must press for answers. Dan Rather, a journalist for CBS, regularly sparred with presidents in an effort to get information. When Rather interviewed Richard Nixon about Vietnam and Watergate, Nixon was hostile and uncomfortable.<sup>31</sup>

In a 1988 interview with then-vice president George H. W. Bush,

30. Fred Greenstein. 2009. *The Presidential Difference*. Princeton, NJ: Princeton University Press.

31. "Dan Rather versus Richard Nixon, 1974," YouTube video, :46, from the National Association of Broadcasters annual convention in Houston on March 19, 1974, posted by "thecelebratedmisterk," <https://www.youtube.com/watch?v=ZGBLAKq8xwc> (November 30, 2015); "'A Conversation With the President,' Interview With Dan Rather of the Columbia Broadcasting System," *The American Presidency Project*, 2 January 1972, <http://www.presidency.ucsb.edu/ws/?pid=3351>.



Bush accused Rather of being argumentative about the possible cover-up of a secret arms sale with Iran:

Rather: I don't want to be argumentative, Mr. Vice President.

Bush: You do, Dan.

Rather: No—no, sir, I don't.

Bush: This is not a great night, because I want to talk about why I want to be president, why those 41 percent of the people are supporting me. And I don't think it's fair to judge my whole career by a rehash of Iran. How would you like it if I judged your career by those seven minutes when you walked off the set in New York?<sup>32</sup>

Cabinet secretaries and other appointees also talk with the press, sometimes making for conflicting messages. The creation of the position of press secretary and the White House Office of Communications both stemmed from the need to send a cohesive message from the executive branch. Currently, the White House controls the information coming from the executive branch through the Office of Communications and decides who will meet with the press and what information will be given.

But stories about the president often examine personality, or the president's ability to lead the country, deal with Congress, or respond to national and international events. They are less likely to cover the president's policies or agendas without a lot of effort on the president's behalf.<sup>33</sup>

32. Wolf Blitzer, "Dan Rather's Stand," CNN, 10 September 2004.

33. Matthew Eshbaugh-Soha and Jeffrey Peake. 2011. *Breaking Through the Noise: Presidential Leadership*,

When Obama first entered office in 2009, journalists focused on his battles with Congress, critiquing his leadership style and inability to work with Representative Nancy Pelosi, then Speaker of the House. To gain attention for his policies, specifically the American Recovery and Reinvestment Act (ARRA), Obama began traveling the United States to draw the media away from Congress and encourage discussion of his economic stimulus package. Once the ARRA had been passed, Obama began travelling again, speaking locally about why the country needed the Affordable Care Act and guiding media coverage to promote support for the act.<sup>34</sup>

Congressional representatives have a harder time attracting media attention for their policies. House and Senate members who use the media well, either to help their party or to show expertise in an area, may increase their power within Congress, which helps them bargain for fellow legislators' votes. Senators and high-ranking House members may also be invited to appear on cable news programs as guests, where they may gain some media support for their policies. Yet, overall, because there are so many members of Congress, and therefore so many agendas, it is harder for individual representatives to draw media coverage.<sup>35</sup>

It is less clear, however, whether media coverage of an issue leads Congress to make policy, or whether congressional policymaking leads the media to cover policy. In the 1970s, Congress investigated

*Public Opinion, and the News Media.* Stanford, CA: Stanford University Press.

34. Ibid.

35. Gary Lee Malecha and Daniel J. Reagan. 2011. *The Public Congress: Congressional Deliberation in a New Media Age.* New York: Routledge.

ways to stem the number of drug-induced deaths and crimes. As congressional meetings dramatically increased, the press was slow to cover the topic. The number of hearings was at its highest from 1970 to 1982, yet media coverage did not rise to the same level until 1984.<sup>36</sup> Subsequent hearings and coverage led to national policies like DARE and First Lady Nancy Reagan's "Just Say No" campaign.



(a)



(b)

First Lady Nancy Reagan speaks at a "Just Say No" rally in Los Angeles on May 13, 1987 (a). The Drug Abuse Resistance Education (D.A.R.E.) is an anti-drug, anti-gang program founded in 1983 by a joint initiative of the Los Angeles Police Department and the Los Angeles Unified School District.

Later studies of the media's effect on both the president and Congress report that the media has a stronger agenda-setting effect on the president than on Congress. What the media choose to cover affects what the president thinks is important to voters, and these

36. Frank R. Baumgartner, Bryan D. Jones, and Beth L. Leech. 1997. "Media Attention and Congressional Agendas," In *Do The Media Govern? Politicians, Voters, and Reporters in America*, eds. Shanto Iyengar and Richard Reeves. Thousand Oaks, CA: Sage.

issues were often of national importance. The media's effect on Congress was limited, however, and mostly extended to local issues like education or child and elder abuse.<sup>37</sup> If the media are discussing a topic, chances are a member of Congress has already submitted a relevant bill, and it is waiting in committee.

## Coverage Effects on Society

The media choose what they want to discuss. This agenda setting creates a reality for voters and politicians that affects the way people think, act, and vote. Even if the crime rate is going down, for instance, citizens accustomed to reading stories about assault and other offenses still perceive crime to be an issue.<sup>38</sup>

Studies have also found that the media's portrayal of race is flawed, especially in coverage of crime and poverty. One study revealed that local news shows were more likely to show pictures of criminals when they were African American, so they

37. George Edwards and Dan Wood. 1999. "Who Influences Whom? The President, Congress, and the Media," *American Political Science Review* 93, No 2: 327–344; Yue Tan and David Weaver. 2007. "Agenda-Setting Effects Among the Media, the Public, and Congress, 1946–2004," *Journalism & Mass Communication Quarterly* 84, No. 4: 729–745.

38. Ally Fogg, "Crime Is Falling. Now Let's Reduce Fear of Crime," *Guardian*, 24 April 2013.

overrepresented blacks as perpetrators and whites as victims.<sup>39</sup> A second study found a similar pattern in which Latinos were underrepresented as victims of crime and as police officers, while whites were overrepresented as both.<sup>40</sup> Voters were thus more likely to assume that most criminals are black and most victims and police officers are white, even though the numbers do not support those assumptions.

Network news similarly misrepresents the victims of poverty by using more images of blacks than whites in its segments. Viewers in a study were left believing African Americans were the majority of the unemployed and poor, rather than seeing the problem as one faced by many races.<sup>41</sup>

The misrepresentation of race is not limited to news coverage, however. A study of images printed in national magazines, like *Time* and *Newsweek*, found they also misrepresented race and poverty. The magazines were more likely to show images of young African

39. Travis L. Dixon. 2008. "Crime News and Racialized Beliefs: Understanding the Relationship between Local News Viewing and Perceptions of African Americans and Crime," *Journal of Communication* 58, No. 1: 106-125.
40. Travis Dixon. 2015. "Good Guys Are Still Always in White? Positive Change and Continued Misrepresentation of Race and Crime on Local Television News," *Communication Research*, doi:10.1177/0093650215579223.
41. Travis L. Dixon. 2008. "Network News and Racial Beliefs: Exploring the Connection between National Television News Exposure and Stereotypical Perceptions of African Americans," *Journal of Communication* 58, No. 2: 321-337.

Americans when discussing poverty and excluded the elderly and the young, as well as whites and Latinos, which is the true picture of poverty.<sup>42</sup>

**Racial framing**, even if unintentional, affects perceptions and policies. If viewers are continually presented with images of African Americans as criminals, there is an increased chance they will perceive members of this group as violent or aggressive.<sup>43</sup> The perception that most recipients of welfare are working-age African Americans may have led some citizens to vote for candidates who promised to reduce welfare benefits.<sup>44</sup> When survey respondents were shown a story of a white unemployed individual, 71 percent listed unemployment as one of the top three problems facing the United States, while only 53 percent did so if the story was about an unemployed African American.<sup>45</sup>

**Word choice** may also have a priming effect. News organizations like the *Los Angeles Times* and the Associated Press no longer use the phrase “illegal immigrant” to describe undocumented residents. This may be due to the desire to create a “sympathetic” frame for the immigration situation rather than a “threat” frame.<sup>46</sup>

42. Martin Gilens. 1996. “Race and Poverty in America: Public Misperceptions and the American News Media,” *Public Opinion Quarterly* 60, No. 4: 515–541.

43. Dixon. “Crime News and Racialized Beliefs.”

44. Gilens. “Race and Poverty in America.”

45. Shanto Iyengar and Donald R. Kinder. 1987. *News That Matters*. Chicago: University of Chicago Press.

46. Daniel C. Hallin. 2015. “The Dynamics of Immigration

Media coverage of women has been similarly biased. Most journalists in the early 1900s were male, and women's issues were not part of the newsroom discussion. As journalist Kay Mills put it, the women's movement of the 1960s and 1970s was about raising awareness of the problems of equality, but writing about rallies "was like trying to nail Jell-O to the wall."<sup>47</sup> Most politicians, business leaders, and other authority figures were male, and editors' reactions to the stories were lukewarm. The lack of women in the newsroom, politics, and corporate leadership encouraged silence.<sup>48</sup>

In 1976, journalist Barbara Walters became the first female coanchor on a network news show, *The ABC Evening News*. She was met with great hostility from her coanchor Harry Reasoner and received critical coverage from the press.<sup>49</sup> On newspaper staffs, women reported having to fight for assignments to well-published beats, or to be assigned areas or topics, such as the economy or

Coverage in Comparative Perspective," *American Behavioral Scientist* 59, No. 7: 876–885.

47. Kay Mills. 1996. "What Difference Do Women Journalists Make?" In *Women, the Media and Politics*, ed. Pippa Norris. Oxford, UK: Oxford University Press, 43.
48. Kim Fridkin Kahn and Edie N. Goldenberg. 1997. "The Media: Obstacle or Ally of Feminists?" In *Do the Media Govern?* eds. Shanto Iyengar and Richard Reeves. Thousand Oaks, CA: Sage.
49. Barbara Walters, "Ms. Walters Reflects," *Vanity Fair*, 31 May 2008. [http://www.vanityfair.com/culture/2008/06/walters\\_excerpt200806](http://www.vanityfair.com/culture/2008/06/walters_excerpt200806)

politics, that were normally reserved for male journalists. Once female journalists held these assignments, they feared writing about women's issues. Would it make them appear weak? Would they be taken from their coveted beats?<sup>50</sup>

This apprehension allowed poor coverage of women and the women's movement to continue until women were better represented as journalists and as editors. Strength of numbers allowed them to be confident when covering issues like health care, childcare, and education.<sup>51</sup>

The media's historically uneven coverage of women continues in its treatment of female candidates. Early coverage was sparse. The stories that did appear often discussed the candidate's viability, or ability to win, rather than her stand on the issues.<sup>52</sup>

Women were seen as a novelty rather than as serious contenders who needed to be vetted and discussed. Modern media coverage has changed slightly. One study found that female candidates receive more favorable coverage than in prior generations, especially if they are incumbents.<sup>53</sup> Yet a different study found that while there was increased coverage for female candidates, it was often

50. Mills. "What Difference Do Women Journalists Make?"

51. Mills. "What Difference Do Women Journalists Make?"

52. Kahn and Goldenberg, "The Media: Obstacle or Ally of Feminists?"

53. Kim Fridkin Kahn. 1994. "Does Gender Make a Difference? An Experimental Examination of Sex Stereotypes and Press Patterns in Statewide Campaigns," *American Journal of Political Science* 38, No. 1: 162–195.



negative.<sup>54</sup> And it did not include Latina candidates.<sup>55</sup> Without coverage, they are less likely to win.

The historically negative media coverage of female candidates has had another concrete effect: Women are less likely than men to run for office. One common reason is the effect negative media coverage has on families.<sup>56</sup> Many women do not wish to expose their children or spouses to criticism.<sup>57</sup>

In 2008, the nomination of Sarah **Palin** as Republican candidate John McCain's running mate validated this concern. Some articles

54. John David Rausch, Mark Rozell, and Harry L. Wilson. 1999. "When Women Lose: A Study of Media Coverage of Two Gubernatorial Campaigns," *Women & Politics* 20, No. 4: 1-22.

55. Sarah Allen Gershon. 2013. "Media Coverage of Minority Congresswomen and Voter Evaluations: Evidence from an Online Experimental Study," *Political Research Quarterly* 66, No. 3: 702-714.

56. Jennifer Lawless and Richard Logan Fox. 2005. *It Takes a Candidate: Why Women Don't Run for Office*. Cambridge: Cambridge University Press.

57. Brittany L. Stalsburg, "Running with Strollers: The Impact of Family Life on Political Ambition," *Eagleton Institute of Politics*, Spring 2012, Unpublished Paper, <http://www.eagleton.rutgers.edu/research/documents/Stalsburg-FamilyLife-Political-Ambition.pdf> (August 28, 2015).

focused on her qualifications to be a potential future president or her record on the issues. But others questioned whether she had the right to run for office, given she had young children, one of whom has developmental disabilities.<sup>58</sup> Her daughter, Bristol, was criticized for becoming pregnant while unmarried.<sup>59</sup> Her husband was called cheap for failing to buy her a high-priced wedding ring.<sup>60</sup> Even when candidates ask that children and families be off-limits, the press rarely honors the requests. So women with young children may wait until their children are grown before running for office, if they choose to run at all.

58. Christina Walker, “Is Sarah Palin Being Held to an Unfair Standard?” CNN, 8 September 2008.

59. Dana Bash, “Palin’s Teen Daughter is Pregnant,” CNN, 1 September 2008.

60. Jimmy Orr, “Palin Wardrobe Controversy Heightens – Todd is a Cheapo!” *Christian Science Monitor*, 26 October 2008.



*When Sarah Palin found herself on the national stage at the Republican Convention in September 2008, media coverage about her selection as John McCain's running mate included numerous questions about her ability to serve based on personal family history. Attacks on candidates' families lead many women to postpone or avoid running for office. (credit: Carol Highsmith)*

## 21. Political Parties

### *Learning Objectives*

By the end of this section, you will be able to:

- Describe political parties and what they do
- Differentiate political parties from interest groups
- Explain how U.S. political parties formed
- Differentiate between the party in the electorate and the party organization
- Discuss the importance of voting in a political party organization
- Describe party organization at the county, state, and national levels
- Compare the perspectives of the party in government and the party in the electorate
- Discuss the problems and benefits of divided government
- Define party polarization
- List the main explanations for partisan polarization
- Explain the implications of partisan polarization

At some point, most of us have found ourselves part of a group trying to solve a problem, like picking a restaurant or movie to attend, or completing a big project at school or work. Members of the group probably had various opinions about what should be done. Some may have even refused to help make the decision or to follow it once it had been made. Still others may have been willing to follow along but were less interested in contributing to a workable

solution. Because of this disagreement, at some point, someone in the group had to find a way to make a decision, negotiate a compromise, and ultimately do the work needed for the group to accomplish its goals.

This kind of collective action problem is very common in societies, as groups and entire societies try to solve problems or distribute scarce resources. In modern U.S. politics, such problems are usually solved by two important types of organizations: interest groups and political parties. There are many interest groups, all with opinions about what should be done and a desire to influence policy. Because they are usually not officially affiliated with any political party, they generally have no trouble working with either of the major parties. But at some point, a society must find a way of taking all these opinions and turning them into solutions to real problems. That is where political parties come in. Essentially, political parties are groups of people with similar interests who work together to create and implement policies. They do this by gaining control over the government by winning elections. Party platforms guide members of Congress in drafting legislation. Parties guide proposed laws through Congress and inform party members how they should vote on important issues. Political parties also nominate candidates to run for state government, Congress, and the presidency. Finally, they coordinate political campaigns and mobilize voters.

## Political Parties as Unique Organizations

In *Federalist* No. 10, written in the late eighteenth century, James Madison noted that the formation of self-interested groups, which he called factions, was inevitable in any society, as individuals started to work together to protect themselves from the government. Interest groups and political parties are two of the most easily identified forms of factions in the United States. These groups are similar in that they are both mediating institutions responsible for communicating public preferences to the government. They are not themselves government institutions in a formal sense. Neither is directly mentioned in the U.S. Constitution nor do they have

any real, legal authority to influence policy. But whereas interest groups often work indirectly to influence our leaders, political parties are organizations that try to directly influence public policy through its members who seek to win and hold public office. Parties accomplish this by identifying and aligning sets of issues that are important to voters in the hopes of gaining support during elections; their positions on these critical issues are often presented in documents known as a party platform, which is adopted at each party's presidential nominating convention every four years. If



*The party platform adopted at the first national convention of the Progressive Party in 1912. Among other items, this platform called for disclosure requirements for campaign contributions, an eight-hour workday, a federal income tax, and women's suffrage.*

successful, a party can create a large enough electoral coalition to gain control of the government. Once in power, the party is then able to deliver, to its voters and elites, the policy preferences they choose by electing its partisans to the government. In this respect, parties provide choices to the electorate, something they are doing that is in such sharp contrast to their opposition.

Winning elections and implementing policy would be hard enough in simple political systems, but in a country as complex as the United States, political parties must take on great responsibilities to win elections and coordinate behavior across the many local, state, and national governing bodies. Indeed, political differences between states and local areas can contribute much complexity. If a party stakes out issue positions on which few people agree and therefore builds too narrow a coalition of voter support, that party may find itself marginalized. But if the party takes too broad a position on issues, it might find itself in a situation where the members of the party disagree with one another, making it difficult to pass legislation, even if the party can secure victory.

It should come as no surprise that the story of U.S. political parties largely mirrors the story of the United States itself. The United States has seen sweeping changes to its size, its relative power, and its social and demographic composition. These changes have been mirrored by the political parties as they have sought to shift their coalitions to establish and maintain power across the nation and as party leadership has changed. As you will learn later, this also means that the structure and behavior of modern parties largely parallel the social, demographic, and geographic divisions within the United States today. To understand how this has happened, we look at the origins of the U.S. party system.

## How Political Parties Formed

National political parties as we understand them today did not really

exist in the United States during the early years of the republic. Most politics during the time of the nation's founding were local in nature and based on elite politics, limited suffrage (or the ability to vote in elections), and property ownership. Residents of the various colonies, and later of the various states, were far more interested in events in their state legislatures than in those occurring at the national level or later in the nation's capital. To the extent that national issues did exist, they were largely limited to collective security efforts to deal with external rivals, such as the British or the French, and with perceived internal threats, such as conflicts with Native Americans.

Soon after the United States emerged from the Revolutionary War, however, a rift began to emerge between two groups that had very different views about the future direction of U.S. politics. Thus, from the very beginning of its history, the United States has had a system of government dominated by two different philosophies. Federalists, who were largely responsible for drafting and ratifying the U.S. Constitution, generally favored the idea of a stronger, more centralized republic that had greater control over regulating the economy.<sup>1</sup> Anti-Federalists preferred a more confederate system built on state equality and autonomy.<sup>2</sup>

The Federalist faction, led by Alexander Hamilton, largely dominated the government in the years immediately after the Constitution was ratified. Included in the Federalists was President

1. Larry Sabato and Howard R. Ernst. 2007. *Encyclopedia of American Political Parties and Elections*. New York: Checkmark Books, 151.
2. Saul Cornell. 2016. *The Other Founders: Anti-Federalism and the Dissenting Tradition in America*. Chapel Hill, NC: UNC Press, 11.



George Washington, who was initially against the existence of parties in the United States. When Washington decided to exit politics and leave office, he warned of the potential negative effects of parties in his farewell address to the nation, including their potentially divisive nature and the fact that they might not always focus on the common good but rather on partisan ends. However, members of each faction quickly realized that they had a vested interest not only in nominating and electing a president who shared their views, but also in winning other elections. Two loosely affiliated party coalitions, known as the Federalists and the Democratic-Republicans, soon emerged. The Federalists succeeded in electing their first leader, John Adams, to the presidency in 1796, only to see the Democratic-Republicans gain victory under Thomas Jefferson four years later in 1800.

Growing regional tensions eroded the Federalist Party's ability to coordinate elites, and it eventually collapsed following its opposition to the War of 1812.<sup>3</sup> The Democratic-Republican Party, on the other hand, eventually divided over whether national resources should be focused on economic and mercantile development, such as tariffs on imported goods and government funding of internal improvements like roads and canals, or on promoting populist issues that would help the "common man," such as reducing or eliminating state property requirements that had prevented many men from voting.<sup>4</sup>

3. James H. Ellis. 2009. *A Ruinous and Unhappy War: New England and the War of 1812*. New York: Algora Publishing, 80.
4. Alexander Keyssar. 2009. *The Right to Vote: The Contested History of Democracy in the United States*. New York: Basic Books.

In the election of 1824, numerous candidates contended for the presidency, all members of the Democratic-Republican Party. Andrew Jackson won more popular votes and more votes in the Electoral College than any other candidate. However, because he did not win the majority (more than half) of the available electoral votes, the election was decided by the House of Representatives, as required by the Twelfth Amendment. The Twelfth Amendment limited the House's choice to the three candidates with the greatest number of electoral votes. Thus, Andrew Jackson, with 99 electoral votes, found himself in competition with only John Quincy Adams, the second place finisher with 84 electoral votes, and William H. Crawford, who had come in third with 41. The fourth-place finisher, Henry Clay, who was no longer in contention, had won 37 electoral votes. Clay strongly disliked Jackson, and his ideas on government support for tariffs and internal improvements were similar to those of Adams. Clay thus gave his support to Adams, who was chosen on the first ballot. Jackson considered the actions of Clay and Adams, the son of the Federalist president John Adams, to be an unjust triumph of supporters of the elite and referred to it as "the corrupt bargain."<sup>5</sup>

This marked the beginning of what historians call the Second Party System (the first parties had been the Federalists and the Jeffersonian Republicans), with the splitting of the Democratic-Republicans and the formation of two new political parties. One half, called simply the Democratic Party, was the party of Jackson; it continued to advocate for the common people by championing westward expansion and opposing a national bank. The branch of the Democratic-Republicans that believed that the national government should encourage economic (primarily industrial)

5. R. R. Stenberg, "Jackson, Buchanan, and the "Corrupt Bargain" Calumny," *The Pennsylvania Magazine of History and Biography* 58, no. 1 (1934): 61-85.

development was briefly known as the National Republicans and later became the Whig Party.<sup>6</sup>

In the election of 1828, Democrat Andrew Jackson was triumphant. Three times as many people voted in 1828 as had in 1824, and most cast their ballots for him.<sup>7</sup> The formation of the Democratic Party marked an important shift in U.S. politics. Rather than being built largely to coordinate elite behavior, the Democratic Party worked to organize the electorate by taking advantage of state-level laws that had extended suffrage from male property owners to nearly all white men.<sup>8</sup> This change marked the birth of what is often considered the first modern political party in any democracy in the world.<sup>9</sup>

It also dramatically changed the way party politics was, and still is,

6. 2009. "Democratic-Republican Party," In UXL *Encyclopedia of U.S. History*, eds. Sonia Benson, Daniel E. Brannen, Jr., and Rebecca Valentine. Detroit: UXL, 435–436; "Jacksonian Democracy and Modern America," <http://www.ushistory.org/us/23f.asp> (March 6, 2016).
7. Virginia Historical Society. "Elections from 1789–1828." <http://www.vahistorical.org/collections-and-resources/virginia-history-explorer/getting-message-out-presidential-campaign-0> (March 11, 2016).
8. William G. Shade. 1983. "The Second Party System." In *Evolution of American Electoral Systems*, eds. Paul Kleppner, et al. Westport, CT: Greenwood Press, 77–111.
9. Jules Witcover. 2003. *Party of the People: A History of the Democrats*. New York: Random House, 3.

conducted. For one thing, this new party organization was built to include structures that focused on organizing and mobilizing voters for elections at all levels of government. The party also perfected an existing spoils system, in which support for the party during elections was rewarded with jobs in the government bureaucracy after victory.<sup>10</sup>

Many of these positions were given to party bosses and their friends. These men were the leaders of political machines, organizations that secured votes for the party's candidates or supported the party in other ways. Perhaps more importantly, this election-focused organization also sought to maintain power by creating a broader coalition and thereby expanding the range of issues upon which the party was constructed.<sup>11</sup>

The Democratic Party emphasized personal politics, which focused on building direct relationships with voters rather than on promoting specific issues. This party dominated national politics from Andrew Jackson's presidential victory in 1828 until the mid-1850s, when regional tensions began to threaten the nation's very existence. The growing power of industrialists, who preferred greater national authority, combined with increasing tensions between the northern and southern states over slavery, led to the rise of the Republican Party and its leader Abraham Lincoln in the election of 1860, while the Democratic Party dominated in the South. Like the Democrats, the Republicans also began to utilize a mass approach to party design and organization. Their opposition

10. Daniel Walker Howe. 2007. *What Hath God Wrought: The Transformation of America, 1815–1848*. New York: Oxford University Press, 330–34.

11. Sean Wilentz. 2006. *The Rise of American Democracy: Jefferson to Lincoln*. New York: Norton.

to the expansion of slavery, and their role in helping to stabilize the Union during Reconstruction, made them the dominant player in national politics for the next several decades.<sup>12</sup>

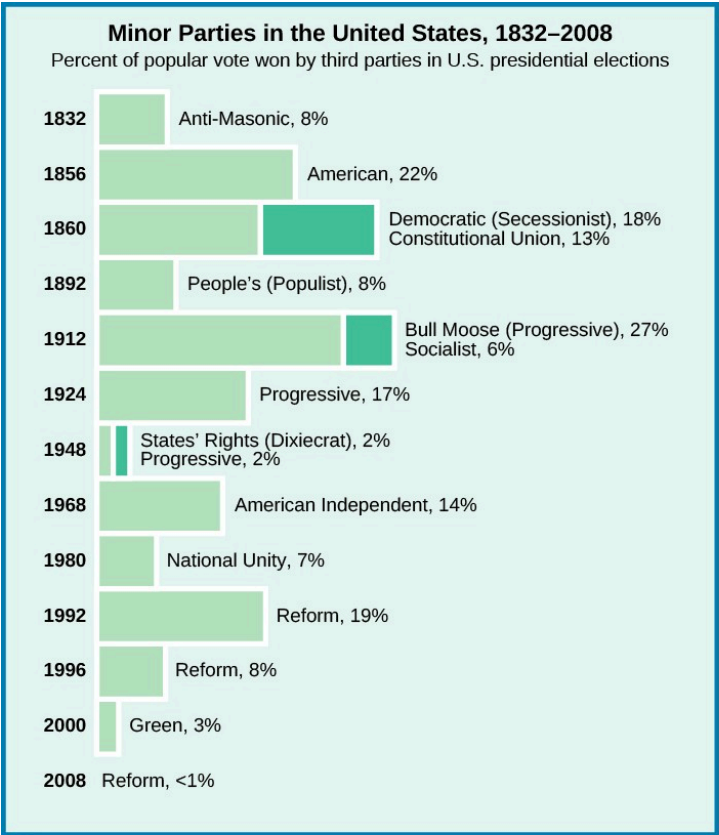
The Democratic and Republican parties have remained the two dominant players in the U.S. party system since the Civil War (1861–1865). That does not mean, however, that the system has been stagnant. Every political actor and every citizen has the ability to determine for him- or herself whether one of the two parties meets his or her needs and provides an appealing set of policy options, or whether another option is preferable.

At various points in the past 170 years, elites and voters have sought to create alternatives to the existing party system. Political parties that are formed as alternatives to the Republican and Democratic parties are known as **third parties**, or minor parties. In 1892, a third party known as the Populist Party formed in reaction to what its constituents perceived as the domination of U.S. society by big business and a decline in the power of farmers and rural communities. The Populist Party called for the regulation of railroads, an income tax, and the popular election of U.S. senators, who at this time were chosen by state legislatures and not by ordinary voters.<sup>13</sup>

The party's candidate in the 1892 elections, James B. Weaver, did not perform as well as the two main party candidates, and,

12. Calvin Jillson. 1994. "Patterns and Periodicity." In *The Dynamics of American Politics: Approaches and Interpretations*, eds. Lawrence C. Dodd and Calvin C. Jillson. Boulder, CO: Westview Press, 38–41.
13. Norman Pollack. 1976. *The Populist Response to Industrial America: Midwestern Populist Thought*. Cambridge, MA: Harvard University Press, 11–12.

in the presidential election of 1896, the Populists supported the Democratic candidate William Jennings Bryan. Bryan lost, and the Populists once again nominated their own presidential candidates in 1900, 1904, and 1908. The party disappeared from the national scene after 1908, but its ideas were similar to those of the Progressive Party, a new political party created in 1912.



Various third parties, also known as minor parties, have appeared in the United States over the years. Some, like the Socialist Party, still exist in one form or another. Others, like the Anti-Masonic Party, which wanted to protect the United States from the influence of the Masonic fraternal order and garnered just under 8 percent of the popular vote in 1832, are gone.

In 1912, former Republican president Theodore Roosevelt attempted to form a third party, known as the Progressive Party, as an alternative to the more business-minded Republicans. The Progressives sought to correct the many problems that had arisen as the United States transformed itself from a rural, agricultural nation into an increasingly urbanized, industrialized country dominated by big business interests. Among the reforms that the Progressive Party called for in its 1912 platform were women's suffrage, an eight-hour workday, and workers' compensation. The party also favored some of the same reforms as the Populist Party, such as the direct election of U.S. senators and an income tax, although Populists tended to be farmers while the Progressives were from the middle class. In general, Progressives sought to make government more responsive to the will of the people and to end political corruption in government. They wished to break the power of party bosses and political machines, and called upon states to pass laws allowing voters to vote directly on proposed legislation, propose new laws, and recall from office incompetent or corrupt elected officials. The Progressive Party largely disappeared after 1916, and most members returned to the Republican Party.<sup>14</sup> The party enjoyed a brief resurgence in 1924, when Robert "Fighting Bob" La Follette ran unsuccessfully for president under the Progressive banner.

In 1948, two new third parties appeared on the political scene. Henry A. Wallace, a vice president under Franklin Roosevelt, formed a new Progressive Party, which had little in common with the earlier Progressive Party. Wallace favored racial desegregation and believed that the United States should have closer ties to the Soviet Union. Wallace's campaign was a failure, largely because most people

14. 1985. *Congressional Quarterly's Guide to U.S. Elections*. Washington, DC: Congressional Quarterly Inc., 75–78, 387–388.

believed his policies, including national healthcare, were too much like those of communism, and this party also vanished. The other third party, the States' Rights Democrats, also known as the Dixiecrats, were white, southern Democrats who split from the Democratic Party when Harry Truman, who favored civil rights for African Americans, became the party's nominee for president. The Dixiecrats opposed all attempts by the federal government to end segregation, extend voting rights, prohibit discrimination in employment, or otherwise promote social equality among races.<sup>15</sup>

They remained a significant party that threatened Democratic unity throughout the 1950s and 1960s. Other examples of third parties in the United States include the American Independent Party, the Libertarian Party, United We Stand America, the Reform Party, and the Green Party.

None of these alternatives to the two major political parties had much success at the national level, and most are no longer viable parties. All faced the same fate. Formed by charismatic leaders, each championed a relatively narrow set of causes and failed to gain broad support among the electorate. Once their leaders had been defeated or discredited, the party structures that were built to contest elections collapsed. And within a few years, most of their supporters were eventually pulled back into one of the existing parties. To be sure, some of these parties had an electoral impact. For example, the Progressive Party pulled enough votes away from the Republicans to hand the 1912 election to the Democrats. Thus, the third-party rival's principal accomplishment was helping its least-preferred major party win, usually at the short-term expense of the very issue it championed. In the long run, however, many third parties have brought important issues to the attention of the

15. "Platform of the States Rights Democratic Party," <http://www.presidency.ucsb.edu/ws/?pid=25851> (March 12, 2016).



major parties, which then incorporated these issues into their platforms. Understanding why this is the case is an important next step in learning about the issues and strategies of the modern Republican and Democratic parties. In the next section, we look at why the United States has historically been dominated by only two political parties.

## The Party-in-the-Electorate

A key fact about the U.S. political party system is that it's all about the votes. If voters do not show up to vote for a party's candidates on Election Day, the party has no chance of gaining office and implementing its preferred policies. As we have seen, for much of their history, the two parties have been adapting to changes in the size, composition, and preferences of the U.S. electorate. It only makes sense, then, that parties have found it in their interest to build a permanent and stable presence among the voters. By fostering a sense of loyalty, a party can insulate itself from changes in the system and improve its odds of winning elections. The party-in-the-electorate are those members of the voting public who consider themselves to be part of a political party and/or who consistently prefer the candidates of one party over the other.

What it means to be part of a party depends on where a voter lives and how much he or she chooses to participate in politics. At its most basic level, being a member of the party-in-the-electorate simply means a voter is more likely to voice support for a party. These voters are often called party identifiers, since they usually represent themselves in public as being members of a party, and they may attend some party events or functions. Party identifiers are also more likely to provide financial support for the candidates of their party during election season. This does not mean self-identified Democrats will support *all* the party's positions or candidates, but it does mean that, on the whole, they feel their

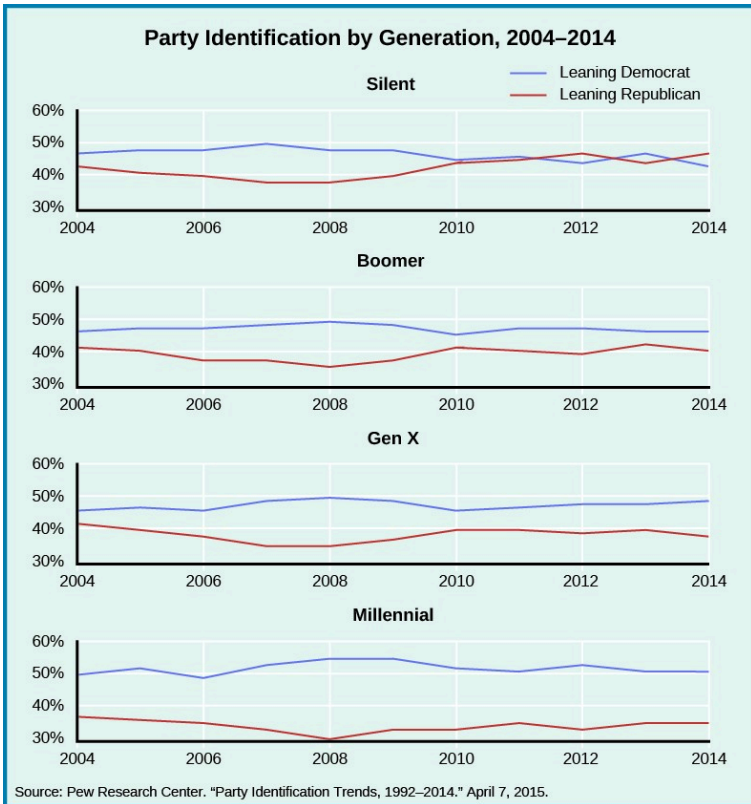
wants or needs are more likely to be met if the Democratic Party is successful.

Party identifiers make up the majority of the voting public. Gallup, the polling agency, has been collecting data on voter preferences for the past several decades. Its research suggests that historically, over half of American adults have called themselves “Republican” or “Democrat” when asked how they identify themselves politically. Even among self-proclaimed independents, the overwhelming majority claim to lean in the direction of one party or the other, suggesting they behave as if they identified with a party during elections even if they preferred not to publicly pick a side. Partisan support is so strong that, in a poll conducted from August 5 to August 9, 2015, about 88 percent of respondents said they either identified with or, if they were independents, at least leaned toward one of the major political parties.<sup>16</sup>

Thus, in a poll conducted in January 2016, even though about 42 percent of respondents said they were independent, this does not mean that they are not, in fact, more likely to favor one party over the other.<sup>17</sup>

16. “Party Affiliation,” <http://www.gallup.com/poll/15370/party-affiliation.aspx> (March 1, 2016).

17. Jeffrey L. Jones, “Democratic, Republican Identification Near Historical Lows,” <http://www.gallup.com/poll/188096/democratic-republican-identification-near-historical-lows.aspx> (March 14, 2016).



As the chart reveals, generation affects party identification. Millennials (ages 18–34) are more likely to identify as or lean towards the Democratic Party and less likely to favor Republicans than are their baby boomer parents and grandparents (born between 1946 and 1964).

Strictly speaking, party identification is not quite the same thing as party membership. People may call themselves Republicans or Democrats without being registered as a member of the party, and the Republican and Democratic parties do not require individuals to join their formal organization in the same way that parties in some other countries do. Many states require voters to declare a party affiliation before participating in primaries, but primary

participation is irregular and infrequent, and a voter may change his or her identity long before changing party registration. For most voters, party identification is informal at best and often matters only in the weeks before an election. It does matter, however, because party identification guides some voters, who may know little about a particular issue or candidate, in casting their ballots. If, for example, someone thinks of him- or herself as a Republican and always votes Republican, he or she will not be confused when faced with a candidate, perhaps in a local or county election, whose name is unfamiliar. If the candidate is a Republican, the voter will likely cast a ballot for him or her.

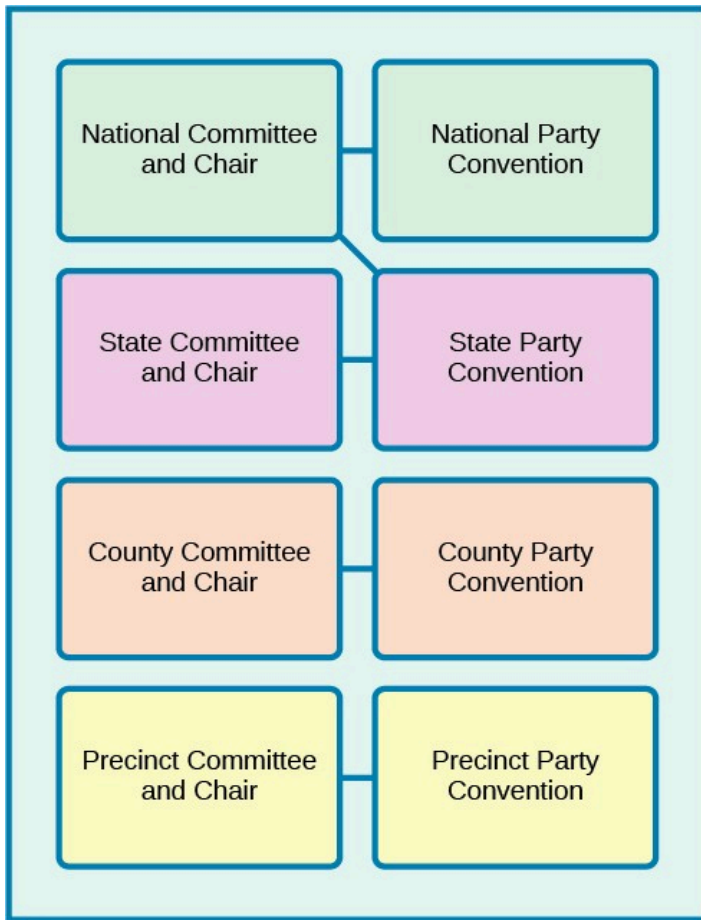
Party ties can manifest in other ways as well. The actual act of registering to vote and selecting a party reinforces party loyalty. Moreover, while pundits and scholars often deride voters who blindly vote their party, the selection of a party in the first place can be based on issue positions and ideology. In that regard, voting your party on Election Day is not a blind act—it is a shortcut based on issue positions.

## The Party Organization

A significant subset of American voters views their party identification as something far beyond simply a shortcut to voting. These individuals get more energized by the political process and have chosen to become more active in the life of political parties. They are part of what is known as the party organization. The party organization is the formal structure of the political party, and its active members are responsible for coordinating party behavior and supporting party candidates. It is a vital component of any successful party because it bears most of the responsibility for building and maintaining the party “brand.” It also plays a key role in helping select, and elect, candidates for public office.

## Local Organizations

Since winning elections is the first goal of the political party, it makes sense that the formal party organization mirrors the local-state-federal structure of the U.S. political system. While the lowest level of party organization is technically the precinct, many of the operational responsibilities for local elections fall upon the county-level organization. The county-level organization is in many ways the workhorse of the party system, especially around election time. This level of organization frequently takes on many of the most basic responsibilities of a democratic system, including identifying and mobilizing potential voters and donors, identifying and training potential candidates for public office, and recruiting new members for the party. County organizations are also often responsible for finding rank and file members to serve as volunteers on Election Day, either as officials responsible for operating the polls or as monitors responsible for ensuring that elections are conducted honestly and fairly. They may also hold regular meetings to provide members the opportunity to meet potential candidates and coordinate strategy. Of course, all this is voluntary and relies on dedicated party members being willing to pitch in to run the party.



*Political parties are bottom-up structures, with lower levels often responsible for selecting delegates to higher-level offices or conventions.*

## State Organizations

Most of the county organizations' formal efforts are devoted to supporting party candidates running for county and city offices. But

a fair amount of political power is held by individuals in statewide office or in state-level legislative or judicial bodies. While the county-level offices may be active in these local competitions, most of the coordination for them will take place in the state-level organizations. Like their more local counterparts, state-level organizations are responsible for key party functions, such as statewide candidate recruitment and campaign mobilization. Most of their efforts focus on electing high-ranking officials such as the governor or occupants of other statewide offices (e.g., the state's treasurer or attorney general) as well as candidates to represent the state and its residents in the U.S. Senate and the U.S. House of Representatives. The greater value of state- and national-level offices requires state organizations to take on several key responsibilities in the life of the party.

First, state-level organizations usually accept greater fundraising responsibilities than do their local counterparts. Statewide races and races for national office have become increasingly expensive in recent years. The average cost of a successful House campaign was \$1.2 million in 2014; for Senate races, it was \$8.6 million.<sup>18</sup> While individual candidates are responsible for funding and running their own races, it is typically up to the state-level organization to coordinate giving across multiple races and to develop the staffing expertise that these candidates will draw upon at election time.

State organizations are also responsible for creating a sense of unity among members of the state party. Building unity can be very important as the party transitions from sometimes-contentious

18. Russ Choma, "Money Won on Tuesday, But Rules of the Game Changed," 5 November 2014, <http://www.opensecrets.org/news/2014/11/money-won-on-tuesday-but-rules-of-the-game-changed/> (March 1, 2016).

nomination battles to the all-important general election. The state organization uses several key tools to get its members working together towards a common goal. First, it helps the party's candidates prepare for state primary elections or caucuses that allow voters to choose a nominee to run for public office at either the state or national level. Caucuses are a form of town hall meeting at which voters in a precinct get together to voice their preferences, rather than voting individually throughout the day.



*Caucus-goers gather at a Democratic precinct caucus on January 3, 2008, in Iowa City, Iowa. Caucuses are held every two years in more than 1650 Iowa precincts.*

Second, the state organization is also responsible for drafting a state platform that serves as a policy guide for partisans who are eventually selected to public office. These platforms are usually the result of a negotiation between the various coalitions within the party and are designed to ensure that everyone in the party will receive some benefits if their candidates win the election. Finally, state organizations hold a statewide convention at which delegates from the various county organizations come together to discuss the needs of their areas. The state conventions are also responsible for selecting delegates to the national convention.



## National Party Organization

The local and state-level party organizations are the workhorses of the political process. They take on most of the responsibility for party activities and are easily the most active participants in the party formation and electoral processes. They are also largely invisible to most voters. The average citizen knows very little of the local party's behavior unless there is a phone call or a knock on the door in the days or weeks before an election. The same is largely true of the activities of the state-level party. Typically, the only people who notice are those who are already actively engaged in politics or are being targeted for donations.

But most people are aware of the presence and activity of the national party organizations for several reasons. First, many Americans, especially young people, are more interested in the topics discussed at the national level than at the state or local level. According to John Green of the Ray C. Bliss Institute of Applied Politics, "Local elections tend to be about things like sewers, and roads and police protection—which are not as dramatic an issue as same-sex marriage or global warming or international affairs."<sup>19</sup>

Presidential elections and the behavior of the U.S. Congress are also far more likely to make the news broadcasts than the activities of county commissioners, and the national-level party organization is mostly responsible for coordinating the activities of participants at this level. The national party is a fundraising army for presidential

19. Elizabeth Lehman, "Trend Shows Generation Focuses Mostly on Social, National Issues," <http://www.thenewsoutlet.org/survey-local-millennials-more-interested-in-big-issues/> (March 15, 2016).

candidates and also serves a key role in trying to coordinate and direct the efforts of the House and Senate. For this reason, its leadership is far more likely to become visible to media consumers, whether they intend to vote or not.

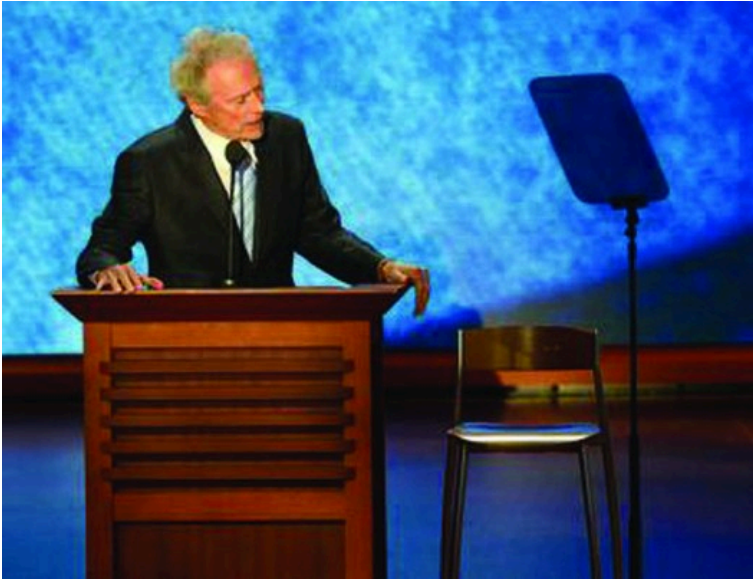
A second reason for the prominence of the national organization is that it usually coordinates the grandest spectacles in the life of a political party. Most voters are never aware of the numerous county-level meetings or coordinating activities. Primary elections, one of the most important events to take place at the state level, have a much lower turnout than the nationwide general election. In 2012, for example, only one-third of the eligible voters in New Hampshire voted in the state's primary, one of the earliest and thus most important in the nation; however, 70 percent of eligible voters in the state voted in the general election in November 2012.<sup>20</sup>

People may see or read an occasional story about the meetings of the state committees or convention but pay little attention. But the national conventions, organized and sponsored by the national-level party, can dominate the national discussion for several weeks in late summer, a time when the major media outlets are often searching for news. These conventions are the definition of a media circus at which high-ranking politicians, party elites, and sometimes celebrities, such as actor/director Clint Eastwood, along with individuals many consider to be the future leaders of the party are brought before the public so the party can make its best case for being the one to direct the future of the country.<sup>21</sup>

20. "Voter Turnout," <http://www.electproject.org/home/voter-turnout/voter-turnout-data> (March 14, 2016).

21. Abdullah Halimah, "Eastwood, the Empty Chair, and the Speech Everyone's Talking About," 31 August 2012,

National party conventions culminate in the formal nomination of the party nominees for the offices of president and vice president, and they mark the official beginning of the presidential competition between the two parties.



*In August 2012, Clint Eastwood—actor, director, and former mayor of Carmel-by-the-Sea, California—spoke at the Republican National Convention accompanied by an empty chair representing the Democratic incumbent president Barack Obama.*

In the past, national conventions were often the sites of high drama and political intrigue. As late as 1968, the identities of the presidential and/or vice-presidential nominees were still unknown to the general public when the convention opened. It was also

<http://www.cnn.com/2012/08/31/politics/eastwood-speech/> (March 14, 2016).

common for groups protesting key events and issues of the day to try to raise their profile by using the conventions to gain the media spotlight. National media outlets would provide “gavel to gavel” coverage of the conventions, and the relatively limited number of national broadcast channels meant most viewers were essentially forced to choose between following the conventions or checking out of the media altogether. Much has changed since the 1960s, however, and between 1960 and 2004, viewership of both the Democratic National Convention and the Republican National Convention had declined by half.<sup>22</sup>

National conventions are not the spectacles they once were, and this fact is almost certainly having an impact on the profile of the national party organization. Both parties have come to recognize the value of the convention as a medium through which they can communicate to the average viewer. To ensure that they are viewed in the best possible light, the parties have worked hard to turn the public face of the convention into a highly sanitized, highly orchestrated media event. Speakers are often required to have their speeches prescreened to ensure that they do not deviate from the party line or run the risk of embarrassing the eventual nominee—whose name has often been known by all for several months. And while protests still happen, party organizations have become increasingly adept at keeping protesters away from the convention sites, arguing that safety and security are more important than First Amendment rights to speech and peaceable assembly. For example, protestors were kept behind concrete

22. “Influence of Democratic and Republican Conventions on Opinions of the Presidential Candidates,” <http://journalistsresource.org/studies/politics/elections/personal-individual-effects-presidential-conventions-candidate-evaluations> (March 14, 2016).

barriers and fences at the Democratic National Convention in 2004.<sup>23</sup>

With the advent of cable TV news and the growth of internet blogging, the major news outlets have found it unnecessary to provide the same level of coverage they once did. Between 1976 and 1996, ABC and CBS cut their coverage of the nominating conventions from more than fifty hours to only five. NBC cut its coverage to fewer than five hours.<sup>24</sup> One reason may be that the outcome of nominating conventions are also typically known in advance, meaning there is no drama. Today, the nominee's acceptance speech is expected to be no longer than an hour, so it will not take up more than one block of prime-time TV programming.

This is not to say the national conventions are no longer important, or that the national party organizations are becoming less relevant. The conventions, and the organizations that run them, still contribute heavily to a wide range of key decisions in the life of both parties. The national party platform is formally adopted at the convention, as are the key elements of the strategy for contesting the national campaign. And even though the media is paying less attention, key insiders and major donors often use the convention as a way of gauging the strength of the party and its ability to effectively organize and coordinate its members. They are also paying close attention to the rising stars who are given time at the

23. Timothy Zick, "Speech and Spatial Tactics," *Texas Law Review* February (2006): 581.

24. Thomas E. Patterson, "Is There a Future for On-the-Air Televised Conventions?" [http://journalistsresource.org/wp-content/uploads/2012/08/vv\\_conv\\_paper1.pdf](http://journalistsresource.org/wp-content/uploads/2012/08/vv_conv_paper1.pdf) (March 14, 2016).

convention's podium, to see which are able to connect with the party faithful. Most observers credit Barack Obama's speech at the 2004 Democratic National Convention with bringing him to national prominence.<sup>25</sup>

## The Party-in-Government

One of the first challenges facing the party-in-government, or the party identifiers who have been elected or appointed to hold public office, is to achieve their policy goals. The means to do this is chosen in meetings of the two major parties; Republican meetings are called party conferences and Democrat meetings are called party caucuses. Members of each party meet in these closed sessions and discuss what items to place on the legislative agenda and make decisions about which party members should serve on the committees that draft proposed laws. Party members also elect the leaders of their respective parties in the House and the Senate, and their party whips. Leaders serve as party managers and are the highest-ranking members of the party in each chamber of Congress. The party whip ensures that members are present when a piece of legislation is to be voted on and directs them how to vote. The whip is the second-highest ranking member of the party in each chamber. Thus, both the Republicans and the Democrats have a leader and a whip in the House, and a leader and a whip in the Senate. The leader and whip of the party that holds the majority

25. Todd Leopold, "The Day America Met Barack Obama," <http://www.cnn.com/2008/POLITICS/11/05/obama.meeting/index.html?iref=werecommend> (March 14, 2016).

of seats in each house are known as the majority leader and the majority whip. The leader and whip of the party with fewer seats are called the minority leader and the minority whip. The party that controls the majority of seats in the House of Representatives also elects someone to serve as Speaker of the House. People elected to Congress as independents (that is, not members of either the Republican or Democratic parties) must choose a party to conference or caucus with. For example, Vermont Senator Bernie Sanders, who ran for Senate as an independent candidate, caucuses with the Democrats in the Senate.

One problem facing the party-in-government relates to the design of the country's political system. The U.S. government is based on a complex principle of separation of powers, with power divided among the executive, legislative, and judiciary branches. The system is further complicated by federalism, which relegates some powers to the states, which also have separation of powers. This complexity creates a number of problems for maintaining party unity. The biggest is that each level and unit of government has different constituencies that the office holder must satisfy. The person elected to the White House is more beholden to the national party organization than are members of the House or Senate, because members of Congress must be reelected by voters in very different states, each with its own state-level and county-level parties.

Some of this complexity is eased for the party that holds the executive branch of government. Executive offices are typically more visible to the voters than the legislature, in no small part because a single person holds the office. Voters are more likely to show up at the polls and vote if they feel strongly about the candidate running for president or governor, but they are also more

likely to hold that person accountable for the government's failures.<sup>26</sup>

Members of the legislature from the executive's party are under a great deal of pressure to make the executive look good, because a popular president or governor may be able to help other party members win office. Even so, partisans in the legislature cannot be expected to simply obey the executive's orders. First, legislators may serve a constituency that disagrees with the executive on key matters of policy. If the issue is important enough to voters, as in the case of gun control or abortion rights, an office holder may feel his or her job will be in jeopardy if he or she too closely follows the party line, even if that means disagreeing with the executive. A good example occurred when the Civil Rights Act of 1964, which desegregated public accommodations and prohibited discrimination in employment on the basis of race, was introduced in Congress. The bill was supported by Presidents John F. Kennedy and Lyndon Johnson, both of whom were Democrats. Nevertheless, many Republicans, such as William McCulloch, a conservative representative from Ohio, voted in its favor while many southern Democrats opposed it.<sup>27</sup>

A second challenge is that each house of the legislature has its own leadership and committee structure, and those leaders may not be in total harmony with the president. Key benefits like committee appointments, leadership positions, and money for important

26. Sidney R. Waldman. 2007. *America and the Limits of the Politics of Selfishness*. New York: Lexington Books, 27.

27. Alicia W. Stewart and Tricia Escobedo, "What You Might Not Know About the 1964 Civil Rights Act," 10 April 2014, <http://www.cnn.com/2014/04/10/politics/civil-rights-act-interesting-facts/> (March 16, 2016).



projects in their home district may hinge on legislators following the lead of the party. These pressures are particularly acute for the majority party, so named because it controls more than half the seats in one of the two chambers. The Speaker of the House and the Senate majority leader, the majority party's congressional leaders, have significant tools at their disposal to punish party members who defect on a particular vote. Finally, a member of the minority party must occasionally work with the opposition on some issues in order to accomplish any of his or her constituency's goals. This is especially the case in the Senate, which is a super-majority institution. Sixty votes (of the 100 possible) are required to get anything accomplished, because Senate rules allow individual members to block legislation via holds and filibusters. The only way to block the blocking is to invoke *cloture*, a procedure calling for a vote on an issue, which takes 60 votes.

## The Problem of Divided Government

The problem of majority versus minority politics is particularly acute under conditions of divided government. Divided government occurs when one or more houses of the legislature are controlled by the party in opposition to the executive. Unified government occurs when the same party controls the executive and the legislature entirely. Divided government can pose considerable difficulties for both the operations of the party and the government as a whole. It makes fulfilling campaign promises extremely difficult, for instance, since the cooperation (or at least the agreement) of both Congress and the president is typically needed to pass legislation. Furthermore, one party can hardly claim credit for success when the other side has been a credible partner, or when nothing can be accomplished. Party loyalty may be challenged too, because individual politicians might be forced to oppose their own party agenda if it will help their personal reelection bids.

Divided government can also be a threat to government operations, although its full impact remains unclear.<sup>28</sup> For example, when the divide between the parties is too great, government may shut down. A 1976 dispute between Republican president Gerald Ford and a Democrat-controlled Congress over the issue of funding for certain cabinet departments led to a ten-day shutdown of the government (although the federal government did not cease to function entirely). But beginning in the 1980s, the interpretation that Republican president Ronald Reagan's attorney general gave to a nineteenth-century law required a complete shutdown of federal government operations until a funding issue was resolved.<sup>29</sup>

Clearly, the parties' willingness to work together and compromise can be a very good thing. However, the past several decades have brought an increased prevalence of divided government. Since 1969, the U.S. electorate has sent the president a Congress of his own party in only seven of twenty-three congressional elections, and during George W. Bush's first administration, the Republican majority was so narrow that a combination of resignations and defections gave the Democrats control before the next election could be held.

Over the short term, however, divided government can make for very contentious politics. A well-functioning government usually

28. David R. Mayhew. 1991. *Divided We Govern*. New Haven: Yale University Press; George C. Edwards, Andrew Barrett and Jeffrey S. Peake, "The Legislative Impact of Divided Government," *American Journal of Political Science* 41, no. 2 (1997): 545–563.

29. Dylan Matthews, "Here is Every Previous Government Shutdown, Why They Happened and How They Ended," *The Washington Post*, 25 September 2013.

requires a certain level of responsiveness on the part of both the executive and the legislative branches. This responsiveness is hard enough if government is unified under one party. During the presidency of Democrat Jimmy Carter (1977–1980), despite the fact that both houses of Congress were controlled by Democratic majorities, the government was shut down on five occasions because of conflict between the executive and legislative branches.<sup>30</sup>

Shutdowns are even more likely when the president and at least one house of Congress are of opposite parties. During the presidency of Ronald Reagan, for example, the federal government shut down eight times; on seven of those occasions, the shutdown was caused by disagreements between Reagan and the Republican-controlled Senate on the one hand and the Democrats in the House on the other, over such issues as spending cuts, abortion rights, and civil rights.<sup>31</sup> More such disputes and government shutdowns took place during the administrations of George H. W. Bush, Bill Clinton, and Barack Obama, when different parties controlled Congress and the presidency.

For the first few decades of the current pattern of divided government, the threat it posed to the government appears to have been muted by a high degree of bipartisanship, or cooperation through compromise. Many pieces of legislation were passed in the 1960s and 1970s with reasonably high levels of support from both parties. Most members of Congress had relatively moderate voting records, with regional differences within parties that made bipartisanship on many issues more likely.

30. Matthews, “Here is Every Previous Government Shutdown, Why They Happened and How They Ended.”

31. Matthews, “Here is Every Previous Government Shutdown, Why They Happened and How They Ended.”



*In the early 1980s, Republican president Ronald Reagan (left) and Democratic Speaker of the House Tip O'Neil (right) worked together to pass key pieces of legislation, even though they opposed each other on several issues. (credit: Ronald Reagan Presidential Library & Museum)*

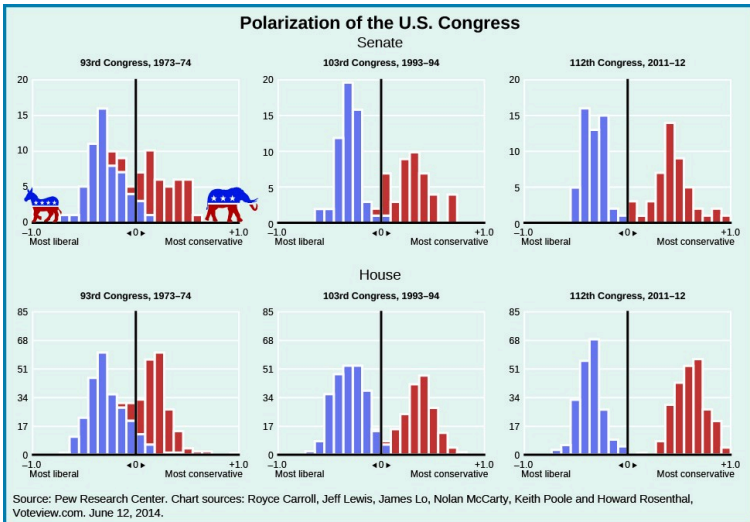
For example, until the 1980s, northern and midwestern Republicans were often fairly progressive, supporting racial equality, workers' rights, and farm subsidies. Southern Democrats were frequently quite socially and racially conservative and were strong supporters of states' rights. Cross-party cooperation on these issues was fairly frequent. But in the past few decades, the number of moderates in both houses of Congress has declined. This has made it more difficult for party leadership to work together on a range of important issues, and for members of the minority party in Congress to find policy agreement with an opposing party president.

## The Implications of Polarization

The past thirty years have brought a dramatic change in the relationship between the two parties as fewer conservative Democrats and liberal Republicans have been elected to office. As political moderates, or individuals with ideologies in the middle of the ideological spectrum, leave the political parties at all levels, the parties have grown farther apart ideologically, a result called party polarization. In other words, at least organizationally and in government, Republicans and Democrats have become increasingly dissimilar from one another. In the party-in-government, this means fewer members of Congress have mixed voting records; instead they vote far more consistently on issues and are far more likely to side with their party leadership.<sup>32</sup>

It also means a growing number of moderate voters aren't participating in party politics. Either they are becoming independents, or they are participating only in the general election and are therefore not helping select party candidates in primaries.

32. Drew Desilver, "The Polarized Congress of Today Has Its Roots in the 1970s," 12 June 2014, <http://www.pewresearch.org/fact-tank/2014/06/12/polarized-politics-in-congress-began-in-the-1970s-and-has-been-getting-worse-ever-since/> (March 16, 2016).



*The number of moderates has dropped since 1973 as both parties have moved toward ideological extremes.*

What is most interesting about this shift to increasingly polarized parties is that it does not appear to have happened as a result of the structural reforms recommended by APSA. Rather, it has happened because moderate politicians have simply found it harder and harder to win elections. There are many conflicting theories about the causes of polarization, some of which we discuss below. But whatever its origin, party polarization in the United States does not appear to have had the net positive effects that the APSA committee was hoping for. With the exception of providing voters with more distinct choices, positives of polarization are hard to find. The negative impacts are many. For one thing, rather than reducing interparty conflict, polarization appears to have only amplified it. For example, the Republican Party (or the GOP, standing for Grand Old Party) has historically been a coalition of two key and overlapping factions: pro-business rightists and social conservatives. The GOP has held the coalition of these two groups

together by opposing programs designed to redistribute wealth (and advocating small government) while at the same time arguing for laws preferred by conservative Christians. But it was also willing to compromise with pro-business Democrats, often at the expense of social issues, if it meant protecting long-term business interests.

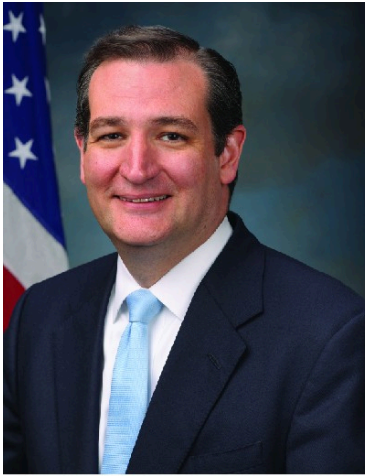
Recently, however, a new voice has emerged that has allied itself with the Republican Party. Born in part from an older third-party movement known as the Libertarian Party, the Tea Party is more hostile to government and views government intervention in all forms, and especially taxation and the regulation of business, as a threat to capitalism and democracy. It is less willing to tolerate interventions in the market place, even when they are designed to protect the markets themselves. Although an anti-tax faction within the Republican Party has existed for some time, some factions of the Tea Party movement are also active at the intersection of religious liberty and social issues, especially in opposing such initiatives as same-sex marriage and abortion rights.<sup>33</sup> The Tea Party has argued that government, both directly and by neglect, is threatening the ability of evangelicals to observe their moral obligations, including practices some perceive as endorsing social exclusion.

Although the Tea Party is a movement and not a political party, 86 percent of Tea Party members who voted in 2012 cast their votes for Republicans.<sup>34</sup> Some members of the Republican Party are closely affiliated with the movement, and before the 2012 elections, Tea Party activist Grover Norquist exacted promises from many Republicans in Congress that they would oppose any bill that sought

33. "The Tea Party and Religion," 23 February 2011, <http://www.pewforum.org/2011/02/23/tea-party-and-religion/> (March 16, 2016).

34. "The Tea Party and Religion."

to raise taxes.<sup>35</sup> The inflexibility of Tea Party members has led to tense floor debates and was ultimately responsible for the 2014 primary defeat of Republican majority leader Eric Cantor and the 2015 resignation of the sitting Speaker of the House John Boehner. In 2015, Chris Christie, John Kasich, Ben Carson, Marco Rubio, and Ted Cruz, all of whom were Republican presidential candidates, signed Norquist's pledge as well.



(a)



(b)

*Vying for the Republican nomination, 2016 presidential candidates Ted Cruz (a) and John Kasich (b), like many other Republicans, signed a pledge not to raise taxes if elected.*

35. Paul Waldman, “Nearly All the GOP Candidates Bow Down to Grover Norquist, *The Washington Post*, 13 August 2015, <https://www.washingtonpost.com/blogs/plum-line/wp/2015/08/13/nearly-all-the-gop-candidates-bow-down-to-grover-norquist/> (March 1, 2016).



Movements on the left have also arisen. The Occupy Wall Street movement was born of the government's response to the Great Recession of 2008 and its assistance to endangered financial institutions, provided through the Troubled Asset Relief Program, TARP. The Occupy Movement believed the recession was caused by a failure of the government to properly regulate the banking industry. The Occupiers further maintained that the government moved swiftly to protect the banking industry from the worst of the recession but largely failed to protect the average person, thereby worsening the growing economic inequality in the United States.



*On September 30, 2011, Occupy Wall Street protesters marched to the headquarters of the New York Police Department to protest police brutality that occurred in response to the movement's occupation of Zuccotti Park in Lower Manhattan. (credit: modification of work by David Shankbone)*

While the Occupy Movement itself has largely fizzled, the anti-business sentiment to which it gave voice continues within the Democratic Party, and many Democrats have proclaimed their support for the movement and its ideals, if not for its

tactics.<sup>36</sup> Champions of the left wing of the Democratic Party, however, such as presidential candidate Senator Bernie Sanders and Massachusetts Senator Elizabeth Warren, have ensured that the Occupy Movement's calls for more social spending and higher taxes on the wealthy remain a prominent part of the national debate. Their popularity, and the growing visibility of race issues in the United States, have helped sustain the left wing of the Democratic Party. Bernie Sanders' presidential run made these topics and causes even more salient, especially among younger voters. To date, however, the Occupy Movement has had fewer electoral effects than has the Tea Party. Yet, as manifested in Sanders' candidacy, it has the potential to affect races at lower levels in the 2016 national elections.

Unfortunately, party factions haven't been the only result of party polarization. By most measures, the U.S. government in general and Congress in particular have become less effective in recent years. Congress has passed fewer pieces of legislation, confirmed fewer appointees, and been less effective at handling the national purse than in recent memory. If we define effectiveness as legislative productivity, the 106th Congress (1999–2000) passed 463 pieces of substantive legislation (not including commemorative legislation, such as bills proclaiming an official doughnut of the United States). The 107th Congress (2000–2001) passed 294 such pieces of legislation. By 2013–2014, the total had fallen to 212.<sup>37</sup>

36. Beth Fouhy, "Occupy Wall Street and Democrats Remain Wary of Each Other," *Huffington Post*, 17 November 2011.

37. Drew Desilver, "In Late Spurt of Activity, Congress Avoids 'Least Productive' Title," 29 December 2014, <http://www.pewresearch.org/fact-tank/2014/12/29/>

Perhaps the clearest sign of Congress' ineffectiveness is that the threat of government shutdown has become a constant. Shutdowns occur when Congress and the president are unable to authorize and appropriate funds before the current budget runs out. This is now an annual problem. Relations between the two parties became so bad that financial markets were sent into turmoil in 2014 when Congress failed to increase the government's line of credit before a key deadline, thus threatening a U.S. government default on its loans. While any particular trend can be the result of multiple factors, the decline of key measures of institutional confidence and trust suggest the negative impact of polarization. Public approval ratings for Congress have been near single digits for several years, and a poll taken in February 2016 revealed that only 11 percent of respondents thought Congress was doing a "good or excellent job."<sup>38</sup> President Obama's average approval rating has remained low, despite an overall trend of economic growth since the end of the 2008 recession.<sup>39</sup> Typically, economic conditions are a significant driver of presidential approval, suggesting the negative effect of partisanship on presidential approval.

in-late-spurt-of-activity-congress-avoids-least-productive-title/ (March 16, 2016).

38. "Congressional Performance," [http://www.rasmussenreports.com/public\\_content/politics/mood\\_of\\_america/congressional\\_performance](http://www.rasmussenreports.com/public_content/politics/mood_of_america/congressional_performance) (March 16, 2016).
39. "Presidential Approval Ratings - Barack Obama," <http://www.gallup.com/poll/116479/barack-obama-presidential-job-approval.aspx> (March 16, 2016).

## The Causes of Polarization

Scholars agree that some degree of polarization is occurring in the United States, even if some contend it is only at the elite level. But they are less certain about exactly why, or how, polarization has become such a mainstay of American politics. Several conflicting theories have been offered. The first and perhaps best argument is that polarization is a party-in-government phenomenon driven by a decades-long sorting of the voting public, or a change in party allegiance in response to shifts in party position.<sup>40</sup> According to the sorting thesis, before the 1950s, voters were mostly concerned with state-level party positions rather than national party concerns. Since parties are bottom-up institutions, this meant local issues dominated elections; it also meant national-level politicians typically paid more attention to local problems than to national party politics.

But over the past several decades, voters have started identifying more with national-level party politics, and they began to demand their elected representatives become more attentive to national party positions. As a result, they have become more likely to pick parties that consistently represent national ideals, are more consistent in their candidate selection, and are more willing to elect office-holders likely to follow their party's national agenda. One example of the way social change led to party sorting revolves around race.

The Democratic Party returned to national power in the 1930s largely as the result of a coalition among low socio-economic status voters in northern and midwestern cities. These new Democratic voters were religiously and ethnically more diverse than the mostly

40. Morris Fiorina, "Americans Have Not Become More Politically Polarized," *The Washington Post*, 23 June 2014.

white, mostly Protestant voters who supported Republicans. But the southern United States (often called the “Solid South”) had been largely dominated by Democratic politicians since the Civil War. These politicians agreed with other Democrats on most issues, but they were more evangelical in their religious beliefs and less tolerant on racial matters. The federal nature of the United States meant that Democrats in other parts of the country were free to seek alliances with minorities in their states. But in the South, African Americans were still largely disenfranchised well after Franklin Roosevelt had brought other groups into the Democratic tent.

The Democratic alliance worked relatively well through the 1930s and 1940s when post-Depression politics revolved around supporting farmers and helping the unemployed. But in the late 1950s and early 1960s, social issues became increasingly prominent in national politics. Southern Democrats, who had supported giving the federal government authority for economic redistribution, began to resist calls for those powers to be used to restructure society. Many of these Democrats broke away from the party only to find a home among Republicans, who were willing to help promote smaller national government and greater states’ rights.<sup>41</sup> This shift was largely completed with the rise of the evangelical movement in politics, when it shepherded its supporters away from Jimmy Carter, an evangelical Christian, to Ronald Reagan in the 1980 presidential election.

At the same time social issues were turning the Solid South

41. Ian Haney-Lopez, “How the GOP Became the ‘White Man’s Party,’” 22 December 2013, [https://www.salon.com/2013/12/22/how\\_the\\_gop\\_became\\_the\\_white\\_mans\\_party/](https://www.salon.com/2013/12/22/how_the_gop_became_the_white_mans_party/) (March 16, 2016).

towards the Republican Party, they were having the opposite effect in the North and West. Moderate Republicans, who had been champions of racial equality since the time of Lincoln, worked with Democrats to achieve social reform. These Republicans found it increasingly difficult to remain in their party as it began to adjust to the growing power of the small government-states' rights movement. A good example was Senator Arlen Specter, a moderate Republican who represented Pennsylvania and ultimately switched to become a Democrat before the end of his political career.

A second possible culprit in increased polarization is the impact of technology on the public square. Before the 1950s, most people got their news from regional newspapers and local radio stations. While some national programming did exist, most editorial control was in the hands of local publishers and editorial boards. These groups served as a filter of sorts as they tried to meet the demands of local markets.

As described in detail in the media chapter, the advent of television changed that. Television was a powerful tool, with national news and editorial content that provided the same message across the country. All viewers saw the same images of the women's rights movement and the war in Vietnam. The expansion of news coverage to cable, and the consolidation of local news providers into big corporate conglomerates, amplified this nationalization. Average citizens were just as likely to learn what it meant to be a Republican from a politician in another state as from one in their own, and national news coverage made it much more difficult for politicians to run away from their votes. The information explosion that followed the heyday of network TV by way of cable, the Internet, and blogs has furthered this nationalization trend.

A final possible cause for polarization is the increasing sophistication of gerrymandering, or the manipulation of legislative districts in an attempt to favor a particular candidate. According to the gerrymandering thesis, the more moderate or heterogeneous a voting district, the more moderate the politician's behavior once in office. Taking extreme or one-sided positions on a large number

of issues would be hazardous for a member who needs to build a diverse electoral coalition. But if the district has been drawn to favor a particular group, it now is necessary for the elected official to serve only the portion of the constituency that dominates.



*This cartoon, which inspired the term gerrymander, was printed in the Boston Gazette on March 26, 1812, after the Massachusetts legislature redistricted the state to favor the party of the sitting governor, Elbridge Gerry.*

Gerrymandering is a centuries-old practice. There has always been an incentive for legislative bodies to draw districts in such a way that sitting legislators have the best chance of keeping their jobs. But changes in law and technology have transformed

gerrymandering from a crude art into a science. The first advance came with the introduction of the “one-person-one-vote” principle by the U.S. Supreme Court in 1962. Before then, it was common for many states to practice redistricting, or redrawing of their electoral maps, *only* if they gained or lost seats in the U.S. House of Representatives. This can happen once every ten years as a result of a constitutionally mandated reapportionment process, in which the number of House seats given to each state is adjusted to account for population changes.

But if there was no change in the number of seats, there was little incentive to shift district boundaries. After all, if a legislator had won election based on the current map, any change to the map could make losing seats more likely. Even when reapportionment led to new maps, most legislators were more concerned with protecting their own seats than with increasing the number of seats held by their party. As a result, some districts had gone decades without significant adjustment, even as the U.S. population changed from largely rural to largely urban. By the early 1960s, some electoral districts had populations several times greater than those of their more rural neighbors.

However, in its one-person-one-vote decision in *Reynolds v. Simms* (1964), the Supreme Court argued that everyone’s vote should count roughly the same regardless of where they lived.<sup>42</sup> Districts had to be adjusted so they would have roughly equal populations. Several states therefore had to make dramatic changes to their electoral maps during the next two redistricting cycles (1970–1972 and 1980–1982). Map designers, no longer certain how to protect individual party members, changed tactics to try and create safe seats so members of their party could be assured of winning by a comfortable margin. The basic rule of thumb was that designers sought to draw districts in which their preferred

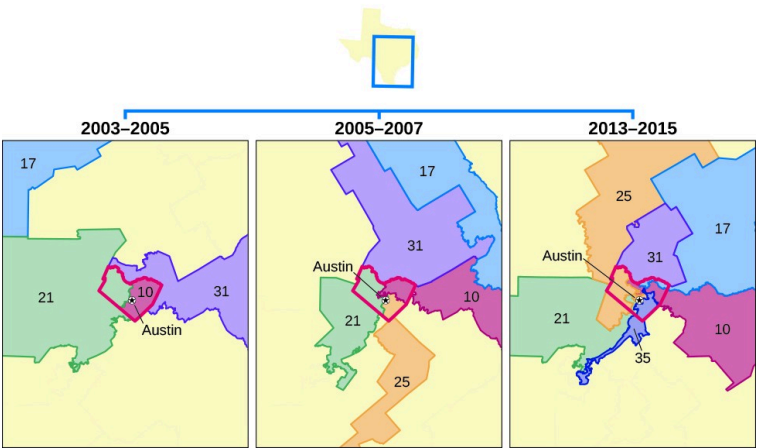
42. *Reynolds v. Simms*, 379 U.S. 870 (1964).



party had a 55 percent or better chance of winning a given district, regardless of which candidate the party nominated.

Of course, many early efforts at post-Reynolds gerrymandering were crude since map designers had no good way of knowing exactly where partisans lived. At best, designers might have a rough idea of voting patterns between precincts, but they lacked the ability to know voting patterns in individual blocks or neighborhoods. They also had to contend with the inherent mobility of the U.S. population, which meant the most carefully drawn maps could be obsolete just a few years later. Designers were often forced to use crude proxies for party, such as race or the socio-economic status of a neighborhood. Some maps were so crude they were ruled unconstitutionally discriminatory by the courts.

Gerrymandering in Austin, TX, 2003–2015



*Examples of gerrymandering in Texas, where the Republican-controlled legislature redrew House districts to reduce the number of Democratic seats by combining voters in Austin with those near the border, several hundred miles away. Today, Austin is represented by six different congressional representatives.*

Proponents of the gerrymandering thesis point out that the decline in the number of moderate voters began during this period of

increased redistricting. But it wasn't until later, they argue, that the real effects could be seen. A second advance in redistricting, via computer-aided map making, truly transformed gerrymandering into a science. Refined computing technology, the ability to collect data about potential voters, and the use of advanced algorithms have given map makers a good deal of certainty about where to place district boundaries to best predetermine the outcomes. These factors also provided better predictions about future population shifts, making the effects of gerrymandering more stable over time. Proponents argue that this increased efficiency in map drawing has led to the disappearance of moderates in Congress.

According to political scientist Nolan McCarty, there is little evidence to support the redistricting hypothesis alone. First, he argues, the Senate has become polarized just as the House of Representatives has, but people vote for Senators on a statewide basis. There are no gerrymandered voting districts in elections for senators. Research showing that more partisan candidates first win election to the House before then running successfully for the Senate, however, helps us understand how the Senate can also become partisan.<sup>43</sup> Furthermore, states like Wyoming and Vermont, which have only one Representative and thus elect House members on a statewide basis as well, have consistently elected people at the far ends of the ideological spectrum.<sup>44</sup> Redistricting did contribute

43. Sean Theriault. 2013. *The Gingrich Senators: The Roots of Partisan Warfare in Congress*. New York: Oxford University Press.

44. Nolan McCarty, "Hate Our Polarized Politics? Why You Can't Blame Gerrymandering," *The Washington Post*, 26 October 2012.

to polarization in the House of Representatives, but it took place largely in districts that had undergone significant change.<sup>45</sup>

Furthermore, polarization has been occurring throughout the country, but the use of increasingly polarized district design has not. While some states have seen an increase in these practices, many states were already largely dominated by a single party (such as in the Solid South) but still elected moderate representatives. Some parts of the country have remained closely divided between the two parties, making overt attempts at gerrymandering difficult. But when coupled with the sorting phenomenon discussed above, redistricting probably is contributing to polarization, if only at the margins.

45. Jamie L. Carson et al., “Redistricting and Party Polarization in the U.S. House of Representatives,” *American Politics Research* 35, no. 6 (2007): 878–904.

## 22. Interest Groups

### *Learning Objectives*

By the end of this section, you will be able to:

- Explain how interest groups differ from political parties
- Evaluate the different types of interests and what they do
- Compare public and private interest groups
- Describe how interest groups influence the government through elections
- Explain how interest groups influence the government through the governance processes
- Identify the various court cases, policies, and laws that outline what interest groups can and cannot do
- Evaluate the arguments for and against whether contributions are a form of freedom of speech

While the term *interest group* is not mentioned in the U.S. Constitution, the framers were aware that individuals would band together in an attempt to use government in their favor. In *Federalist* No. 10, James Madison warned of the dangers of “factions,” minorities who would organize around issues they felt strongly about, possibly to the detriment of the majority. But Madison believed limiting these factions was worse than facing the evils they might produce, because such limitations would violate individual freedoms. Instead, the natural way to control factions was to let them flourish and compete against each other. The sheer number

of interests in the United States suggests that many have, indeed, flourished. They compete with similar groups for membership, and with opponents for access to decision-makers. Some people suggest there may be too many interests in the United States. Others argue that some have gained a disproportionate amount of influence over public policy, whereas many others are underrepresented.

Madison's definition of factions can apply to both interest groups and political parties. But unlike political parties, interest groups do not function primarily to elect candidates under a certain party label or to directly control the operation of the government. Political parties in the United States are generally much broader coalitions that represent a significant proportion of citizens. In the American two-party system, the Democratic and Republican Parties spread relatively wide nets to try to encompass large segments of the population. In contrast, while interest groups may support or oppose political candidates, their goals are usually more issue-specific and narrowly focused on areas like taxes, the environment, and gun rights or gun control, or their membership is limited to specific professions. They may represent interests ranging from well-known organizations, such as the Sierra Club, IBM, or the American Lung Association, to obscure ones, such as the North Carolina Gamefowl Breeders Association. Thus, with some notable exceptions, specific interest groups have much more limited membership than do political parties.

Political parties and interest groups both work together and compete for influence, although in different ways. While interest group activity often transcends party lines, many interests are perceived as being more supportive of one party than the other. The American Conservative Union, Citizens United, the National Rifle Association, and National Right to Life are more likely to have relationships with Republican lawmakers than with Democratic ones. Americans for Democratic Action, Moveon.org, and the Democratic Governors Association all have stronger relationships with the Democratic Party. Parties and interest groups do compete

with each other, however, often for influence. At the state level, we typically observe an inverse relationship between them in terms of power. Interest groups tend to have greater influence in states where political parties are comparatively weaker.

## What Are Interest Groups and What Do They Want?

Definitions abound when it comes to interest groups, which are sometimes referred to as special interests, interest organizations, pressure groups, or just interests. Most definitions specify that **interest group** indicates any formal association of individuals or organizations that attempt to influence government decision-making and/or the making of public policy. Often, this influence is exercised by a lobbyist or a lobbying firm.

Formally, a **lobbyist** is someone who represents the interest organization before government, is usually compensated for doing so, and is required to register with the government in which he or she lobbies, whether state or federal. The lobbyist's primary goal is usually to influence policy. Most interest organizations engage in lobbying activity to achieve their objectives. As you might expect, the interest hires a lobbyist, employs one internally, or has a member volunteer to lobby on its behalf. For present purposes, we might restrict our definition to the relatively broad one in the Lobbying Disclosure Act.<sup>1</sup> This act requires the registration of lobbyists representing any interest group and devoting more than

1. Anthony J. Nownes. 2013. *Interest Groups in American Politics*. Routledge: New York.

20 percent of their time to it.<sup>2</sup> Clients and lobbying firms must also register with the federal government based on similar requirements. Moreover, campaign finance laws require disclosure of campaign contributions given to political candidates by organizations.

Lobbying is not limited to Washington, DC, however, and many interests lobby there as well as in one or more states. Each state has its own laws describing which individuals and entities must register, so the definitions of lobbyists and interests, and of what lobbying is and who must register to do it, also vary from state to state. Therefore, while a citizen contacting a lawmaker to discuss an issue is generally not viewed as lobbying, an organization that devotes a certain amount of time and resources to contacting lawmakers may be classified as lobbying, depending on local, state, or federal law.

Largely for this reason, there is no comprehensive list of all interest groups to tell us how many there are in the United States. Estimates of the number vary widely, suggesting that if we use a broad definition and include all interests at all levels of government, there may be more than 200,000.<sup>3</sup> Following the passage of the Lobbying Disclosure Act in 1995, we had a much better understanding of the number of interests registered in Washington, DC; however, it was not until several years later that we had a complete count and categorization of the interests registered in

2. Nownes, *Interest Groups in American Politics*.

3. Nownes, *Interest Groups in American Politics*.

each of the fifty states.<sup>4</sup> Political scientists have categorized interest groups in a number of ways.<sup>5</sup>

First, interest groups may take the form of membership organizations, which individuals join voluntarily and to which they usually pay dues. Membership groups often consist of people who have common issues or concerns, or who want to be with others who share their views. The National Rifle Association (NRA) is a membership group consisting of members who promote gun rights. For those who advocate greater regulation of access to firearms, such as background checks prior to gun purchases, the Brady Campaign to Prevent Gun Violence is a membership organization that weighs in on the other side of the issue.<sup>6</sup>

4. Jennifer Wolak, Adam J. Newmark, Todd McNoldy, David Lowery, and Virginia Gray, “Much of Politics is Still Local: Multistate Representation in State Interest Communities,” *Legislative Studies Quarterly* 27 (2002): 527–555.
5. Anthony J. Nownes and Adam J. Newmark. 2013. “Interest Groups in the States.” In *Politics in the American States*. Washington, DC: CQ Press, 105–131.
6. The Brady Campaign to Prevent Gun Violence was founded by James and Sarah Brady, after James Brady was permanently disabled by a gunshot following an assassination attempt on then-president Ronald Reagan. At the time of the shooting, Brady was Reagan’s press secretary. <http://www.bradiycampaign.org/jim-and-sarah-brady> (March 1, 2016).





(a)



(b)

A Florida member of the NRA proudly displays his support of gun rights (a). In December 2012, CREDO, a San Francisco telecommunications company that supports progressive causes, called on the NRA to stop blocking Congress from passing gun control legislation (b). (credit a: modification of work by Daniel Oines; credit b: modification of work by Josh Lopez)

Interest groups may also form to represent companies, corporate organizations, and governments. These groups do not have individual members but rather are offshoots of corporate or governmental entities with a compelling interest to be represented in front of one or more branches of government. Verizon and Coca-Cola will register to lobby in order to influence policy in a way that benefits them. These corporations will either have one or more in-house lobbyists, who work for one interest group or firm and represent their organization in a lobbying capacity, and/or will hire a contract lobbyist, individuals who work for firms that represent a multitude of clients and are often hired because of their resources and their ability to contact and lobby lawmakers, to represent them before the legislature.

Governments such as municipalities and executive departments such as the Department of Education register to lobby in an effort to maximize their share of budgets or increase their level of autonomy. These government institutions are represented by a legislative liaison, whose job is to present issues to decision-makers. For example, a state university usually employs a lobbyist, legislative liaison, or government affairs person to represent its interests before the legislature. This includes lobbying for a given university's

share of the budget or for its continued autonomy from lawmakers and other state-level officials who may attempt to play a greater oversight role.

In 2015, thirteen states had their higher education budgets cut from the previous year, and nearly all states have seen some cuts to higher education funding since the recession began in 2008.<sup>7</sup> In 2015, as in many states, universities and community colleges in Mississippi lobbied the legislature over pending budget cuts.<sup>8</sup> These examples highlight the need for universities and state university systems to have representation before the legislature. On the federal level, universities may lobby for research funds from government departments. For example, the Departments of Defense and Homeland Security may be willing to fund scientific research that might better enable them to defend the nation.

Interest groups also include associations, which are typically groups of institutions that join with others, often within the same trade or industry (trade associations), and have similar concerns. The American Beverage Association<sup>9</sup> includes Coca-Cola, Red Bull North America, ROCKSTAR, and Kraft Foods. Despite the fact that

7. Michael Mitchell and Michael Leachman, “Years of Cuts Threaten to Put College Out of Reach for More Students,” Center on Budget and Policy Priorities, 13 May 2015, <http://www.cbpp.org/research/state-budget-and-tax/years-of-cuts-threaten-to-put-college-out-of-reach-for-more-students>.
8. Robert Davidson, “Higher Ed Lobbies for More Funds,” <http://www.wcbi.com/local-news/higher-ed-lobbies-for-more-funds/> (November 3, 2015).
9. <http://www.ameribev.org/> (March 1, 2016).

these companies are competitors, they have common interests related to the manufacturing, bottling, and distribution of beverages, as well as the regulation of their business activities. The logic is that there is strength in numbers, and if members can lobby for tax breaks or eased regulations for an entire industry, they may all benefit. These common goals do not, however, prevent individual association members from employing in-house lobbyists or contract lobbying firms to represent their own business or organization as well. Indeed, many members of associations are competitors who also seek representation individually before the legislature.

Finally, sometimes individuals volunteer to represent an organization. They are called amateur or volunteer lobbyists, and are typically not compensated for their lobbying efforts. In some cases, citizens may lobby for pet projects because they care about some issue or cause. They may or may not be members of an interest group, but if they register to lobby, they are sometimes nicknamed “hobbyists.”

Lobbyists representing a variety of organizations employ different techniques to achieve their objectives. One method is inside lobbying or direct lobbying, which takes the interest group’s message directly to a government official such as a lawmaker.<sup>10</sup> Inside lobbying tactics include testifying in legislative hearings and helping to draft legislation. Numerous surveys of lobbyists have confirmed that the vast majority rely on these inside strategies. For example, nearly all report that they contact lawmakers, testify before the legislature, help draft legislation, and contact executive agencies. Trying to influence government appointments or providing favors to members of government are somewhat less common insider tactics.

Many lobbyists also use outside lobbying or indirect lobbying

## 10. Nownes and Newmark, “Interest Groups in the States.”

tactics, whereby the interest attempts to get its message out to the public.<sup>11</sup> These tactics include issuing press releases, placing stories and articles in the media, entering coalitions with other groups, and contacting interest group members, hoping that they will individually pressure lawmakers to support or oppose legislation. An environmental interest group like the Sierra Club, for example, might issue a press release or encourage its members to contact their representatives in Congress about legislation of concern to the group. It might also use outside tactics if there is a potential threat to the environment and the group wants to raise awareness among its members and the public. Members of Congress are likely to pay attention when many constituents contact them about an issue or proposed bill. Many interest groups, including the Sierra Club, will use a combination of inside and outside tactics in their lobbying efforts, choosing whatever strategy is most likely to help them achieve their goals.

11. Ken Kollman. 1998. *Outside Lobbying: Public Opinion and Interest Groups Strategies*. Princeton, NJ: Princeton University Press.



*In February 2013, members of the Sierra Club joined a march on Los Angeles City Hall to demand action on climate change and protest the development of the Keystone pipeline. (credit: Charlie Kaijo)*

The primary goal of most interests, no matter their lobbying approach, is to influence decision-makers and public policies. For example, National Right to Life, an anti-abortion interest group, lobbies to encourage government to enact laws that restrict abortion access, while NARAL Pro-Choice America lobbies to promote the right of women to have safe choices about abortion. Environmental interests like the Sierra Club lobby for laws designed to protect natural resources and minimize the use of pollutants. On the other hand, some interests lobby to reduce regulations that an organization might view as burdensome. Air and water quality regulations designed to improve or protect the environment may be viewed as onerous by industries that pollute as a byproduct of their production or manufacturing process. Other interests lobby for budgetary allocations; the farm lobby, for example, pressures Congress to secure new farm subsidies or maintain existing ones. Farm subsidies are given to some farmers because they grow certain

crops and to other farmers so they will not grow certain crops.<sup>12</sup> As expected, any bill that might attempt to alter these subsidies raises the antennae of many agricultural interests.

## Interest Group Functions

While influencing policy is the primary goal, interest groups also monitor government activity, serve as a means of political participation for members, and provide information to the public and to lawmakers. According to the National Conference of State Legislatures, by November 2015, thirty-six states had laws requiring that voters provide identification at the polls.<sup>13</sup>

A civil rights group like the National Association for the Advancement of Colored People (NAACP) will keep track of proposed voter-identification bills in state legislatures that might have an effect on voting rights. This organization will contact lawmakers to voice approval or disapproval of proposed legislation (inside lobbying) and encourage group members to take action by either donating money to it or contacting lawmakers about the proposed bill (outside lobbying). Thus, a member of the organization or a citizen concerned about voting rights need not be an expert on the legislative process or the technical or legal details of a proposed

12. “Milking Taxpayers,” *The Economist*, 14 February 2015, <http://www.economist.com/news/united-states/21643191-crop-prices-fall-farmers-grow-subsidies-instead-milking-taxpayers>.
13. <http://www.ncsl.org/research/elections-and-campaigns/voter-id.aspx> (November 78, 2015).

bill to be informed about potential threats to voting rights. Other interest groups function in similar ways. For example, the NRA monitors attempts by state legislatures to tighten gun control laws.

Interest groups facilitate political participation in a number of ways. Some members become active within a group, working on behalf of the organization to promote its agenda. Some interests work to increase membership, inform the public about issues the group deems important, or organize rallies and promote get-out-the-vote efforts. Sometimes groups will utilize events to mobilize existing members or encourage new members to join. For example, following Barack Obama's presidential victory in 2008, the NRA used the election as a rallying cry for its supporters, and it continues to attack the president on the issue of guns, despite the fact that gun rights have in some ways expanded over the course of the Obama presidency. Interest groups also organize letter-writing campaigns, stage protests, and sometimes hold fundraisers for their cause or even for political campaigns.

Some interests are more broadly focused than others. AARP (formerly the American Association of Retired Persons) has approximately thirty-seven million members and advocates for individuals fifty and over on a variety of issues including health care, insurance, employment, financial security, and consumer protection.<sup>14</sup>

This organization represents both liberals and conservatives, Democrats and Republicans, and many who do not identify with these categorizations. On the other hand, the Association of Black Cardiologists is a much smaller and far-narrower organization. Over the last several decades, some interest groups have sought greater specialization and have even fragmented. As you may imagine, the Association of Black Cardiologists is more specialized than the

14. <http://www.aarp.org/about-aarp/> (October 3, 2015).

American Medical Association, which tries to represent all physicians regardless of race or specialty.



*Health care is an important concern for AARP and its members, so the organization makes sure to maintain connections with key policymakers in this area, such as Katherine Sebelius, secretary of Health and Human Services from 2009 to 2014, shown here with John Rother, director of legislation and public policy for AARP. (credit: modification of work by Chris Smith, HHS)*

## Public vs. Private Interest Groups

Interest groups and organizations represent both private and public interests in the United States. *Private interests* usually seek particularized benefits from government that favor either a single interest or a narrow set of interests. For example, corporations and political institutions may lobby government for tax exemptions, fewer regulations, or favorable laws that benefit individual companies or an industry more generally. Their goal is to promote private goods. Private goods are items individuals can own, including corporate profits. An automobile is a private good; when you purchase it, you receive ownership. Wealthy individuals are more likely to accumulate private goods, and they can sometimes



obtain private goods from governments, such as tax benefits, government subsidies, or government contracts.

On the other hand, public interest groups attempt to promote public, or collective, goods. Such collective goods are benefits—tangible or intangible—that help most or all citizens. These goods are often produced collectively, and because they may not be profitable and everyone may not agree on what public goods are best for society, they are often underfunded and thus will be underproduced unless there is government involvement. The Tennessee Valley Authority, a government corporation, provides electricity in some places where it is not profitable for private firms to do so. Other examples of collective goods are public safety, highway safety, public education, and environmental protection. With some exceptions, if an environmental interest promotes clean air or water, most or all citizens are able to enjoy the result. So if the Sierra Club encourages Congress to pass legislation that improves national air quality, citizens receive the benefit regardless of whether they are members of the organization or even support the legislation. Many environmental groups are public interest groups that lobby for and raise awareness of issues that affect large segments of the population.<sup>15</sup>

As the clean air example above suggests, collective goods are generally nonexcludable, meaning all or most people are entitled to the public good and cannot be prevented from enjoying it. Furthermore, collective goods are generally not subject to crowding, so that even as the population increases, people still have access to the entire public good. Thus, the military does not protect citizens only in Texas and Maryland while neglecting those in New York and Idaho, but instead it provides the collective good of national defense equally to citizens in all states. As another example, even as more

15. Jeffrey M. Berry and Clyde Wilcox. 2009. *The Interest Group Society*. New York: Pearson.

cars use a public roadway, under most circumstances, additional drivers still have the option of using the same road. (High-occupancy vehicle lanes may restrict some lanes of a highway for drivers who do not car pool.)

## Influence in Elections

Interest groups support candidates who are sympathetic to their views in hopes of gaining access to them once they are in office.<sup>16</sup> For example, an organization like the NRA will back candidates who support Second Amendment rights. Both the NRA and the Brady Campaign to Prevent Gun Violence (an interest group that favors background checks for firearm purchases) have grading systems that evaluate candidates and states based on their records of supporting these organizations.<sup>17</sup>

To garner the support of the NRA, candidates must receive an A+ rating for the group. In much the same way, Americans for Democratic Action, a liberal interest group, and the American Conservative Union, a conservative interest group, both rate

16. John R. Wright. 1996. *Interest Groups and Congress: Lobbying, Contributions, and Influence*. Needham Heights, MA: Allyn and Bacon; Mark J. Rozell, Clyde Wilcox, and Michael M. Franz. 2012. *Interest Groups in American Campaigns: The New Face of Electioneering*. New York: Oxford University Press.
17. <https://www.nrapvf.org/grades/>;  
<http://www.bradycampaign.org/2013-state-scorecard>  
(March 1, 2016).

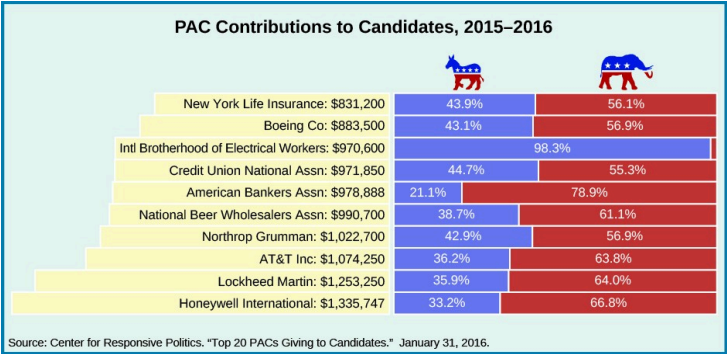
politicians based on their voting records on issues these organizations view as important.<sup>18</sup> These ratings, and those of many other groups, are useful for interests and the public in deciding which candidates to support and which to oppose. Incumbents have electoral advantages in terms of name recognition, experience, and fundraising abilities, and they often receive support because interest groups want access to the candidate who is likely to win. Some interest groups will offer support to the challenger, particularly if the challenger better aligns with the interest's views or the incumbent is vulnerable. Sometimes, interest groups even hedge their bets and give to both major party candidates for a particular office in the hopes of having access regardless of who wins.

Some interests groups form political action committees (PACs), groups that collect funds from donors and distribute them to candidates who support their issues. As the chart below makes apparent, many large corporations like Honeywell International, AT&T, and Lockheed Martin form PACs to distribute money to candidates.<sup>19</sup> Other PACs are either politically or ideologically oriented. For example, the MoveOn.org PAC is a progressive group that formed following the impeachment trial of President Bill Clinton, whereas GOPAC is a Republican PAC that promotes state and local candidates of that party. PACs are limited in the amount of money that they can contribute to individual candidates or to national party organizations; they can contribute no more than \$5,000 per candidate per election and no more than \$15,000 a year

18. <http://www.adaction.org/pages/publications/voting-records.php>; <http://acuratings.conservative.org/> (March 1, 2016).

19. <https://www.opensecrets.org/pacs/> (March 1, 2016).

to a national political party. Individual contributions to PACs are also limited to \$5,000 a year.



Corporations and associations spend large amounts of money on elections via affiliated PACs. This chart reveals the amount donated to Democratic (blue) and Republican (red) candidates by the top ten PACs during the most recent election cycle.

PACs through which corporations and unions can spend virtually unlimited amounts of money on behalf of political candidates are called super PACs.<sup>20</sup> As a result of a 2010 Supreme Court decision, *Citizens United v. Federal Election Commission*, there is no limit to how much money unions or corporations can donate to super PACs. Unlike PACs, however, super PACs cannot contribute money directly to individual candidates. If the 2014 elections were any indication, super PACs will continue to spend large sums of money in an attempt to influence future election results.

20. Conor M. Dowling and Michael G. Miller. 2014. *Super PAC! Money, Elections, and Voters after Citizens United*. New York: Routledge.

## Influencing Governmental Policy

Interest groups support candidates in order to have access to lawmakers once they are in office. Lawmakers, for their part, lack the time and resources to pursue every issue; they are policy generalists. Therefore, they (and their staff members) rely on interest groups and lobbyists to provide them with information about the technical details of policy proposals, as well as about fellow lawmakers' stands and constituents' perceptions. These voting cues give lawmakers an indication of how to vote on issues, particularly those with which they are unfamiliar. But lawmakers also rely on lobbyists for information about ideas they can champion and that will benefit them when they run for reelection.<sup>21</sup>

Interest groups likely cannot target all 535 lawmakers in both the House and the Senate, nor would they wish to do so. There is little reason for the Brady Campaign to Prevent Gun Violence to lobby members of Congress who vehemently oppose any restrictions on gun access. Instead, the organization will often contact lawmakers who are amenable to some restrictions on access to firearms. Thus, interest groups first target lawmakers they think will consider introducing or sponsoring legislation.

Second, they target members of relevant committees.<sup>22</sup> If a company that makes weapons systems wants to influence a defense

21. Wright, *Interest Groups and Congress: Lobbying, Contributions, and Influence*.

22. Richard L. Hall and Frank W. Wayman, "Buying Time: Moneyed Interests and the Mobilization of Bias in Congressional Committees," *American Political Science Review* 84.3 (1990): 797-820.

bill, it will lobby members of the Armed Services Committees in the House and the Senate or the House and Senate appropriations committees if the bill requires new funding. Many members of these committees represent congressional districts with military bases, so they often sponsor or champion bills that allow them to promote policies popular with their districts or state. Interest groups attempt to use this to their advantage. But they also conduct strategic targeting because legislatures function by respectfully considering fellow lawmakers' positions. Since lawmakers cannot possess expertise on every issue, they defer to their trusted colleagues on issues with which they are unfamiliar. So targeting committee members also allows the lobbyist to inform other lawmakers indirectly.

Third, interest groups target lawmakers when legislation is on the floor of the House and/or Senate, but again, they rely on the fact that many members will defer to their colleagues who are more familiar with a given issue. Finally, since legislation must pass both chambers in identical form, interest groups may target members of the conference committees whose job it is to iron out differences across the chambers. At this negotiation stage, a 1 percent difference in, say, the corporate income tax rate could mean millions of dollars in increased or decreased revenue or taxation for various interests.

Interest groups also target the budgetary process in order to maximize benefits to their group. In some cases, their aim is to influence the portion of the budget allocated to a given policy, program, or policy area. For example, interests for groups that represent the poor may lobby for additional appropriations for various welfare programs; those interests opposed to government assistance to the poor may lobby for reduced funding to certain programs. It is likely that the legislative liaison for your university or college spends time trying to advocate for budgetary allocations in your state.

Interest groups also try to defeat legislation that may be detrimental to their views. For example, when Congress considers

legislation to improve air quality, it is not unusual for some industries to oppose it if it requires additional regulations on factory emissions. In some cases, proposed legislation may serve as a disturbance, resulting in group formation or mobilization to help defeat the bill. For example, a proposed tax increase may result in the formation or mobilization of anti-tax groups that will lobby the legislature and try to encourage the public to oppose the proposed legislation. Prior to the election in 2012, political activist Grover Norquist, the founder of Americans for Tax Reform (ATR), asked all Republican members of Congress to sign a “Taxpayer Protection Pledge” that they would fight efforts to raise taxes or to eliminate any deductions that were not accompanied by tax cuts. Ninety-five percent of the Republicans in Congress signed the pledge.<sup>23</sup> Some interests arise solely to defeat legislation and go dormant after they achieve their immediate objectives.

Once legislation has been passed, interest groups may target the executive branch of government, whose job is to implement the law. The U.S. Department of Veterans Affairs has some leeway in providing care for military veterans, and interests representing veterans’ needs may pressure this department to address their concerns or issues. Other entities within the executive branch, like the Securities and Exchange Commission, which maintains and regulates financial markets, are not designed to be responsive to the interests they regulate, because to make such a response would be a conflict of interest. Interest groups may lobby the executive branch on executive, judicial, and other appointments that require Senate

23. Sean Lengell, “Boehner: Grover Norquist Just a ‘Random’ Guy,” *Washington Times*, 3 November 2011, <http://www.washingtontimes.com/blog/inside-politics/2011/nov/3/boehner-grover-norquist-just-random-guy/>.

confirmation. As a result, interest group members may be appointed to positions in which they can influence proposed regulation of the industry of which they are a part.

In addition to lobbying the legislative and executive branches of government, many interest groups also lobby the judicial branch. Lobbying the judiciary takes two forms, the first of which was mentioned above. This is lobbying the executive branch about judicial appointments the president makes and lobbying the Senate to confirm these appointments. The second form of lobbying consists of filing amicus briefs, which are also known as “friend of the court” briefs. These documents present legal arguments stating why a given court should take a case and/or why a court should rule a certain way. In *Obergefell v. Hodges* (2015), the Supreme Court case that legalized same-sex marriage nationwide, numerous interest groups filed amicus briefs.<sup>24</sup>

For example, the Human Rights Campaign filed a brief arguing that the Fourteenth Amendment’s due process and equal protection clauses required that same-sex couples be afforded the same rights to marry as opposite-sex couples. In a 5–4 decision, the U.S. Supreme Court agreed.

24. *Obergefell v. Hodges*, 576 U.S. \_\_\_\_ (2015).





*Members of the Human Rights Campaign, an interest that supports LGBT rights, march toward the Supreme Court on June 26, 2015, the day that the *Obergefell v. Hodges* decision is announced. (credit: modification of work by Matt Popovich)*

Measuring the effect of interest groups' influence is somewhat difficult because lobbyists support lawmakers who would likely have supported them in the first place. Thus, National Right to Life, an anti-abortion interest group, does not generally lobby lawmakers who favor abortion rights; instead, it supports lawmakers and candidates who have professed "pro-life" positions. While some scholars note that lobbyists sometimes try to influence those on the fence or even their enemies, most of the time, they support like-minded individuals. Thus, contributions are unlikely to sway lawmakers to change their views; what they do buy is access, including time with lawmakers. The problem for those trying to assess whether interest groups influence lawmakers, then, is that we are uncertain what would happen in the absence of interest group contributions. For example, we can only speculate what the

ACA might have looked like had lobbyists from a host of interests not lobbied on the issue.

How are lobbying and interest group activity regulated? As we noted earlier in the chapter, James Madison viewed factions as a necessary evil and thought preventing people from joining together would be worse than any ills groups might cause. The First Amendment guarantees, among other things, freedom of speech, petition, and assembly. However, people have different views on how far this freedom extends. For example, should freedom of speech as afforded to individuals in the U.S. Constitution also apply to corporations and unions? To what extent can and should government restrict the activities of lobbyists and lawmakers, limiting who may lobby and how they may do it?

## Interest Groups and Free Speech

Most people would agree that interest groups have a right under the Constitution to promote a particular point of view. What people do not necessarily agree upon, however, is the extent to which certain interest group and lobbying activities are protected under the First Amendment.

In addition to free speech rights, the First Amendment grants people the right to assemble. We saw above that pluralists even argued that assembling in groups is natural and that people will gravitate toward others with similar views. Most people acknowledge the right of others to assemble to voice unpopular positions, but this was not always the case. At various times, groups representing racial and religious minorities, communists, and members of the LGBT community have had their First Amendment rights to speech and assembly curtailed. And as noted above, organizations like the ACLU support free speech rights regardless of whether the speech is popular.

Today, the debate about interest groups often revolves around

whether the First Amendment protects the rights of individuals and groups to give money, and whether government can regulate the use of this money. In 1971, the Federal Election Campaign Act was passed, setting limits on how much presidential and vice-presidential candidates and their families could donate to their own campaigns.<sup>25</sup> The law also allowed corporations and unions to form PACs and required public disclosure of campaign contributions and their sources. In 1974, the act was amended in an attempt to limit the amount of money spent on congressional campaigns. The amended law banned the transfer of union, corporate, and trade association money to parties for distribution to campaigns.

In *Buckley v. Valeo* (1976), the Supreme Court upheld Congress's right to regulate elections by restricting contributions to campaigns and candidates. However, at the same time, it overturned restrictions on expenditures by candidates and their families, as well as total expenditures by campaigns.<sup>26</sup> In 1979, an exemption was granted to get-out-the vote and grassroots voter registration drives, creating what has become known as the soft-money loophole; soft money was a way in which interests could spend money on behalf of candidates without being restricted by federal law. To close this loophole, Senators John McCain and Russell Feingold sponsored the Bipartisan Campaign Reform Act in 2002 to ban parties from collecting and distributing unregulated money.

Some continued to argue that campaign expenditures are a form of speech, a position with which two recent Supreme Court

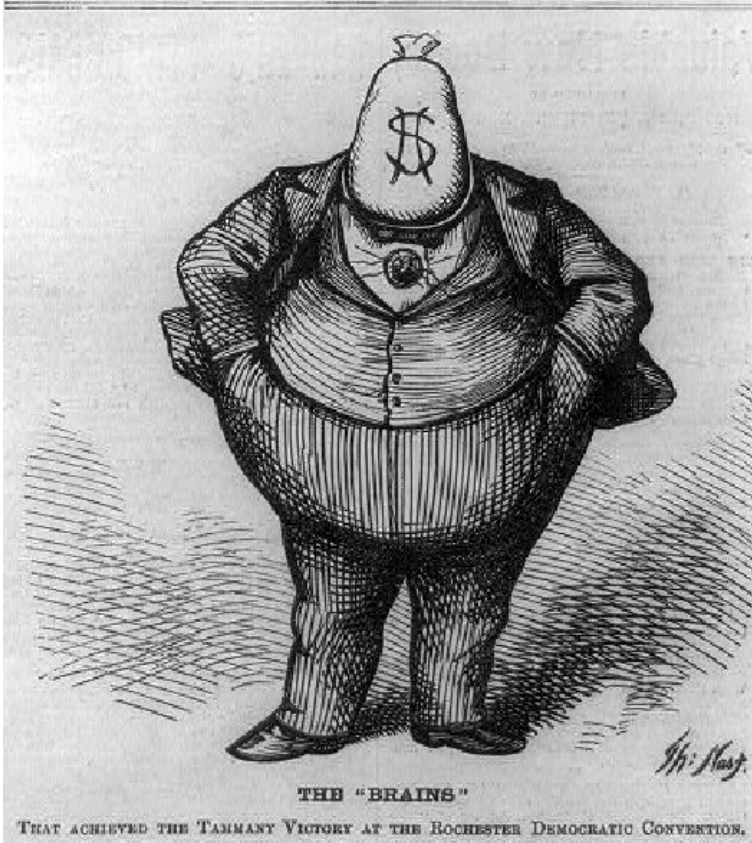
25. Wright, *Interest Groups and Congress: Lobbying, Contributions, and Influence*; Rozell, Wilcox, and Franz, *Interest Groups in American Campaigns: The New Face of Electioneering*.

26. *Buckley v. Valeo*, 75-436, 424 U.S. 1 (1976).

decisions are consistent. The *Citizens United v. Federal Election Commission*<sup>27</sup> and the *McCutcheon v. Federal Election Commission*<sup>28</sup> cases opened the door for a substantially greater flow of money into elections. *Citizens United* overturned the soft money ban of the Bipartisan Campaign Reform Act and allowed corporations and unions to spend unlimited amounts of money on elections. Essentially, the Supreme Court argued in a 5–4 decision that these entities had free speech rights, much like individuals, and that free speech included campaign spending. The *McCutcheon* decision further extended spending allowances based on the First Amendment by striking down aggregate contribution limits. These limits put caps on the total contributions allowed and some say have contributed to a subsequent increase in groups and lobbying activities.

27. *Citizens United v. Federal Election Commission*, 08-205, 558 U.S. 310 (2010).

28. *McCutcheon v. Federal Election Commission*, 12-536, 572 U.S. \_\_\_\_ (2014).



With his Harper's Weekly cartoon of William "Boss" Tweed with a moneybag for a head, Thomas Nast provided an enduring image of the corrupting power of money on politics. Some denounce "fat cat" lobbyists and the effects of large sums of money in lobbying, while others suggest that interests have every right to spend money to achieve their objectives.

## Regulating Lobbying and Interest Group Activity

While the Supreme Court has paved the way for increased spending

in politics, lobbying is still regulated in many ways.<sup>29</sup> The 1995 Lobbying Disclosure Act defined who can and cannot lobby, and requires lobbyists and interest groups to register with the federal government.<sup>30</sup> The Honest Leadership and Open Government Act of 2007 further increased restrictions on lobbying. For example, the act prohibited contact between members of Congress and lobbyists who were the spouses of other Congress members. The laws broadened the definition of lobbyist and require detailed disclosure of spending on lobbying activity, including who is lobbied and what bills are of interest. In addition, President Obama's Executive Order 13490 prohibited appointees in the executive branch from accepting gifts from lobbyists and banned them from participating in matters, including the drafting of any contracts or regulations, involving the appointee's former clients or employer for a period of two years. The states also have their own registration requirements, with some defining lobbying broadly and others more narrowly.

Second, the federal and state governments prohibit certain activities like providing gifts to lawmakers and compensating lobbyists with commissions for successful lobbying. Many activities are prohibited to prevent accusations of vote buying or currying favor with lawmakers. Some states, for example, have strict limits on how much money lobbyists can spend on lobbying lawmakers, or on the value of gifts lawmakers can accept from lobbyists. According to the Honest Leadership and Open Government Act, lobbyists must certify that they have not violated the law regarding gift giving,

29. Adam J. Newmark, "Measuring State Legislative Lobbying Regulation, 1990–2003." *State Politics and Policy Quarterly* 5 (2005): 182–191; Nownes and Newmark, "Interest Groups in the States."

30. Nownes, *Interest Groups in American Politics*.

and the penalty for knowingly violating the law increased from a fine of \$50,000 to one of \$200,000. Also, revolving door laws also prevent lawmakers from lobbying government immediately after leaving public office. Members of the House of Representatives cannot register to lobby for a year after they leave office, while senators have a two-year “cooling off” period before they can officially lobby. Former cabinet secretaries must wait the same period of time after leaving their positions before lobbying the department of which they had been the head. These laws are designed to restrict former lawmakers from using their connections in government to give them an advantage when lobbying. Still, many former lawmakers do become lobbyists, including former Senate majority leader Trent Lott and former House minority leader Richard Gephardt.

Third, governments require varying levels of disclosure about the amount of money spent on lobbying efforts. The logic here is that lawmakers will think twice about accepting money from controversial donors. The other advantage to disclosure requirements is that they promote transparency. Many have argued that the public has a right to know where candidates get their money. Candidates may be reluctant to accept contributions from donors affiliated with unpopular interests such as hate groups. This was one of the key purposes of the Lobbying Disclosure Act and comparable laws at the state level.

Finally, there are penalties for violating the law. Lobbyists and, in some cases, government officials can be fined, banned from lobbying, or even sentenced to prison. While state and federal laws spell out what activities are legal and illegal, the attorneys general and prosecutors responsible for enforcing lobbying regulations may be understaffed, have limited budgets, or face backlogs of work, making it difficult for them to investigate or prosecute alleged transgressions. While most lobbyists do comply with the law, exactly how the laws alter behavior is not completely understood. We know the laws prevent lobbyists from engaging in certain behaviors, such as by limiting campaign contributions or preventing

the provision of certain gifts to lawmakers, but how they alter lobbyists' strategies and tactics remains unclear.

The need to strictly regulate the actions of lobbyists became especially relevant after the activities of lobbyist Jack Abramoff were brought to light. A prominent lobbyist with ties to many of the Republican members of Congress, Abramoff used funds provided by his clients to fund reelection campaigns, pay for trips, and hire the spouses of members of Congress. Between 1994 and 2001, Abramoff, who then worked as a lobbyist for a prominent law firm, paid for eighty-five members of Congress to travel to the Northern Mariana Islands, a U.S. territory in the Pacific. The territory's government was a client of the firm for which he worked. At the time, Abramoff was lobbying Congress to exempt the Northern Mariana Islands from paying the federal minimum wage and to allow the territory to continue to operate sweatshops in which people worked in deplorable conditions. In 2000, while representing Native American casino interests who sought to defeat anti-gambling legislation, Abramoff paid for a trip to Scotland for Tom DeLay, the majority whip in the House of Representatives, and an aide. Shortly thereafter, DeLay helped to defeat anti-gambling legislation in the House. He also hired DeLay's wife Christine to research the favorite charity of each member of Congress and paid her \$115,000 for her efforts.<sup>31</sup> In 2008, Jack Abramoff was sentenced to four years in

31. Geov Parrish, "Making Sense of the Abramoff Scandal," 19 December 2005 [http://www.alternet.org/story/29827/making\\_sense\\_of\\_the\\_abramoff\\_scandal](http://www.alternet.org/story/29827/making_sense_of_the_abramoff_scandal) (March 1, 2016).



prison for tax evasion, fraud, and corruption of public officials.<sup>32</sup> He was released early, in December 2010.



*Jack Abramoff (center) began his lifetime engagement in politics with his involvement in the 1980 presidential campaign of Ronald Reagan (left) while an undergraduate at Brandeis University and continued it with his election to chair of the College Republican National Committee in a campaign managed by Grover Norquist (right). Abramoff thus gained unique access to influential politicians, upon which he capitalized in his later work as a DC lobbyist. Since his release from federal prison in 2010 after being convicted for illegal lobbying activity, Abramoff has become an outspoken critic of the lobbying industry.[footnote]<http://gawker.com/5856082/corrupt-lobbyist-jack-abramoffs-plan-to-end-corrupt-lobbying> (March 1, 2016).[/footnote]*

32. Neil A. Lewis, “Abramoff Gets 4 Years in Prison for Corruption,” New York Times, 4 September 2008, [http://www.nytimes.com/2008/09/05/washington/05abramoff.html?\\_r=0](http://www.nytimes.com/2008/09/05/washington/05abramoff.html?_r=0).



PART VIII

7. TEXAS POLICY



## 23. Texas Budget and Revenue

### *Learning Objectives*

By the end of this section, you will be able to:

- Explain the fiscal policies of Texas
- Explain the different types of taxes
- Explain the budgetary process of Texas
- Be familiar with the various revenue sources for Texas
- Explain the budget expenditures of Texas

## Taxation

Any government relies on a variety of taxes in order to make revenue to spend on public services. There are different types of taxes:

1. **Income tax**– taxes collected from an individual's income  
(There is no state income tax in Texas);
2. **General sales tax**– based on taxes collected from retail prices of items;
3. **Excise tax**– taxes collected on specific products such as tobacco and gasoline;
4. **Ad valorem tax**– taxes based according to the value of the property.

The federal government's number one tax source for revenue is income tax- The 16th Amendment of the United States Constitution authorized an income tax. The state of Texas' main revenue source are from sales tax. Article 8 of the Texas Constitution describes the "Taxation and Revenue" specifics. Local governments heavily rely on property taxes as their main source of tax revenue.<sup>1</sup>

## Other Revenue Sources

There are also no tax revenue sources that the state of Texas receives from various sources such as:

- **Federal grants in aid**– these types of funds come from the federal government to aid state or local governments, and sometimes require matching monies from the receiving government and/or are to be used for a specific use.
- **Borrowing**– The Texas Constitution does allow for the state or local governments to borrow funds through bonds. There are two types of bonds:
  - **General-obligation bonds**: Bonds repaid from taxes, usually approved by taxpayers through vote;
  - **Revenue bonds**: Typically paid through the revenue made from the projects created by the bond i.e. sports facilities, public college dorms.<sup>2</sup>
- **Economic Stabilization Fund**– The "Rainy Day Fund" is a type of savings account for the state of Texas. Since 1990, any

1. <https://www.comptroller.texas.gov/>

2. <https://www.comptroller.texas.gov/>

surplus from previous budget cycles, and collections from oil and gas production are deposited in to this account- the Texas Constitution limits the balance of the Rainy Day Fund to no more than 10% of the general revenue deposited during the preceding budget cycle. At the end of fiscal year 2016, Texas' Rainy Day Fund was approximately \$9.7 billion dollars. The Texas Constitution authorizes the Legislature to utilize monies from the Rainy Day Fund for a budget deficit, projected revenue shortfall, or any other purpose they choose.

- “Appropriations for the first two circumstances require approval by three-fifths of the Legislature, while a general-purpose appropriation needs a two-thirds majority for passage. The Legislature has made seven appropriations totaling \$10.6 billion from the ESF since its inception, most recently in 2013. All were approved by two-thirds votes. The purposes for these appropriations have included water projects, disaster relief, public education, economic development and health and human services. Only one appropriation—\$3.2 billion in 2011, representing 34 percent of the fund balance at that time—was made to cover a budget gap (for fiscal 2011).”<sup>3</sup>

3. <https://www.comptroller.texas.gov/economy/fiscal-notes/2016/september/rainy-day.php>

# Texas Budgetary Process

The budget process for Texas is outlined below<sup>4</sup>:

1. **Request for Funds.** On even numbered years all government agencies submit a strategic plan requesting funds to the Legislative Budget Board (LBB) and the Governor's Office of Budget, Planning and Policy (GOBPP). The strategic plans' request for funds must adhere to Texas's mission statement provided by the Governor and the LBB. The instructions and forms to submit the request for funds are prepared by the LBB.
2. **Analysis of Requests.** The requests for funds and strategic plans are then reviewed by the LBB and the GOBPP. The LBB is made up of ten members from the Texas Senate and Texas House and Co-Chaired by the Lieutenant Governor and the Speaker of the House. The GOBPP is an agency in the Executive Branch that answers to the Governor.
3. **Budget proposals sent to the Legislature.** The LBB and Governor then submit their budget proposals to the Texas Legislature. The Texas Legislature then reviews the proposals through the Senate and House Finance Committees. After both chambers approve an appropriations bill, then the bill is sent to each respective chamber for a vote .
4. **Comptroller verifies.** Once the Texas Legislature has approved the appropriations bill, then the Texas State Comptroller must certify that enough tax revenue will be generated to fund the budget. The Texas Constitution mandates a balance budget (Article 3, Section 49). If the Comptroller cannot certify the appropriations bill, then the Texas Legislature has the option

4. <https://www.comptroller.texas.gov/transparency/revenue/>

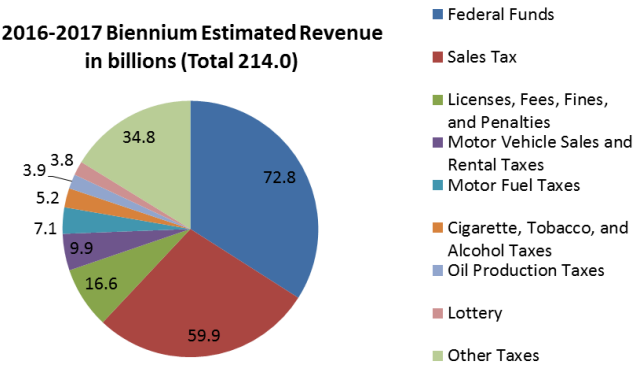


to vote on allowing the state to go in to debt by a 4/5ths vote from each chamber.

5. **Governor.** Once the Comptroller certifies the appropriations bill, then the Governor is allowed to sign the bill in to law. The Governor of Texas also has the power of line item veto, where only parts of the budget are rejected.

# Texas Revenue

The tax revenue of Texas for 2016-2017 biennium <sup>5</sup>

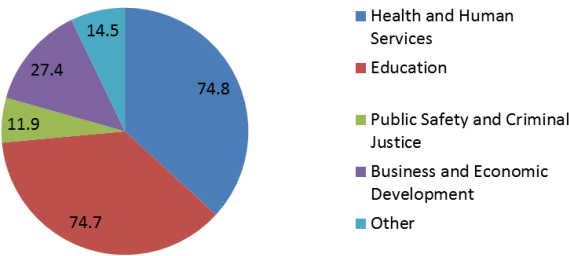


5. [http://www.lbb.state.tx.us/Documents/Publications/Fiscal\\_SizeUp/Fiscal\\_SizeUp.pdf](http://www.lbb.state.tx.us/Documents/Publications/Fiscal_SizeUp/Fiscal_SizeUp.pdf)

The estimated total state revenue for the 2016-2017 biennium is \$214 billion dollars. The percentage breakdown for certain line items is: 34% will come from federal funds; 28% will be derived from sales taxes; 8% from licenses, fees, fines and penalties; 2.4% from cigarette, tobacco, and alcohol taxes; and 1.8% from the lottery.

## Texas Budget Expenditures

**Texas Budget Expenditures 2014-2015 Biennium  
in billions (Total \$203.3)**



The state of Texas spends over half of their budget on Health and Human Services & Education. 36.8% of the state's budget is spent on Health and Human Services, and 36.7 was spent on Education. Health and Human Services includes Temporary Assistance to Needy Families (TANF), Medicaid, Children's Health Insurance Program (CHIP), and the Department of Aging and Disability Services. Education is split in to two categories: Public education, and Higher education.<sup>6</sup><sup>[/footnote]</sup>

6. <sup>7</sup>[http://www.lbb.state.tx.us/Documents/Publications/  
Fiscal\\_SizeUp/Fiscal\\_SizeUp.pdf](http://www.lbb.state.tx.us/Documents/Publications/Fiscal_SizeUp/Fiscal_SizeUp.pdf)

7.

## 24. Local Governments

### *Learning Objectives*

By the end of this section, you will be able to:

- Identify the differences between county and municipal governments in terms of their responsibilities and funding sources
- Describe the two primary types of municipal government and the three basic types of county government

County and city governments make up an important component of the overall structure of the government. Not only do they affect citizens directly; it is also easier for citizens to interact with local government officials because their offices and the community's school board or city council meetings are often close by. Despite this fact, voter turnout in local elections tends to be lower than in state and national elections. Municipal and county governments differ in structure and purpose in several ways.

### County Government

County governments serve a larger geographical area than cities and towns, but a smaller area than states. They are created by the state government and typically operate under provisions set out in the state constitution. As such, they are essentially administrative

units of the state. Census estimates from 2012 indicate that there are just over three thousand counties in the United States.<sup>1</sup> County systems usually take one of three basic forms: the commission system, the council-administrator system, and the council-elected executive system.

The most common form of county government is the **commission system**. Under this structure, an elected commission, which generally consists of a small number of commissioners, serves as the governing body within the county, performing all legislative and executive functions. These include adopting a budget, passing county resolutions, and hiring and firing county officials.<sup>2</sup>

Under the **council-administrator system**, the voters elect council members to serve for a specified period of time, and the council in turn appoints an administrator to oversee the operation of the government. The administrator serves at the directive of the council and can be terminated by the council. The goal of this arrangement is to divide administrative and policymaking responsibilities between the elected council and the appointed administrator.<sup>3</sup> Under a **council-elected executive system**, the voters elect both the members of the council and the executive. The

1. Brian Lavin. 30 August 2012. "Census Bureau Reports There are 89,004 Local Governments in the United States (CB12-161)," <https://www.census.gov/newsroom/releases/archives/governments/cb12-161.html>.
2. Frank Coppa. 2000. *County Government: A Guide to Efficient and Accountable Government*. Westport, CT: Greenwood Publishing.
3. Coppa, *County Government: A Guide to Efficient and Accountable Government*.

executive performs functions similar to those of the state governor. For instance, he or she can veto the actions of the council, draft a budget, and provide suggestions regarding public policy.<sup>4</sup>

Although the tasks they perform can vary from state to state, most counties have a courthouse that houses county officials, such as the sheriff, the county clerk, the assessor, the treasurer, the coroner, and the engineer. These officials carry out a variety of important functions and oversee the responsibilities of running a county government. For instance, the county coroner investigates the cause of death when suspicious circumstances are present. The county clerk oversees the registration of voters and also certifies election results for the county. In addition, this officeholder typically keeps the official birth, death, and marriage records. The county treasurer oversees the collection and distribution of funds within the county, while the county assessor conducts property tax evaluations and informs individual citizens or business owners of their right to contest the appraised value of their property. Finally, a county engineer will oversee the maintenance and construction of county infrastructure.<sup>5</sup> In short, counties help to maintain roads and bridges, courthouses and jails, parks and pools, and public libraries, hospitals, and clinics.<sup>6</sup> To provide these services, county governments typically rely on property tax revenue, a portion of sales tax receipts, and funds from intergovernmental transfers by way of federal or state grants.

4. Coppa, *County Government: A Guide to Efficient and Accountable Government*.

5. Coppa, *County Government: A Guide to Efficient and Accountable Government*.

6. <http://www.naco.org/counties> (March 14, 2016).

## City Government

Municipal governments oversee the operation and functions of cities and towns. Census estimates for 2012 show just over 19,500 municipal governments and nearly 16,500 township governments in the United States.<sup>7</sup> The vast majority of municipal governments operate on one of two governing models: a mayor-council system or a council-manager system.

Under the **mayor-council system** voters elect both a mayor and members of the city council. The city council performs legislative functions and the mayor the executive functions. Under this system, the mayor may be given a great deal of authority or only limited powers.<sup>8</sup> Under a strong mayor system, the mayor will be able to veto the actions of the council, appoint and fire the heads of city departments, and produce a budget. Under a weak mayor system, the mayor has little authority compared to the council and acts in a ceremonial capacity as a spokesperson for the city.<sup>9</sup>

In a **council-manager system** of government, either the members of the city council are elected by voters along with a mayor who

7. Lavin, "Census Bureau Reports There are 89,004 Local Governments in the United States (CB12-161)."
8. "Forms of Municipal Government," <http://www.nlc.org/build-skills-and-networks/resources/cities-101/city-structures/forms-of-municipal-government> (March 14, 2016).
9. "Mayoral Powers," <http://www.nlc.org/build-skills-and-networks/resources/cities-101/city-officials/mayoral-powers> (March 14, 2016).

presides over the council, or the voters elect members of the city council and the mayor is chosen from among them. In either case, the city council will then appoint a city manager to carry out the administrative functions of the municipal government. This frees the city council to address political functions such as setting policy and formulating the budget.<sup>10</sup>

Municipal governments are responsible for providing clean water as well as sewage and garbage disposal. They must maintain city facilities, such as parks, streetlights, and stadiums. In addition, they address zoning and building regulations, promote the city's economic development, and provide law enforcement, public transportation, and fire protection. Municipal governments typically rely on property tax revenue, user fees from trash collection and the provision of water and sewer services, a portion of sales tax receipts, and taxes on business.



*The Sporting Park in Kansas City, Kansas, is home to various sporting events. The stadium first opened for business in 2011, and taxpayers financed \$146 million of the total cost to build the stadium, an office park, and a youth soccer complex.*

11

## 10. “Forms of Municipal Government.”

11. Mark Alesia, “Kansas City has Stadium Success Story—in Major League Soccer,” *Indy Star*, 18 March 2015.



The International City/County Management Association (ICMA) provides networking opportunities, professional development, and statistical data in order to support local government leaders and other individuals throughout the world. Visit the [ICMA Priorities](#) page to learn what makes a better leader and how you might improve your local community.

<http://www.indystar.com/story/news/2015/03/17/kansas-city-stadium-success-story-major-league-soccer/24928853/>. (credit: Wesley Fryer)