

Instructor's Manual

to accompany

Edwards ♦ Wattenberg ♦ Lineberry

Government in America People, Politics, and Policy Brief Tenth Edition

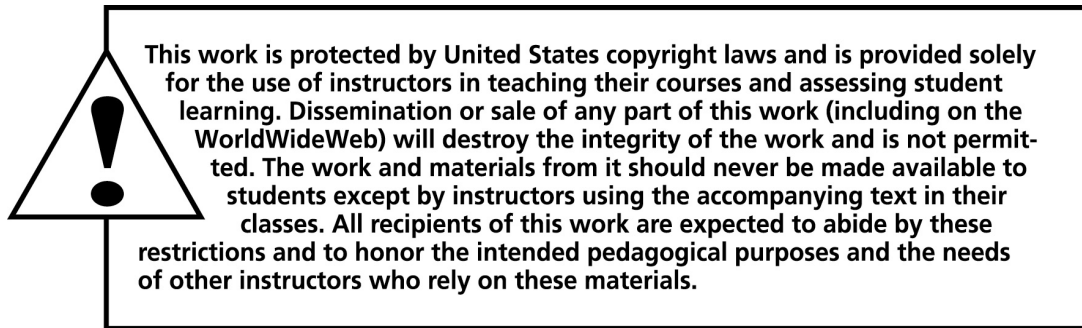
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Instructor's Manual to accompany *Government in America: People Politics, and Policy*, Brief Tenth Edition, by Edwards, Wattenberg, and Lineberry.

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Foreword

This Instructor's Manual is designed to assist the instructor in understanding and teaching the material presented in the text, *Government in America, People, Politics and Policy*, Brief Tenth Edition by George C. Edwards III, Martin P. Wattenberg, and Robert L. Lineberry. Each chapter in the Instructor's Manual is divided into eight sections: pedagogical features, learning objectives, chapter overview, chapter outline, key terms and concepts, teaching ideas, background reading, and media suggestions.

The Pedagogical Features list the various graphs and tables in the text as well as other learning tools presented in the text. Page references are also provided. Learning Objectives are listed in the second section. After studying the chapter the student should be able to understand and discuss these objectives.

The Chapter Overview presents in narrative form a brief summary of the chapter contents for quick review.

The Chapter Outline section presents a more detailed summary of the chapter in outline form. Important terms in the chapter are presented in bold type. This section serves as a review of the major topics of the chapter.

The section on Key Terms and Concepts provides a short definition of the key terms listed in the chapter.

The section on Teaching Ideas proposes topics for class discussion and projects, including potential paper topics, for the students.

Finally, the sections on Background Reading and Media Suggestions provide a list of books and films that are relevant to the chapter.

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CHAPTER ONE: INTRODUCING GOVERNMENT IN AMERICA

PEDAGOGICAL FEATURES

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LEARNING OBJECTIVES

After studying this chapter, students should be able to:

- Distinguish among the fundamental concepts of *government, politics, and public policy*.
- Understand how *government, politics, and public policy* are interrelated.
- Ascertain how people can influence the government's *policy agenda*.
- Describe the basic concept of the *policymaking system*.
- Determine the essential principles of *traditional democratic theory*.
- Examine the three contemporary theories of American democracy: *pluralism, elite and class theory, and hyperpluralism*.
- Discuss and analyze the challenges to *democracy* presented in the text.
- Understand how the components of American political culture—*liberty, egalitarianism, individualism, laissez-faire, and populism*—contribute to democracy and shape government.
- Begin to assess the two questions that are central to governing and that serve as themes for this textbook: *How should we govern?* and *What should government do?*

CHAPTER OVERVIEW

INTRODUCTION

Politics and government matter—that is the single most important message of this book. Despite the fact that government substantially affects each of our lives, youth today are especially apathetic about politics and government. Whether because they feel they can't make a difference, the political system is corrupt, or they just don't care, young Americans are clearly apathetic about public affairs. And while political apathy isn't restricted to young people, a tremendous gap has opened up between the young (defined as under age 25) and the elderly (defined as over 65) on measures of political interest, knowledge, and participation. The goal of *Government in America* is to assist students in becoming well-informed citizens by providing information and developing critical analytical skills.

GOVERNMENT AND POLITICS

This chapter introduces the fundamental concepts of government, politics, and public policy, and defines the ways in which the three are interrelated. **Government** consists of *those institutions that make authoritative public policies for society* as a whole. Regardless of how their leaders assume office, all governments have certain functions in common: they maintain national defense, provide public goods, use police powers to maintain order, furnish public services, socialize the young into the political culture, and collect taxes to pay for the services they provide. Part of what government does is provide public goods—services that can be shared by everyone and cannot be denied to anyone.

Throughout *Government in America*, two fundamental questions about governing serve as themes: *How should we govern?* and *What should government do?* The chapters that follow acquaint students with the history of American democracy and ask important questions about the current state of democracy in the United States. One goal of the authors of *Government in America* is to familiarize students with the different ways to approach and answer these questions.

Politics determines whom we select as our governmental leaders and what policies they pursue. Political scientists still use the classic definition of politics offered by Harold D. Lasswell: “*Who gets what, when, and how.*” The media usually focus on the *who* of politics. *What* refers to the substance of politics and government—benefits, such as medical care for the elderly, and burdens, such as new taxes. *How* people participate in politics is important, too. People *engage in politics* for a variety of reasons, and all of their activities in politics are collectively called **political participation**. Voting is only one form of participation.

THE POLICYMAKING SYSTEM

A **polymaking system** is a set of institutions and activities that link together government, politics, and public policy. In a democratic society, parties, elections,

interest groups, and the media are key **linkage institutions** between the preferences of citizens and the government's policy agenda. When people confront government officials with problems they expect them to solve, they are trying to influence the government's **policy agenda**. A government's policy agenda changes frequently: if public officials want to get elected, they must pay attention to the problems that concern the voters.

People, of course, do not always agree on what government should do. Indeed, one group's concerns and interests are often at odds with those of another group. A political issue is the result of people disagreeing about a problem or about the public policy needed to fix it.

Three **policymaking institutions**—Congress, the presidency, and the courts—stand at the *core* of the political system. They make policies concerning some of the issues on the policy agenda. Translating people's desires into public policy is crucial to the workings of democracy. **Public policy** is a choice that government makes in response to some issue on its agenda. Public policy includes all of the decisions *and nondecisions* of government: policymakers can establish a policy by doing *something* or by doing *nothing*, as can be seen in the government's original response of inaction to the AIDS crisis.

Policy impacts are the effects that policy has on people and on society's problems. The analysis of policy impacts carries the policymaking system *back to its point of origin* (often called *feedback*). Even when government decides NOT to do anything, this decision has an impact on people.

DEMOCRACY

Resounding demands for democracy have recently been heard in many corners of the world. In his famous Gettysburg Address, Abraham Lincoln referred to democracy as "*government of the people, by the people, and for the people.*" Although Lincoln's definition imparts great emotional impact, such a definition is subject to many different interpretations. For example, what do we mean by "*people*"? No democracy permits government by literally every person in society. Throughout this textbook, the authors define **democracy** as *a means of selecting policymakers and of organizing government so that policy represents and responds to the public's preferences.*

Traditional democratic theory rests upon several principles that specify how a democratic government makes its decisions. Democratic theorist Robert Dahl lists five criteria that are essential for "an ideal democratic process": equality in voting, effective participation, enlightened understanding, citizen control of the agenda, and inclusion, which means that government must include (and extend rights to) all those subject to its laws.

Democracies must also practice **majority rule** and preserve **minority rights**. The relationship between the few leaders and the many followers is one of **representation**. *The closer the correspondence between representatives and their electoral majority, the closer the approximation to democracy.*

Theories of American democracy are essentially theories about who has power and influence. This chapter focuses on three contemporary theories of American democracy. **Pluralist theory** contends that many centers of influence compete for power and control over public policy, with no one group or set of groups dominating. Pluralists view bargaining and compromise as essential ingredients to democracy. In sharp contrast to pluralist theory, **elite and class theory** contends that society is divided along class lines and that an upper-class elite rules. Wealth is seen as the basis of power, and a few powerful Americans are the policymakers. Some scholars believe elitism is on the rise in the United States, especially due to the administrations of Ronald Reagan and George W. Bush. **Hyperpluralism** is “pluralism gone sour.” Hyperpluralists contend that the existence of too many influential groups actually makes it impossible for government to act. When politicians try to placate every group, the result is confusing, contradictory, and muddled policy (or no policy at all). Both hyperpluralist theory and elite and class theory suggest that the public interest is rarely translated into public policy.

Regardless of which theory is most convincing, there are a number of continuing challenges to democracy: increased technical expertise, limited participation in government, escalating campaign costs, and diverse political interests. Traditional democratic theory holds that ordinary citizens have the good sense to reach political judgments and that government has the capacity to act upon those judgments. However, it has become increasingly difficult to make knowledgeable decisions as human knowledge has expanded. There is evidence that Americans actually know very little about policy decisions or about who their leaders are. Today, the elite are likely to be those who command knowledge—the experts.

Many observers also worry about the close connection between money and politics. Candidates have become increasingly dependent on Political Action Committees (PACs) to fund their campaigns. Critics charge that PACs have undue influence on members of Congress when it comes to the issues that the PACs care about.

The rapid rate of change in politics over the last three decades makes it more difficult for government to respond to demands. Some feel that this can lead to inefficient government that cannot adequately address challenges.

The large number and diversity of interest groups coupled with the decentralized nature of government makes it easy to prevent policy formulation and implementation, a condition known as **policy gridlock**.

Five elements of American **political culture** support, shape, and define its democracy. These components are quite important to the immigrant nation of the United States—which has fewer unifying nationalistic characteristics and a shorter historical memory that is the case of most other countries.

The first element is **liberty**—one of Jefferson’s inalienable rights. Americans are supportive of civil liberties and personal freedom. The second is **egalitarianism**, which is more of an evolutionary process than an absolute. Americans tend to support equality

of opportunity, and the struggle for equality continues. American social equality has promoted increasing political equality. The third is **individualism**, which developed in part from the desires of immigrants to escape government oppression and from the existence of a western frontier with little government. The fourth is **laissez-faire** economics. The American government taxes and regulates less than most countries at its equivalent level of development. The fifth is **populism**—the “of the people” in Lincoln’s famous description of democracy. The common, ordinary citizens are idealized in American politics, and both liberals and conservatives claim to be their protectors.

Scholars debate whether there is a “cultural war” afoot in America. Some argue that different interpretations of our core political culture have polarized Americans into opposing camps. Others argue that American citizens are fundamentally centrist and tolerant.

Throughout *Government in America* students will be asked to evaluate American democracy.

- Are people knowledgeable about matters of public policy?
- Do they apply what knowledge they have to their voting choices?
- Are American elections designed to facilitate public participation?
- Does the interest group system allow for all points of view to be heard, or do significant biases give advantages to particular groups?
- Do political parties provide voters with clear choices, or do they intentionally obscure their stands on issues in order to get as many votes as possible?
- If there are choices, do the media help citizens understand them?
- Is the Congress representative of American society, and is it capable of reacting to changing times?
- Does the president look after the general welfare of the public, or has the office become too focused on the interests of the elite?

THE SCOPE OF GOVERNMENT IN AMERICA

One goal of *Government in America* is to familiarize the student with different ways to approach and answer the crucial questions that the authors raise. In particular, the text focuses on one of the most important questions facing modern American democracy: *Is the scope of government too broad, too narrow, or just about right?*

Our governments (national, state, and local) spend about 29 percent of the **gross domestic product**. Our national government spends about \$3.1 trillion annually, employs over 2.2 million people, and owns one-third of the land in the United States. National defense takes about one-sixth of the federal budget. Social Security consumes more than one-fifth of the budget. Medicare requires a little over one-tenth of the budget. The federal government helps fund highway and airport construction, police departments, school districts, and other state and local functions. The American government has been more willing to spend than tax, creating a national debt of over \$9 trillion.

CHAPTER OUTLINE

I. POLITICS AND GOVERNMENT MATTER

- A. Many Americans—especially young people—are apathetic about politics and government.
 - 1. A tremendous gap has opened up between the young (defined as under age 25) and the elderly (defined as over 65) on measures of political interest, knowledge, and participation.
- B. It is the authors' hope that after reading this book, you will be convinced that paying attention to politics and government is important.
 - 1. Government has a substantial impact on all of our lives.
 - 2. We have the opportunity to have a substantial impact on government.

II. GOVERNMENT

- A. Government.
 - 1. **Government** consists of those institutions that *make authoritative public policies* for society as a whole.
 - 2. Four key institutions make policy at the national level: Congress, the president, the courts, and the federal administrative agencies (bureaucracy).
- B. This chapter raises *two fundamental questions about governing that will serve as themes for the text*:
 - 1. *How* should we govern?
 - 2. *What* should government do?
- C. What governments do.
 - 1. Regardless of how they assumed power, *all governments have certain functions in common*.
 - a. Governments maintain national defense.
 - b. Governments provide **public goods**—things that everyone can share, such as clean air.
 - c. Governments have police powers to provide order—as when the National Guard was called in to restore order in Los Angeles after the 1992 Rodney King verdict.
 - d. Governments socialize the young into the political culture—typically through practices such as reciting the Pledge of Allegiance in daily exercises at public schools.
 - e. Governments collect taxes to pay for the services they provide.

III. POLITICS

- A. **Politics** determines whom we select as governmental leaders and what policies they pursue.
 - 1. Harold D. Lasswell defined politics as “*who gets what, when, and how.*”
 - 2. The media focuses on the who of politics, what refer to the substance of politics and government, and how refers to how people participate in politics.

IV. THE POLICYMAKING SYSTEM

- A. A **policymaking system** is the process by which policy comes into being and evolves over time.
1. In a democratic society, parties, elections, interest groups, and the media are key **linkage institutions** between the preferences of citizens and the government's policy agenda.
 2. When people confront government officials with problems they expect them to solve, they are trying to influence the government's **policy agenda**.
 3. A **political issue** arises when people disagree about a problem or about a public policy choice.
 4. The end product of government and politics is **public policy**.
 5. Policymakers stand at the core of the political system, working within the three **policymaking institutions** established by the U.S. Constitution: the Congress, the presidency, and the courts.
- B. **Policy impacts** are the *effects* policy has on people and on society's problems.
1. There are many types of public policies, including congressional statutes, presidential actions, court decisions, budgetary choices, and regulation.
 2. Having a policy implies a goal: people who raise a policy issue usually want a policy that *works*.
 3. *Translating people's desires into public policy is crucial to the workings of democracy.*
- C. Policies can be established through inaction as well as action.

V. DEMOCRACY

- A. Democracy is spreading throughout the world, in areas that were formerly undemocratic. However, people around the world define democracy differently, and few Americans really understand it fully.
- B. Defining **democracy**.
1. The writers of the U.S. Constitution were suspicious of democracy.
 2. In his Gettysburg Address, Abraham Lincoln defined democracy as "*government of the people, by the people, and for the people.*"
 3. The basic definition used throughout the *Government in America* textbook is: *democracy is a means of selecting policymakers and of organizing government so that policy represents and responds to the public's preferences.*
- C. **Traditional democratic theory** rests upon several principles that specify how a democratic government makes its decisions.
1. Democratic theorist Robert Dahl refers to *five criteria that are essential for "an ideal democratic process"*:
 - a. Equality in voting—the principle of "*one person, one vote*" is basic to democracy.
 - b. Effective participation—political participation must be *representative*.
 - c. Enlightened understanding—*free press and free speech are essential* to civic understanding.
 - d. Citizen control of the agenda—citizens should have the *collective right to control* the government's policy agenda.

- e. Inclusion—*citizenship* must be open to all within a nation.
- 2. In addition, democracies must practice **majority rule** and preserve **minority rights**.
 - a. The relationship between the *few leaders* and the *many followers* is one of **representation**: the closer the correspondence between representatives and their electoral majority, the closer the approximation to democracy.
 - b. Most Americans also feel that it is vital to protect minority rights, such as freedom of speech.
- D. Three **contemporary theories** of American democracy.
 - 1. **Pluralist theory** states that groups with shared interests influence public policy by pressing their concerns through organized efforts.
 - a. Groups compete with one another for control over public policy, with no one group or set of groups dominating.
 - b. Groups that lose in one arena can take their case to another.
 - c. *Bargaining and compromise* are essential ingredients of our democracy.
 - d. Pluralists are optimistic that the public interest will prevail in creating public policy.
 - 2. **Elite and class theory** contends that our society (like all societies) is *divided along class lines*.
 - a. *An upper-class elite rules*, regardless of governmental organization.
 - b. *Wealth is the basis of class power*: a few powerful Americans are the policymakers.
 - d. Some observers argue that elitism is *increasing* in recent times.
 - 3. **Hyperpluralism** is *pluralism gone sour*.
 - a. Many groups are so strong that *government is weakened*.
 - b. There are *too many groups* with access to the different levels and branches of government: these groups have multiple ways to both prevent policies they disagree with and promote those they support.
 - c. When politicians try to placate every group, the result is confusing, contradictory, and muddled policy (or no policy at all).
- E. Challenges to democracy.
 - 1. How can average citizens make decisions about complex issues?
 - 2. What if citizens know little about their leaders and policy decisions?
 - 3. Is American democracy too dependent on money?
 - 4. Does American diversity produce governmental gridlock?
- F. Political culture is key to understanding American government.
 - 1. America is unified by ideology and political culture—which is unusual compared to most countries with strong nationalistic characteristics and a longer history.
 - 3. Five elements of political culture shape American democracy.
 - a. *Liberty*: Liberty is one of Jefferson's inalienable rights and a cornerstone of the Bill of Rights.
 - b. *Egalitarianism*: Equality of opportunity, especially social equality, has promoted increasing political equality.

- c. *Individualism*: American individualism developed in part from the western frontier and the immigrants' flight from government oppression.
 - d. *Laissez-faire economics*: The American government taxes and regulates less than most countries at its equivalent level of development.
 - e. *Populism*: The common, ordinary citizens are idealized in American politics, and both liberals and conservatives claim to be their protectors.
- 3. Scholars debate whether there is a "cultural war" afoot in America.
- G. Some key questions about democracy.
 - 1. Are people knowledgeable about matters of public policy?
 - 2. Do they apply what knowledge they have to their voting choices?
 - 3. Are American elections designed to facilitate public participation?
 - 4. Does the interest group system allow for all points of view to be heard, or do significant biases give advantages to particular groups?
 - 5. Do political parties provide voters with clear choices, or do they intentionally obscure their stands on issues in order to get as many votes as possible?
 - 6. If there are choices, do the media help citizens understand them?
 - 7. Is the Congress representative of American society, and is it capable of reacting to changing times?
 - 8. Does the president look after the general welfare of the public, or has the office become too focused on the interests of the elite?

VI. THE SCOPE OF GOVERNMENT IN AMERICA

- A. President Clinton's attempt to create national health insurance illustrates the divide among Americans regarding how powerful government should be. Some want an active, responsible government that solves problems. Others believe government intervention is more likely to harm than good.
- B. How active is American government?
 - 1. National, state, and local governments in America collectively spend 29 percent of our **gross domestic product** (the value of all goods and services produced annually by the United States).
 - 2. The national government alone spends about \$3 trillion annually, employs nearly two million people, and owns one-third of the land in the United States.
- C. The American government has been more willing to spend than tax, creating a national debt of over \$9 trillion.

KEY TERMS AND CONCEPTS

Democracy: a means of selecting policymakers and of organizing government so that policy represents and responds to the public's preferences.

Elite and class theory: argues that society is divided along class lines and that an upper-class elite rules on the basis of its wealth.

Government: institutions that make public policy for a society.

Gross domestic product: the total value of all goods and services produced annually by the United States.

Hyperpluralism: argues that too many strong influential groups cripple the government's ability to make coherent policy by dividing government and its authority.

Linkage institutions: institutions such as parties, elections, interest groups, and the media, which provide a linkage between the preferences of citizens and the government's policy agenda.

Majority rule: weighing the desires of the majority in choosing among policy alternatives.

Minority rights: protecting the rights and freedoms of the minority in choosing among policy alternatives.

Pluralist theory: argues that there are many centers of influence in which groups compete with one another for control over public policy through bargaining and compromise.

Policy agenda: the list of subjects or problems to which people inside and outside government are paying serious attention at any given time.

Policy gridlock: where each interest uses its influence to thwart policies it opposes so that no coalition forms a majority to establish policy.

Policy impacts: the effects a policy has on people and problems.

Policymaking institutions: institutions such as Congress, the presidency, and the courts established by the Constitution to make policy.

Policymaking system: institutions of government designed to respond to each other and to the priorities of the people by governmental action.

Political culture: an overall set of values widely shared within a society.

Political issue: this arises when people disagree about a problem or about public policy choices made to combat a problem.

Politics: determines whom we select as our government leaders and what policies they pursue; in other words, who gets what, when, and how.

Public goods: things that everyone can share.

Public policy: a choice that government makes in response to some issue on its agenda.

Representation: the relationship between the leaders and the followers.

TEACHING IDEAS: CLASS DISCUSSION AND STUDENT PROJECTS

- Today, large proportions of Americans believe that most or all politicians are corrupt, that government serves the interest of the few, and that government is dominated by the wealthy and powerful. Ask your students to evaluate these statements.
- Debate over the role and size of government is central to contemporary American politics, and it is a theme that is examined in each chapter of *Government in America*. The authors ask: is the scope of government too broad, too narrow, or just about right? Ask students to discuss, using contemporary examples, what is meant by

government being “too big.” Do students disagree as to what “too big” is? Why? Ask students to develop a set of criteria, or values, with which they could evaluate what is “too big” about government today.

- Discuss the importance of interest groups in politics today. Do students identify with any groups? Are they members of any groups? Are they represented by any groups, whether they are members or not? *Ask the students if they think interest groups are good or bad for democracy.*
- Have students use the Internet to visit the Web sites of some civic groups devoted to encouraging political participation or providing election information. Discuss in class what students learned from these sites. Ask students if they think that the Internet can improve the quality of democracy in the United States. Why?
- Split the students into two sections. Assign one section the task of defending the importance of high citizen political participation. The other section will have the task of defending the argument that only politically knowledgeable citizens should participate in politics. Give each section time to discuss its positions and then have them select one or two students to present their arguments to the class.
- This chapter discusses four challenges to democracy: increased technical expertise, limited participation in government, escalating campaign costs, and diverse political interests. Ask students to identify which one of these challenges is most critical, and to discuss what might be done about it. This assignment could be a writing assignment or a debate format in class.
- Are Americans really divided over political culture? Ask students what the five elements of American political culture—liberty, egalitarianism, individualism, laissez-faire, and populism—suggest about current American politics. (How much liberty? How much equality? etc.) Ask them to listen carefully to each others’ descriptions and make an assessment whether there is consensus in the classroom about these fundamental values.
- Use the beginning of the twenty-first century to stimulate a discussion on the text’s theme of how we should be governed. What are the strengths of our democracy in the new millennium? Our weaknesses? Why? And what should we do about them? This topic could also be used for a reading and writing connection, asking students to keep a journal that focuses on these questions throughout the semester.

BACKGROUND READING

Anderson, James E. *Public Policymaking*. Boston: Houghton Mifflin Company, 2006.

Bok, Derek. *The State of the Nation: Government and the Quest for a Better Society*. Cambridge, MA: Harvard University Press, 1996.

Dahl, Robert. *Democracy and Its Critics*. New Haven: Yale University Press, 1982.

Domhoff, G. William. *The Power Elite and the State: How Policy Is Made in America*. New York: Aldine de Gruyter, 1990.

Hartz, Louis. *The Liberal Tradition in America*. New York: Harcourt Brace, and World, 1955.

Hibbing, John R. *Stealth Democracy*. New York: Cambridge University Press, 2002.

Huntington, Samuel P. *American Politics: The Promise of Disharmony*. Cambridge, MA: Harvard University Press, 1981.

Kingdon, John. *Agendas, Alternatives, and Public Policies*. 2nd ed. New York: Addison-Wesley, 1995.

Schuck, Peter H. and James Q. Wilson, eds. *Understanding America: The Anatomy of an Exceptional Nation*. New York: Public Affairs, 2008.

Stanley, Harold W., and Richard G. Niemi. *Vital Statistics on American Politics, 2007–2008*. Washington, DC: Congressional Quarterly Press, 2008.

MEDIA SUGGESTIONS

1984. Dir. M. Anderson. United Kingdom: Holiday Film Productions Ltd., 1956 and *Nineteen Eighty-four*. Dir. M. Radford. United Kingdom: Umbrella-Rosenblum Films Production, 1984.

A movie dramatization of George Orwell's classic novel depicting a grim perspective on a society where individualism is suppressed and information is distorted by government to achieve ultimate control over its population. The 1956 version is less haunting and grim than the 1984 remake, but not nearly as good.

This Divided State. Dir. S. Greenstreet. United States: Minority Films LLC, 2005.

A good documentary film that addresses many of the subjects of this introductory chapter, including student apathy vs. activism, majority rule vs. minority rights, civil liberties and individualism, and the "cultural war." The film tells the story surrounding the Utah Valley State College student association's speaking invitation to Michael Moore. In a conservative state, this provoked a great controversy and tested the students' (and the community's) understanding of democracy.

Tocqueville's Europe: The Paradoxes of Tocqueville's Democracy in America. Insight Media, 1995.

An analysis of Tocqueville's observations and criticisms of American democracy.

CHAPTER TWO: THE CONSTITUTION

PEDAGOGICAL FEATURES

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LEARNING OBJECTIVES

After studying this chapter, students should be able to:

- Outline the events that led early Americans to declare independence from Britain.
- Review the basic philosophy that underlies the Declaration of Independence.
- Summarize the parallels between Locke’s writings and Jefferson’s language in the Declaration of Independence.
- Explain how the weaknesses of the Articles of Confederation laid the groundwork for the Constitution.
- Describe what Madison meant by “factions” and how he proposed to solve the problems presented by factions.
- Evaluate how the Constitutional Convention dealt with issues of equality.
- Summarize the major compromises of the Constitutional Convention.
- Explain why economic issues were high on the agenda at the Constitutional Convention and how the framers tried to strengthen the economic powers of the new national government.
- Demonstrate what we mean by the “Madisonian model” and how it is incorporated within the Constitution.
- Understand why many critics claim that the Madisonian model actually reduces efficiency in the operations of government.

- Describe the major issues between the Federalists and the Anti-Federalists in the debates over ratification of the Constitution.
- Ascertain how constitutional changes—both formal and informal—continue to shape and alter the Madisonian system.
- Evaluate the Constitution in terms of the theme of democracy that runs throughout this chapter.
- Identify factors that have led to a gradual democratization of the Constitution.
- Understand how the Constitution affects the scope of government in America.

CHAPTER OVERVIEW

INTRODUCTION

A **constitution** is a nation's basic law. It creates political institutions, allocates power within government, and often provides guarantees to citizens. Constitutions thus establish who has power in society, and how that power is exercised. This chapter examines the background of the Constitution, and shows that the main principle guiding the writing of the Constitution was a concern for limited government and self-determination.

THE ORIGINS OF THE CONSTITUTION

The British king and Parliament originally left almost everything except foreign policy and trade to the discretion of individual colonial governments. However, Britain acquired a vast new territory in North America after the French and Indian War (1763). Parliament passed a series of taxes to raise revenue for colonial administration and defense of the new territory, and imposed the taxes on the colonists without their having direct representation in Parliament. The colonists protested, boycotted the taxed goods, and threw 342 chests of tea into Boston Harbor as a symbolic act of disobedience. Britain reacted by applying economic pressure through a naval blockade of the harbor, and the colonists responded by forming the First Continental Congress in September, 1774.

In May and June of 1776, the Continental Congress began debating resolutions about independence. Richard Henry Lee moved “that these United States are and of right ought to be free and independent states.” On July 2, Lee’s motion was formally approved. The **Declaration of Independence**—written primarily by Thomas Jefferson—was adopted two days later. The Declaration was a political polemic, announcing and justifying a revolution. Today, it is studied more as a statement of philosophy.

American political leaders were profoundly influenced by the writings of John Locke, especially *The Second Treatise of Civil Government* (1689). The foundation of Locke’s philosophy was a belief in **natural rights**: before governments arise, people exist in a *state of nature* where they are governed only by the *laws of nature*. **Natural law** brings **natural rights**, including life, liberty, and property. According to Locke, the sole purpose of government was to protect natural rights. Government must be built on the **consent of the governed**, and it should be a **limited government**. In particular, governments must

provide laws so that people know in advance whether or not their acts will be acceptable; government cannot take any person's property without his or her consent.

There are some remarkable parallels between Locke's thoughts and Jefferson's language in the Declaration of Independence. The sanctity of property was one of the few ideas absent in Jefferson's draft of the Declaration: he altered Locke's phrase "*life, liberty, and property*" to read "*life, liberty, and the pursuit of happiness.*" Nevertheless, Locke's views on the importance of property figured prominently at the **Constitutional Convention**.

The **American Revolution** itself was essentially a conservative movement that did not drastically alter the colonists' way of life. Its primary goal was to restore rights that the colonists felt were already theirs as British subjects. They did not feel a need for great social, economic, or political changes. As a result, the Revolution did not create class conflicts that would cause cleavages in society.

THE GOVERNMENT THAT FAILED: 1776–1787

In 1776, the Congress appointed a committee to draw up a plan for a permanent union of the states. That plan was the **Articles of Confederation**, which became the new nation's first governing document. The Articles established a government dominated by the states because the new nation's leaders feared that a strong central government would become as tyrannical as British rule. In general, the weak and ineffective national government could take little independent action. The Continental Congress had few powers outside of maintaining an army and navy, and had no power to tax or even to raise revenue to carry out that function. The weakness of the national government prevented it from dealing with the problems that faced the new nation.

Significant changes were occurring in the states—most significantly, a dramatic increase in democracy and liberty, at least for White males. Expanded political participation brought a new middle class to power. With expanded voting privileges, farmers and craftworkers became a decisive majority, and the old colonial elite saw its power shrink.

A postwar depression had left many small farmers unable to pay their debts and threatened with mortgage foreclosures. With some state legislatures now under the control of people more sympathetic to debtors, a few states adopted policies to help debtors (favoring them over creditors). In western Massachusetts, a small band of farmers led by Captain Daniel Shays undertook a series of armed attacks on courthouses to prevent judges from foreclosing on farms. **Shays' Rebellion** spurred the birth of the Constitution and reaffirmed the belief of the Philadelphia delegates that the new federal government needed to be a strong one.

MAKING A CONSTITUTION: THE PHILADELPHIA CONVENTION

The delegates who were sent to Philadelphia were instructed to meet "*for the sole and express purpose of revising the Articles of Confederation.*" However, amendment of the Articles required unanimous consent of the states, so the delegates ignored their instructions and began writing a new constitution. Although the men held very different

views, they agreed on questions of human nature, the causes of political conflict, and the object and nature of a republican government. James Madison of Virginia (who is often called “*the father of the Constitution*”) was perhaps the most influential member of the convention in translating political philosophy into governmental architecture.

Pennsylvania delegate Gouverneur Morris was responsible for the style and wording of the **U.S. Constitution**. Written in 1787 and ratified in 1788, the Constitution sets forth the institutional structure of the U.S. government and the tasks these institutions perform. It replaced the Articles of Confederation.

The 55 delegates at the Constitutional Convention were the *postcolonial economic elite*. They were mostly wealthy planters, successful lawyers and merchants, and men of independent wealth. Many were creditors whose loans were being wiped out by cheap paper money. Many were college graduates. As a result, it is not surprising that they would seek to strengthen the economic powers of the new national government. As property holders, these leaders could not imagine a government that did not make its principal objective the preservation of individual rights to acquire and hold wealth. A few (like Gouverneur Morris) were even intent on shutting out the propertyless altogether.

James Madison claimed that **factions** arise from the unequal distribution of wealth. One faction is the majority, composed of the many who have little or no property. The other is the minority, composed of the few who hold much wealth. The delegates thought that, if left unchecked, either a majority or minority faction would become tyrannical. The founders believed that the secret of good government is “*balanced*” government. A limited government would have to contain checks on its own power. As long as no faction could seize the whole of government at once, tyranny could be avoided. In Madison’s words, “*ambition must be made to counteract ambition.*”

THE AGENDA IN PHILADELPHIA

Although the Constitution is silent on the issue of **equality**, some of the most important issues on the policy agenda at Philadelphia concerned the issue of equality. Three issues occupied more attention than almost any others: whether or not the states were to be equally represented, what to do about slavery, and whether or not to ensure political equality.

The delegates resolved the conflict over *representation for the states* with the **Connecticut Compromise**, under which a bicameral legislature would have equal representation for the states in the Senate and representation based on population in the House of Representatives. Although the Connecticut Compromise was intended to maximize equality among the states, it actually gives more power to states with small populations since it is the Senate that ratifies treaties, confirms presidential nominations, and hears trials of impeachment.

The delegates were bitterly divided over the issue of *slavery*. In the end, they agreed that Congress could limit future importing of slaves but did not forbid slavery itself in the Constitution. In fact, the Constitution stated that persons legally “held to service or labour” who escaped to free states must be returned to their owners. Northern and

southern delegates also divided over the issue of how to *count* slaves. Under the **three-fifths compromise**, both representation and taxation were to be based upon the “number of free persons” plus three-fifths of the number of “all other persons.”

The delegates dodged the issue of **political equality**. A few delegates favored universal manhood suffrage, while others wanted to place property qualifications on the right to vote. Ultimately, they left the issue to the states.

Economic issues were high on the policy agenda. The writers of the Constitution charged that the economy was in disarray. Virtually all of them thought a strong national government was needed to bring economic stability to the chaotic union of states that existed under the Articles of Confederation. The delegates made sure that the Constitution clearly spelled out the economic powers of the legislature. Consistent with the general allocation of power in the Constitution, Congress was to be the primary economic policymaker.

The delegates felt that they were constructing a limited government that could not threaten personal freedoms, and most believed that the various states were already doing an adequate job of protecting individual rights. As a result, the Constitution says little about personal freedoms. (It does prohibit suspension of the **writ of habeas corpus**, prohibits bills of attainder and *ex post facto* laws, prohibits the imposition of religious qualifications for holding office in the national government, narrowly defines treason and outlines strict rules of evidence for conviction of treason, and upholds the right to trial by jury in criminal cases.) The absence of specific protections for individual rights led to widespread criticism during the debates over ratification.

THE MADISONIAN MODEL

The founders believed that human nature was self-interested and that inequalities of wealth were the principal source of political conflict. They also believed that protecting private property was a key purpose of government. Their experience with state governments under the Articles of Confederation reinforced their view that democracy was a threat to property. Thus, the delegates were faced with *the dilemma of reconciling economic inequality with political freedom*.

Madison and his colleagues feared both **majority** and **minority factions**. To thwart **tyranny by the majority**, Madison believed it was essential to keep most of the government beyond their power. Under Madison’s plan, voters’ electoral influence was limited and mostly indirect. Only the House of Representatives was to be directly elected. Senators were to be elected by state legislatures (modified by the Seventeenth Amendment in 1913), presidents were to be indirectly elected by an electoral college, and judges were to be nominated by the president.

The Madisonian plan also provided for a system of **separation of powers** in which each of the three branches of government would be relatively independent so that no single branch could control the others. However, the powers were not completely separate: a system of **checks and balances** was established that reflected Madison’s goal of setting *power against power* to constrain government actions.

The framers of the Constitution did not favor a direct democracy. They chose a **republic**, a system based on the consent of the governed in which power is exercised by *representatives* of the public.

RATIFYING THE CONSTITUTION

In the battle over ratification, the **Federalists** supported the Constitution and the **Anti-Federalists** opposed it. John Marshall (later chief justice) suggested, “It is scarcely to be doubted that in some of the adopting states, a majority of the people were in opposition.”

The position of the Federalists was strengthened by the *Federalist Papers*, written by James Madison, Alexander Hamilton, and John Jay as an explication and defense of the Constitution. Today, the *Federalist Papers* remains second only to the Constitution itself in symbolizing the ideas of the framers. The Anti-Federalists considered the Constitution to be a class-based document intended to ensure that a particular economic elite controlled the new government, and they believed that the Constitution would weaken the power of the states. They also feared that the new government would erode fundamental liberties. To allay fears that the Constitution would restrict personal freedoms, the Federalists promised to add amendments to the document specifically protecting individual liberties. James Madison did, indeed, introduce 12 constitutional amendments during the First Congress (1789); ten were ratified and have come to be known as the **Bill of Rights**.

The Constitution itself provided for ratification by special state conventions and required that nine states approve the document before it could be implemented. Delaware, the first, approved the Constitution on December 7, 1787. The ninth state (New Hampshire) approved only six months later.

CONSTITUTIONAL CHANGE

The Constitution may be modified either by formal amendment or by a number of informal processes. **Formal amendments** change the language of the Constitution in accordance with the procedures outlined in Article V. The Constitution may be **informally amended** in a variety of ways, such as through judicial interpretation or through custom and political practice. Political scientists often refer to the **unwritten constitution**—an unwritten body of tradition, practice, and procedure that, when altered, may change the *spirit of the Constitution*. For example, political parties and national conventions are not mentioned in the written document, but they are important parts of the unwritten constitution.

The Constitution was not intended to be static and unchanging. The founders created a *flexible system* of government, one that could *adapt to the needs of the times without sacrificing personal freedom*. The *brevity* of the Constitution also contributes to its flexibility: it is a very short document that does not attempt to prescribe the structure and functions of the national government in great detail. This flexibility has enabled the Constitution to survive for more than 200 years. Although the United States is young compared to other Western nations, it has the oldest functioning Constitution.

Unquestionably, formal amendments have made the Constitution more egalitarian and democratic. Some amendments have been proposed but not ratified. The best known of these in recent years is the **Equal Rights Amendment**, or **ERA**.

The constitution continues to change due to **judicial interpretation**, changing political practice, technology, and the increasing demands on policymakers. Due to the recent “War on Terror,” power has informally shifted marginally to the executive, as is often the case when the country focuses on national security concerns. This represents informal constitutional change, and may be eventually reversed by Congress, as is often the case.

UNDERSTANDING THE CONSTITUTION

The theme of the *role of government* runs throughout this chapter. This section examines the Constitution in terms of the theme of *democracy*, and looks at the impact of the Constitution on policymaking. The Constitution created a *republic*, or a *representative form of democracy* modeled after the Lockean tradition of *limited government*.

One of the central themes of American history is the *gradual democratization of the Constitution*. While eighteenth-century upper-class society feared and despised democratic government, today few people would share the founders’ fear of democracy.

The systems of separation of powers and checks and balances established by the Constitution allow almost all groups some place in the political system where their demands for public policy can be heard. Because many institutions share power, a group can usually find at least one sympathetic ear. These systems also promote the politics of bargaining, compromise, and playing one institution against another—to such an extent that some scholars even suggest there is so much “checking” that effective government is almost impossible.

CHAPTER OUTLINE

I. THE ORIGINS OF THE CONSTITUTION

- A. A **constitution** is a nation’s basic law that:
 - 1. Creates political institutions.
 - 2. Assigns or divides powers in government.
 - 3. Often provides certain guarantees to citizens.
 - 4. Includes an unwritten accumulation of traditions and precedents.
 - 5. Sets the broad rules of the game of politics.
- B. The road to revolution.
 - 1. The King and Parliament originally left almost everything except foreign policy and trade to the discretion of individual colonial governments.
 - 2. Britain obtained a vast expanse of new territory in North America after the **French and Indian War** ended in 1763.
 - 3. The British Parliament passed a series of taxes to pay for the cost of defending the territory, and also began to tighten enforcement of its trade regulations.

4. Americans resented the taxes, especially since they had no direct representation in Parliament.
 5. The colonists responded by forming the First Continental Congress (September, 1774) and sent delegates from each colony to Philadelphia to discuss the future of relations with Britain.
- C. Declaring independence.
1. The Continental Congress met in almost continuous session during 1775 and 1776.
 2. In May and June of 1776, the Continental Congress began debating resolutions about independence; after two days of debate on the wording, the **Declaration of Independence** (written primarily by Thomas Jefferson) was adopted on July 4.
- D. The English heritage: the power of ideas.
1. John Locke's writings, especially *The Second Treatise of Civil Government*, profoundly influenced American political leaders.
 2. Locke's philosophy was based on a belief in **natural rights**, the belief that people exist in a state of nature before governments arise, where they are governed only by the *laws of nature*.
 - a. **Natural law** brings natural rights, which include life, liberty, and property.
 - b. Because natural law is superior to human law, natural law can justify even a challenge to the rule of a tyrannical king.
 - c. Locke argued that government must be built on the **consent of the governed**—the people must agree on who their rulers will be.
 - d. Government should also be a **limited government**, with clear restrictions on what rulers can do.
 - e. According to Locke, the *sole purpose of government was to protect natural rights*.
 - f. In an extreme case, people have a right to revolt against a government that no longer has their consent, but Locke stressed that people should not revolt *until injustices become deeply felt*.
- E. Jefferson's handiwork: the American creed.
1. There are a number of close parallels between Locke's thoughts and Jefferson's language in the Declaration of Independence.
 2. The sanctity of property was one of the few ideas absent in Jefferson's draft of the Declaration of Independence (but the Lockean concept of property figured prominently at the Constitutional Convention).
 3. Jefferson altered Locke's phrase, "*life, liberty, and property*" to "*life, liberty, and the pursuit of happiness*."
- F. Winning independence
1. Declaring independence merely announced its beginning.
 2. The colonists were outnumbered but won their war of independence.
- G. The "conservative" revolution.
1. The revolution was essentially a conservative movement that did not drastically alter the colonists' way of life.

2. The primary goal of the revolution was *to restore rights the colonists felt were already theirs* as British subjects.

II. THE GOVERNMENT THAT FAILED: 1776–1787

- A. The **Articles of Confederation** established a government dominated by the states.
 1. The Articles established a national legislature (the **Continental Congress**) with one house.
 - a. States could send up to seven delegates, but each state had only one vote.
 - b. The Continental Congress had few powers outside of maintaining an army and navy (and little money to do even that); it had no power to tax and could not regulate commerce (which inhibited foreign trade and the development of a strong national economy).
 2. There was no president and no national court.
 3. The weakness of the national government prevented it from dealing with the problems that faced the new nation.
- B. Changes in the states.
 1. Important changes were occurring in the states, including a dramatic increase in democracy and liberty (for White males).
 2. Expanded political participation brought a new middle class to power, which included artisans and farmers who owned small homesteads.
 3. With expanded voting privileges, farmers and craftworkers became a decisive majority; members of the old colonial elite saw their power shrink, and they didn't like it.
- C. Economic turmoil.
 1. A postwar depression had left many small farmers unable to pay their debts; many were threatened with mortgage foreclosures.
 2. State legislatures were now under the control of people more sympathetic to **debtors**.
 3. A few states (notably Rhode Island) adopted policies to help debtors, favoring them over **creditors**—some printed paper money and passed “**force acts**,” requiring creditors to accept the almost worthless money.
- D. Shays' Rebellion.
 1. In 1786, a small group of farmers in western Massachusetts led by Captain Daniel Shays rebelled at losing their land to creditors.
 2. **Shays' Rebellion** was a series of armed attacks on courthouses to prevent judges from foreclosing on farms.
 3. Shays' Rebellion spurred the birth of the Constitution.
- E. The aborted Annapolis meeting.
 1. In September, 1786, a small group of continental leaders assembled at Annapolis, Maryland, to consider the problem of commercial conflicts that had arisen among the states.
 2. Only five states sent delegates, and they issued a call for a full-scale meeting of the states in Philadelphia the following May.

III. MAKING A CONSTITUTION: THE PHILADELPHIA CONVENTION

- A. Delegates were given specific instructions to meet “*for the sole and express purpose of revising the Articles of Confederation.*”
 - 1. Amendment was not feasible since amending the Articles required the unanimous consent of the states.
 - 2. Twelve states sent representatives; Rhode Island refused to participate.
 - 3. The 55 delegates ignored their instructions and began writing a new constitution.
- B. Gentlemen in Philadelphia.
 - 1. A select group of economic and political notables.
 - 2. Men of wealth; many were college graduates.
 - 3. Most were coastal residents; a significant number were urbanites.
- C. Philosophy into action.
 - 1. Although very different philosophical views were represented, the group *agreed on questions of human nature, the causes of political conflict, and the object and nature of a republican government.*
 - 2. The delegates were united in their belief that people were self-interested and that government should play a key role in *checking and containing the natural self-interest* of the people.
 - 3. James Madison, who is often called “*the father of the Constitution,*” was perhaps the most influential member of the Convention in translating political philosophy into governmental architecture.
 - a. Madison believed that *the distribution of wealth (property) is the source of political conflict.*
 - b. He claimed that **factions** arise from the unequal distribution of wealth: one faction is the majority (composed of the many who have little or no property); the other faction is the minority (composed of the few who hold wealth).
 - 4. The delegates believed that *either a majority or a minority faction will be tyrannical* if it goes unchecked and has too much power.
 - a. Property must be protected against the tyrannical tendencies of faction.
 - b. The secret of good government is “*balanced government*”: as long as no faction could seize complete control of government, tyranny could be avoided.

IV. THE AGENDA IN PHILADELPHIA

- A. Although the *Constitution is silent on equality*, some of the most important issues on the policy agenda at Philadelphia concerned equality: representation of the states, what to do about slavery, and whether or not to ensure political equality.
- B. Representation of the states.
 - 1. The **New Jersey Plan**, proposed by William Paterson of New Jersey, called for each state to be equally represented in the new Congress.
 - 2. The **Virginia Plan**, suggested by Edmund Randolph of Virginia, called for representation in Congress based on the state’s share of the American population.
 - 3. The **Connecticut Compromise**, devised by Roger Sherman and William Johnson of Connecticut, was the solution adopted by the delegates that

created a **bicameral legislature** in which the Senate would have two members from each state and the House of Representatives would have representation based on population.

C. Slavery.

1. The delegates agreed that Congress could limit future *importing of slaves* (they prohibited it after 1808), but they *did not forbid slavery* itself.
2. The Constitution stated that persons legally “held to service or labour” who escaped to free states had to be returned to their owners.
3. Under the famous **three-fifths compromise**, both representation and taxation were to be based upon the “number of free persons” plus three-fifths of the number of “all other persons.”

D. Equality in voting.

1. Some delegates favored suffrage for all free, adult males; some wanted to put property qualifications on the right to vote.
2. Ultimately, they decided to leave the issue to the states.

E. Economic issues.

1. Economic issues played an important role at the Convention.
 - a. Advocates of the Constitution (Federalists) stressed the economy’s weaknesses.
 - b. Opponents of the Constitution (Anti-Federalists, who opposed a strong national government) claimed that charges of economic weakness were exaggerated.
2. It is not surprising that the framers of the Constitution would seek to strengthen the economic powers of the new national government since delegates to the Constitutional Convention were the nation’s postcolonial economic elite. Historian Charles Beard argued that the delegates primarily wanted these strong economic powers so that their own wealth would be protected; the best evidence does not support Beard’s thesis.
3. The Constitution clearly spelled out the economic powers of Congress.
 - a. Congress was to be the chief economic policymaker.
 - b. Congress was granted power to tax and borrow, and to appropriate funds.
 - c. Congress was also granted powers to protect property rights—powers to punish counterfeiters and pirates, ensure patents and copyrights, to legislate rules for bankruptcy, and to *regulate interstate and foreign commerce*.
4. The framers also prohibited practices in the states that they viewed as inhibiting economic development.
 - a. State monetary systems.
 - b. Placing duties on imports from other states.
 - c. Interfering with lawfully contracted debts.
5. States were required to respect civil judgments and contracts made in other states, and to return runaway slaves to their owners (overturned by the Thirteenth Amendment).
6. The national government guaranteed the states “*a republican form of government*” to prevent a recurrence of Shays’ Rebellion, and the new

government was obligated to repay all the public debts incurred under the Continental Congress and the Articles of Confederation (\$54 million).

F. Individual rights.

1. The delegates felt that preserving individual rights would be relatively easy.
 - a. They were constructing a limited government that, by design, could not threaten personal freedoms.
 - b. Powers were dispersed so that each branch or level of government could restrain the others.
 - c. Most delegates believed that the various states were already protecting individual rights.
2. Although the Constitution says little about personal freedoms, it does include the following:
 - a. The **writ of *habeas corpus*** may not be suspended except during invasion or rebellion.
 - b. Congress and the states are prohibited from passing bills of attainder (which punish people without a judicial trial) and *ex post facto* laws (which punish people or increase the penalties for acts that were not illegal or were not as severely punished when the act was committed).
 - c. Religious qualifications may not be imposed for holding office in the national government.
 - d. Treason is narrowly defined, and strict rules of evidence for conviction of treason are specified.
 - e. The right to trial by jury in criminal cases is guaranteed.
3. The absence of specific protections for individual rights led to widespread criticism during the debates over ratification.

V. THE MADISONIAN MODEL

A. Thwarting tyranny of the majority.

1. James Madison and his colleagues feared both majority and minority factions.
2. To prevent **tyranny by the majority**, Madison believed that it was essential to keep most of the government beyond the control of the masses.
 - a. Under Madison's plan that was incorporated in the Constitution, voters' electoral influence was limited and mostly indirect.
 - b. Only the House of Representatives was directly elected; senators and presidents were indirectly elected, and judges were nominated by the president (modified by the Seventeenth Amendment, which provides for direct popular election of senators).

B. Separation of powers and checks and balances.

1. The Madisonian scheme provided for a system of **separation of powers** in which each of the three branches of government would be relatively independent of the others so that no single branch could control the others.
2. Power was not separated absolutely, but was shared among the three institutions.
3. Since power was not completely separate, each branch required the consent of the others for many of its actions—thereby creating a system of **checks**

and balances that reflected Madison's goal of setting *power against power* to constrain government actions.

- a. The president checks Congress by holding the veto power.
 - b. Congress holds the “purse strings” of government, and the Senate has the power to approve presidential appointments.
 - c. **Judicial review** (the power of courts to hold executive and congressional policies unconstitutional) was not explicit in the Constitution, but was asserted by the Supreme Court under John Marshall in *Marbury v. Madison* (1803).
 - d. Since the framers thought much government activity would take place in the states, federalism was considered an additional check on the power of the national government.
- C. The constitutional republic.
1. The framers of the Constitution established a **republic** (a system based on the consent of the governed in which power is exercised by representatives of the public).
 2. This *deliberative democracy* established an elaborate decision-making process.
 3. The system of checks and balances and separation of powers has a conservative bias because it favors the *status quo*; that is, people desiring change must usually have a *sizable majority* rather than a simple majority.
 4. The Madisonian system encourages moderation and compromise, and retards change.

VI. RATIFYING THE CONSTITUTION

- A. Federalists and Anti-Federalists.
1. A fierce battle erupted between the **Federalists** (who supported the Constitution) and the **Anti-Federalists** (who opposed it).
 2. Federalists:
 - a. James Madison, Alexander Hamilton, and John Jay—writing under the name Publius—wrote a series of 85 articles (known as the ***Federalist Papers***) in defense of the Constitution.
 - b. The *Federalist Papers* defended the Constitution detail by detail, but also represented *an important statement of political philosophy*.
 3. Anti-Federalists.
 - a. The Anti-Federalists questioned the motives of the writers of the Constitution; they believed that the new government was an enemy of freedom.
 - b. Anti-Federalists believed that the new Constitution was a *class-based document*, intended to ensure that a particular economic elite controlled the public policies of the national government.
 - c. They feared that the new government would *erode fundamental liberties* and would *weaken the power of the states*.
 4. In a compromise to assure ratification, the Federalists promised to add amendments to the document specifically protecting individual liberties.
 - a. James Madison introduced 12 constitutional amendments during the First Congress in 1789.

- b. Ten of the amendments—known as the **Bill of Rights**—were ratified by the states and took effect in 1791.
- B. Ratification.
 - 1. The Federalists specified that the Constitution be ratified *by special conventions* in each of the states, not by state legislatures (a shrewd move since state legislatures were populated with political leaders who would lose power under the Constitution).
 - 2. The Constitution itself specified that nine states approve the document before it could be implemented.
 - 3. Delaware was the first state to ratify the Constitution (December 7, 1787); New Hampshire became the ninth state six months later.
 - 4. George Washington was the electoral college's unanimous choice for president, and he took office on April 30, 1789.

VII. CONSTITUTIONAL CHANGE

- A. Constitutional changes may occur either by formal amendments or by a number of informal processes.
- B. **Formal amendments** change the written language of the Constitution.
 - 1. Article V of the Constitution outlines procedures for formal amendment.
 - 2. There are two stages to the amendment process (proposal and ratification), each with two alternative routes.
 - a. **Proposal**—an amendment may be proposed either by a two-thirds vote in each house or chamber of Congress, or by a national convention called by Congress at the request of two-thirds of the state legislatures.
 - b. **Ratification**—an amendment may be ratified either by the legislatures of three-fourths of the states, or by special state conventions called in three-fourths of the states.
 - 3. All of the amendments to the Constitution have been proposed by Congress (no constitutional convention has been convened since the original Constitutional Convention); all except one of the successful amendments have been ratified by the state legislatures.
 - 4. The president has no formal role in amending the Constitution.
- C. Effects of formal amendment.
 - 1. Formal amendments have made the Constitution more egalitarian and democratic.
 - 2. The emphasis on economic issues in the original document is now balanced by amendments that stress equality and increase the ability of a popular majority to affect government.
 - 3. The most important effect has been to *expand liberty and equality* in America.
- D. **Informal amendment**—the Constitution changes *informally* as well as *formally*.
 - 1. The Constitution may change informally through judicial interpretation, through political practice, through demands on policymakers, or as a result of changes in technology.
 - a. **Judicial interpretation** can profoundly affect how the Constitution is understood.

- b. *Changing political practice* can also change the meaning of the Constitution.
 - (1) The development of political parties dramatically changed the form of American government.
 - (2) Changing political practice has altered the role of the **electoral college**, which today is often seen as a “rubber stamp” in selecting the president.
- c. The Constitution has also been greatly changed by *technology*.
 - (1) The *mass media* plays a role unimaginable in the eighteenth century.
 - (2) The *bureaucracy* has grown in importance with the advent of technological developments such as computers.
 - (3) *Electronic communications* and the development of *atomic weapons* have enhanced the president’s role as commander in chief.
- d. The power of the presidency has grown as a result of *increased demands for new policies*.
 - (1) The United States’ growth to the status of a *superpower* in international affairs has located additional power in the hands of the chief executive. National security concerns tend to result in more power to the president, although Congress tends to reassert itself eventually.
 - (2) Increased demands of domestic policy have placed the president in a more prominent role in preparing the federal budget and proposing a legislative program.
- E. The importance of flexibility.
 - 1. The United States has the *oldest functioning constitution* in existence today.
 - 2. The framers of the Constitution created a *flexible system of government* that could adapt to the needs of the times without sacrificing personal freedom.
 - 3. Even with 27 amendments, the Constitution is a very short document: it does not prescribe the structure and functioning of the national government in detail.

VIII. UNDERSTANDING THE CONSTITUTION

- A. The Constitution and democracy.
 - 1. Democratic government was despised and feared among eighteenth-century upper-class society.
 - 2. The Constitution created a republic, a representative form of democracy modeled after the Lockean tradition of limited government.
 - 3. One of the *central themes of American history* is the *gradual democratization of the Constitution*, away from the elitist model of democracy and toward the pluralist one.
 - 4. Today, few people share the founders’ fear of democracy.
- B. The Constitution and the scope of government.

1. Separation of powers and checks and balances allow almost all groups some place in the political system where their demands for public policy can be heard.
2. Separation of powers and checks and balances also promote the politics of bargaining, compromise, playing one institution against another, and an increase of hyperpluralism.
 - a. Some scholars suggest that so much “checking” was built into the American political system that effective government is almost impossible due to gridlock.
 - b. The outcome may be nondecisions when hard decisions are needed.

KEY TERMS AND CONCEPTS

Anti-Federalists: opposed the new Constitution, feared the new Constitution would erode fundamental liberties, and argued that the new Constitution was a class-based document serving the economic elite.

Articles of Confederation: the document that outlined the voluntary agreement between states and was adopted as the first plan for a permanent union of the United States.

Bill of Rights: the first ten Amendments to the Constitution passed after ratification specifically protecting individual liberties to fulfill promises made by the Federalists to the Anti-Federalists in return for their support.

Checks and balances: each branch requires the consent of the others for many of its decisions.

Connecticut Compromise: the plan adopted at the Constitutional Convention to provide for two chambers in Congress, one representing states equally and the other representing states on the basis of their share of the population.

Consent of the governed: people must agree on who their rulers will be.

Constitution: a nation’s basic law creating institutions, dividing power, and providing guarantees to citizens.

Declaration of Independence: the document used by the signers to announce and justify the Revolutionary War and which was specifically designed to enlist the aid of foreign nations in the revolt.

Equal Rights Amendment: was first proposed in 1923, passed by Congress in 1972, but was not ratified by three-fourths of the states; this amendment mandated equality of rights under the law regardless of gender.

Factions: groups of people, currently known as political parties or interest groups, who arise as a result of unequal distribution of wealth to seize the reins of government in their own interest.

Federalist Papers: articles written to convince others to support the new constitution.

Federalists: argued for ratification of the Constitution by writing the *Federalist Papers*; included Madison, Hamilton, and Jay.

Judicial review: the courts have the power to decide whether the actions of the legislative and executive branches of state and national governments are in accordance with the Constitution.

Limited government: clear restrictions on what rulers could do; this safeguards natural rights.

Marbury v. Madison: Judicial review was established in this 1803 Supreme Court case.

Natural rights: these are rights to which people are entitled by natural law, including life, liberty, and property.

New Jersey Plan: a plan by some of the delegates to the Constitutional Convention to provide each state with equal representation in Congress.

Republic: a system based on the consent of the governed where power is exercised by representatives of the public.

Separation of powers: each branch of government would be independent of the others.

Shays' Rebellion: a series of armed attacks on courthouses to prevent judges from foreclosing on farms.

U.S. Constitution: the document where the foundations of U.S. government are written, providing for national institutions that each have separate but not absolute powers.

Virginia Plan: a plan by some of the delegates to the Constitutional Convention to provide each state with a share of congressional seats based on its share of the population.

Writ of *habeas corpus*: this enables people who are detained by authorities to secure an immediate inquiry and reasons why they have been detained.

TEACHING IDEAS: CLASS DISCUSSION AND STUDENT PROJECTS

- The Constitution establishes the rules of the political game. These rules decentralize power rather than consolidating it in the hands of the executive or the legislature. Ask your students to debate the following questions: *Would American government be more efficient if power were concentrated within a single branch of government? Would it be more effective?*
- The delegates to the Constitutional Convention constituted an educational and economic elite—they were not the “common man.” Ask your students to consider whether an elite can be representative of people from other strata in society. Expand the question to consider contemporary problems, such as racism and poverty.
- It often surprises students to learn that Great Britain has no written constitution. Call for class discussion of how democracy can exist in a nation with no written constitution. Broaden the question to include *unwritten* aspects of the U.S. Constitution.
- Ask students to identify which features of the Constitution reflect a distrust of democracy. Who didn't the framers trust? Do we have similar beliefs today?
- *Government in America* points out that “one of the central themes of American history is the gradual democratization of the Constitution.” Ask your class to evaluate this statement and to either substantiate or refute it.

- For a discussion question, ask students to interpret the modern meaning of the phrase “life, liberty, and pursuit of happiness.” Using an overhead projector or the blackboard, list the various interpretations and note how many times there is agreement as well as disagreement.
- For an extended discussion, ask students to compare the goals of the Declaration of Independence, especially the phrases “all men are created equal” and “life, liberty, and the pursuit of happiness” to the goals of the failed Equal Rights Amendment. Ask students to debate whether the goals expressed in each are incompatible or similar.
- For an alternative discussion, ask students why minority rights are important. What type of minorities was Madison concerned about? Are minority rights still important in U.S. politics? Ask students to provide specific historical and contemporary examples of “minorities” seeking to protect their rights. How is the political system structured to “balance” minority and majority rights? What values are served by this balance: efficiency, equality, representation?
- As a short essay assignment, have the students discuss how they might change the Constitution. What amendments would they change or take out? Are there any amendments they feel need to be added to the Constitution?
- For an alternative essay assignment, have the students defend the importance of the Bill of Rights. In particular, they should explain why, if the Bill of Rights was so important, it was not contained in the original Constitution. Finally, ask them if the Bill of Rights would have been more or less powerful had it been included in the original document.
- Have the students discuss the importance of presidential candidates being born in the United States. Is such a rule needed in modern society? Why did the founders include such a rule in Article II?

BACKGROUND READING

Beard, Charles. *An Economic Interpretation of the Constitution*. New York: Macmillan, 1941.

Dahl, Robert A. *How Democratic is the American Constitution?* 2nd ed. New Haven, CT: Yale University Press, 2003.

Ellis, Joseph J. *Founding Brothers: The Revolutionary Generation*. New York: Alfred A. Knopf, 2000.

Jillson, Calvin C. *Constitution Making: Conflict and Consensus in the Federal Convention of 1787*. New York: Agathon, 1988.

Lipset, Seymour Martin. *The First New Nation*. New York: Basic Books, 1963.

Manley, J. F. and K. M. Dolbeare, eds. *The Case Against the Constitution*. Armonk, NY: M.E. Sharpe, 1987.

Simmons, A. John. *The Lockean Theory of Rights*. Princeton, NJ: Princeton University Press, 1994.

Wood, Gordon S. *The Creation of the American Republic*. Chapel Hill, NC: University of North Carolina Press, 1969.

MEDIA SUGGESTIONS

Bill of Rights: Bill of Responsibility. Cambridge Educational Production, 1995.

Hosted by Bill Maher, this film looks at the Constitution and the Bill of Rights as living history and relates the Bill of Rights to current events. It is available from Films Media Group.

The Bill of Rights: A Living Document. Cambridge Educational Production, 1997.

This film explores the complexity of individual rights versus the common good. It is available from Films Media Group.

The Constitution of the United States. Encyclopedia Britannica Educational Corporation, 1982. Film examining the various elements of the Constitution and the fight for ratification.

The Constitution: That Delicate Balance. Columbia University Seminars on Media and Society, 1984.

A thirteen-part series by Films Incorporated where panelists examine a variety of issues and constitutional interpretations.

John Adams. HBO Films, 2008.

An award-nominated HBO miniseries on the life of John Adams and the first fifty years of the United States.

John Locke. Films for the Humanities and Sciences, 2004.

This film provides a recreation of John Locke's conversations for an in-depth view of his principles.

The Living Constitution. Insight Media, 2002.

Examines how changes are made in the Constitution to adapt to changes in technology and the population.

Marbury v. Madison. National Audio Visual Center, 1977.

Part of an Equal Justice Under Law Series presentation by National Audio Visual Center depicting a dramatic reenactment of this historic case. Available at www.archive.org.

The Magna Carta. Films for the Humanities and Sciences.

This film examines the origins of the Magna Carta and its contributions to the development of American democracy.

Thomas Jefferson: The Pursuit of Liberty. Films for the Humanities and Sciences.

An award-winning examination of the philosophy and life of Thomas Jefferson.

CHAPTER THREE: FEDERALISM

PEDAGOGICAL FEATURES

- p. 76 **Table 3.1:** *Authority Relations in Three Systems of Government*
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LEARNING OBJECTIVES

After studying this chapter, students should be able to:

- Describe the three basic forms of governmental structures: federalism, unitary, and confederacy.
- Identify the ways in which the Constitution determines the powers of state and national governments.
- Evaluate how contrasting interpretations of the supremacy clause and the Tenth Amendment lead to divergent views of the scope of state and national powers.
- Describe how the Supreme Court set forth the principle of implied powers in the *McCulloch v. Maryland* case.
- Understand the relationship between implied powers and enumerated powers.
- Describe how the Civil War and the civil rights movement contributed to the development of national supremacy over the states.
- List and analyze the clauses in the Constitution that define the obligations that each state has to every other state.
- Trace the ways in which American federalism has changed over the past two centuries.
- Compare the contrasting forms of dual federalism and cooperative federalism.
- Describe what is meant by “fiscal federalism” and assess the role that federal money plays in state policies.
- Identify the positive and negative effects American federalism has on democracy.

CHAPTER OVERVIEW

INTRODUCTION

The relationships among the federal, state, and local governments often confuse people, yet federalism is at the heart of critical battles over the nature and scope of public policy in the United States. Neighborhood schools are run by locally elected school boards but also receive state and national funds, and with those funds come state and national rules and regulations. Understanding the scope and nature of local, state, *and* national governments is thus critical to learning about the development of public policy in the United States.

DEFINING FEDERALISM

We generally speak of three forms of governmental structures—federalism, unitary government, and confederation. **Federalism** is a way of organizing a nation so that two or more levels of government have formal authority *over the same area and people*. Chapter 3 explores the complex relationships between *different levels* of government in the United States. It describes the ways that the federal system has changed over two centuries of American government and why American federalism is at the center of important battles over policy.

Federalism is not the typical way by which nations organize their governments; there are only 11 countries with federal systems. Most governments in the world today are **unitary governments**, in which *all power resides in the central government*. Although American government operates under a federal system at the national level, the *states are unitary governments* with respect to their local governments. In the United States, local governments are legally “*creatures of the states*”: they are created by the states and can be changed (or even abolished) by the states.

In a **confederation**, the national government is weak and most or all of the power is in the hands of its components (such as states). The United States was organized as a confederacy after the American Revolution, with the **Articles of Confederation** as the governing document. Confederations are rare today except in international organizations.

The concept of **intergovernmental relations** refers to the *entire set of interactions among national, state, and local governments* in a federal system. The American federal system *decentralizes our politics*. For example, senators are elected as representatives of individual states and not of the nation. Moreover, with more layers of government, more opportunities exist for political participation; there are more points of access in government and more opportunities for interests to be heard and to have their demands for public policies satisfied.

The federal system not only decentralizes our politics, it also decentralizes our *policies*. The history of the federal system demonstrates the tensions that exist between the states and the national government about who controls policy and what it should be. Because of

the overlapping powers of the two levels of government, most of our public policy debates are also debates about federalism.

The American states have always been policy innovators. Most policies that the national government has adopted had their beginnings in the states. In many ways, the states constitute a “national laboratory” to develop and test public policies.

THE CONSTITUTIONAL BASIS OF FEDERALISM

The Constitution does not refer directly to federalism, and little was said about it at the Constitutional Convention. However, the framers carefully defined the powers of state and national governments. The framers also dealt with a question that still evokes debate: Which level of government should prevail in a dispute between the states and the national government? Advocates of strong national powers generally emphasize the **supremacy clause**. In *Article VI* (the “supremacy clause”), three items are listed as *the supreme law of the land*: the Constitution; laws of the national government (when consistent with the Constitution); and treaties. However, the national government can only operate *within its appropriate sphere* and cannot usurp powers of the states. By contrast, advocates of states’ rights believe that the **Tenth Amendment** means that the national government has only those powers *specifically assigned* by the Constitution.

In *United States v. Darby* (1941), the Supreme Court called the Tenth Amendment a “*constitutional truism*” (an assertion only that the states have independent powers of their own and not a statement that their powers are supreme over those of the national government). In 1976, the Court appeared to backtrack on this ruling in favor of national government supremacy (*National League of Cities v. Usery*), and then still later overturned the 1976 decision (*Garcia v. San Antonio Metro*, 1985).

Federal courts can order states to obey the Constitution or federal laws and treaties. However, in deference to the states, the *Eleventh Amendment* prohibits individual damage suits against state officials (such as a suit against a police officer for violating one’s rights) and protects state governments from being sued against their consent by private parties in federal courts or in state courts or before federal administrative agencies.

Four key events have played major roles leading to the growth of federal powers relative to the states: the elaboration of the doctrine of implied powers, the definition of the commerce clause, the Civil War, and the long struggle for racial equality. In *McCulloch v. Maryland* (1819), the Supreme Court ruled that Congress has certain **implied powers** and that *national policies take precedence* over state policies. These two principles have been used to expand the national government’s sphere of influence. Chief Justice John Marshall wrote that, “the government of the United States, though limited in its power, is supreme within its sphere of action.” The “**necessary and proper**” clause (sometimes called the **elastic clause**) was interpreted to give Congress certain implied powers that go beyond its **enumerated powers**.

National powers expanded after the Supreme Court defined commerce very broadly, encompassing virtually every form of commercial activity (*Gibbons v. Ogden*, 1824). The Supreme Court prohibited much federal regulation of business and the economy in the late nineteenth and early twentieth centuries, but had swung back to allowing broader federal powers by 1937.

The **Civil War** was a struggle over slavery, but it was also (and perhaps more importantly) a struggle between states and the national government. A century later, conflict erupted once again over states' rights and national power. In *Brown v. Board of Education* (1954), the Supreme Court held that school segregation was unconstitutional. Southern politicians responded with “**massive resistance**” to the decision. Throughout the 1960s the federal government enacted laws and policies to end segregation in schools, housing, public accommodations, voting, and jobs.

Federalism also involves *relationships among the states*. The Constitution outlines certain obligations that each state has to every other state. The Constitution requires states to give **full faith and credit** to the public acts, records, and civil judicial proceedings of every other state; states are required to return a person charged with a crime in another state for trial or imprisonment (**extradition**); and citizens of each state are entitled to all the **privileges and immunities** of any state in which they are located. The goal of the privileges and immunities clause is to prohibit states from discriminating against citizens of other states, but numerous exceptions have been made to this clause (such as higher tuition for out-of-state residents at state universities).

INTERGOVERNMENTAL RELATIONS TODAY

This section focuses on three important features: first, the gradual change from dual federalism to cooperative federalism; second, federal grants-in-aid as the cornerstone of the relationship between the national government and state governments; and third, the relative growth of the national government and state governments.

One way to understand the changes in American federalism is to contrast dual federalism with cooperative federalism. Before the national government began to assume a position of dominance, the American system leaned toward **dual federalism**, a system under which states and the national government each remain *supreme within their own spheres*. The analogy of **layer cake federalism** is often used to describe dual federalism because the powers and policy assignments of the layers of government are distinct (as in a layer cake), and proponents of dual federalism believe that the powers of the national government should be interpreted narrowly.

The national government took a direct interest in economic affairs from the very founding of the republic (see Chapter 2). As the United States changed from an agricultural to an industrial nation, new problems arose and with them new demands for governmental action. The United States moved from a system of dual federalism to one of **cooperative federalism**, in which the national and state governments share responsibility for public policies. Using the analogy of **marble cake federalism**, American federalism is

portrayed as a system with *mingled responsibilities* and blurred distinctions between the levels of government. Cooperative federalism—which may be seen as a partnership between the national and state governments—began in earnest with the transformation of public attitudes toward the role of the national government during the Great Depression of the 1930s. For hundreds of programs, cooperative federalism involves shared costs, federal guidelines, and shared administration.

Ronald Reagan believed that most policy responsibilities should be left to the states. Reagan opposed federal spending on domestic policies and reduced grants to the state and local governments. When Republicans won Congress in 1994 they placed an emphasis on **devolution**, the transfer of responsibility for policies from the federal government to state and local governments. However, since the mid-1990s Republicans have adopted a pragmatic approach to federalism to accomplish their goals. Several Republican policies now attempt to restrict state power. Americans tend to embrace a pragmatic view of governmental responsibility.

Fiscal federalism involves the pattern of spending, taxing, and providing grants in the federal system. **Grants-in-aid** are the main instrument the national government uses to both aid and influence states and localities. Federal aid amounted to about \$484 billion in 2010. **Categorical grants** can be used only for *specific purposes* (or *categories*) of state and local spending. State and local agencies can obtain categorical grants only by meeting certain qualifications and by applying for the grants. Much federal regulation is accomplished by “strings” that are attached to categorical grants, such as nondiscrimination provisions. The most common type of categorical grant is a **project grant**, awarded on the basis of *competitive applications*. **Formula grants** are distributed according to a formula based on factors such as population, per capita income, and percentage of rural population.

Complaints about the cumbersome paperwork and numerous federal requirements attached to categorical grants led to the adoption of **block grants**. Congress implemented block grants to support broad programs in areas such as community development and social services. Block grants provide more flexibility since states and communities have discretion in deciding how to spend the money. The percentage of federal aid to state and local governments in the form of block grants began increasing in 1995 as the new Republican majority in Congress passed more federal aid in the form of block grants, including grants for welfare programs.

In recent years states have been burdened by **underfunded mandates** and **unfunded mandates**. These require states to spend money to comply with a law of Congress (or, in some cases, a federal court order).

UNDERSTANDING FEDERALISM

Federalism was instituted largely to enhance democracy in America, and it strengthens democratic government in many ways. Different levels of government provide more opportunities for participation in politics and increase access to government. Since different citizens and interest groups will have access to the different levels, federalism

also increases the opportunities for government to be responsive to demands for policies. Moreover, it is possible for the diversity of opinion within the country to be reflected in different public policies among the states. Different economic interests are concentrated in different states, and the federal system ensures that each state can establish a power base to promote its interests. By handling most disputes over policy at the state and local level, federalism also reduces decision making and conflict at the national level.

Conversely, diverse state policies and the large number of local governments also create some impediments to democracy. Since the states differ in the resources they devote to services like public education, the quality of such services varies greatly from one state to another. Diversity in policy can also discourage states from providing services that would otherwise be available—states are deterred from providing generous benefits to those in need when benefits attract poor people from states with lower benefits. Federalism may have a negative effect on democracy when local interests are able to thwart national majority support of certain policies, and having so many governments makes it difficult for many Americans to know which government is responsible for certain functions.

While the national government has grown in scope relative to state governments, it has not done so at the expense of state governments. The latter continue to carry out all the functions they have typically performed. The national government has instead grown as it has taken on new responsibilities viewed as important by the public.

CHAPTER OUTLINE

I. DEFINING FEDERALISM

- A. A system of *organizing governments*.
 - 1. **Federalism** is a way of organizing a nation so that two or more levels of government have formal authority over the same area and people.
 - 2. Only 11 (out of approximately 190 nations of the world) have federal systems.
 - 3. Most governments in the world today have **unitary governments**, in which all power resides in the central government.
 - 4. In a **confederation**, the national government is weak and most or all of the power is in the hands of its components.
 - 5. The workings of the American system are sometimes called “**intergovernmental relations**,” which refers to interactions among national, state, and local governments.
- B. Why federalism is important.
 - 1. The federal system *decentralizes our politics*.
 - 2. Federalism *decentralizes our policies*.

II. THE CONSTITUTIONAL BASIS OF FEDERALISM

- A. The word “*federalism*” is not mentioned in the Constitution.
- B. Eighteenth-century Americans had little experience in thinking of themselves as Americans first and state citizens second.

C. The **division of power**.

1. The writers of the Constitution carefully *defined the powers of state and national governments* [see Table 3.2].
2. Although favoring a stronger national government, states were retained as vital components of government.
3. The **supremacy clause** deals with the question of which government should prevail in disputes between the states and the national government; Article VI states that three items are the *supreme law of the land*:
 - a. The Constitution
 - b. Laws of the national government (when consistent with the Constitution)
 - c. Treaties (which can only be made by the national government)
4. Judges in every state were specifically bound by the Constitution.
5. Questions remain concerning the boundaries of the national government's powers.
 - a. The national government can only operate *within its appropriate sphere* and cannot usurp the states' powers.
 - b. The **Tenth Amendment** states that "*powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people.*"
 - c. There have been variations in the Court's interpretation of the Tenth Amendment.

D. Establishing **national supremacy**.

1. Four key events have largely settled the issue of how national and state powers are related: the *McCulloch v. Maryland* case, the Supreme Court's interpretation of the Commerce Clause, the Civil War, and the civil rights movement.
2. **McCulloch v. Maryland** (1819) first brought the issue of *state versus national power* before the Supreme Court.
 - a. In this case, the Supreme Court ruled that *national policies take precedence over state policies*: Chief Justice John Marshall wrote that, "the government of the United States, though limited in its power, is supreme within its sphere of action."
 - b. The Court also ruled that the Constitution gives Congress certain **implied powers** (based on the provision granting Congress the power to "make all laws necessary and proper for carrying into execution the foregoing powers") that go beyond the **enumerated powers** specifically listed in Article I, Section 8.
3. **Gibbons v. Ogden** (1824) defined commerce very broadly to encompass virtually every form of commercial activity. In recent years the Supreme Court has scrutinized the use of the commerce power with a skeptical eye.
4. The **Civil War** (1861–1865) settled militarily the issue that *McCulloch* had enunciated constitutionally.
5. The **civil rights movement**—a century after the Civil War, the policy issue was *equality*.
 - a. In 1954, the Supreme Court held that school segregation was unconstitutional (**Brown v. Board of Education**).
 - b. The conflict between states and the national government over equality issues was *decided in favor of the national government*: throughout the 1960s, the federal government enacted laws and policies to end segregation in schools, housing, public accommodations, voting, and jobs.

- E. Federalism involves more than the relationships between the national government and state and local governments: Article IV of the Constitution outlines certain *obligations that each state has to every other state*.
1. **Full faith and credit:** States are required to give full faith and credit to the public acts, records, and civil judicial proceedings of every other state.
 2. **Extradition:** States are required to return a person charged with a crime in another state to that state for trial or imprisonment.
 3. **Privileges and immunities of citizens:** Citizens of each state receive all the privileges and immunities of any other state in which they happen to be.

III. INTERGOVERNMENTAL RELATIONS TODAY

- A. From dual to cooperative federalism.
1. **Dual federalism** (“*layer cake federalism*”): a form of federalism in which states and the national government each remain supreme within their own spheres.
 2. **Cooperative federalism** (“*marble cake federalism*”): a form of federalism with mingled responsibilities and blurred distinctions between the levels of government.
 3. The American federal system leaned toward dual federalism before the national government began to assert its dominance.
- C. **Devolution:** transferring responsibility for policies from the federal government to state and local governments.
1. Republicans aimed to restrict the scope of the national government and return responsibility for policies to the states after gaining Congress in 1994.
 2. Since the mid-1990s Republicans have adopted a pragmatic approach to federalism.
- B. **Fiscal federalism** is the pattern of spending, taxing, and providing grants in the federal system.
1. Fiscal federalism is the cornerstone of the national government’s relations with state and local governments.
 2. **Grants-in-aid** are the main instrument the national government uses for *both aiding and influencing* states and localities.
 3. Federal aid to states and localities amounted to approximately \$306 billion in 2001, despite cutbacks during the Reagan administration.
- C. There are two major types of federal aid for states and localities: categorical grants and block grants.
1. **Categorical grants** (the main source of federal aid) can be used only for *specific purposes, or categories*.
 - a. State and local agencies can obtain categorical grants only by applying for them and by meeting certain qualifications.
 - b. Categorical grants come with numerous “strings” (rules and requirements) attached, such as nondiscrimination provisions and punitive **cross-over sanctions** and **cross-cutting requirements** that reduce or deny federal funds if certain local or state laws are not passed or if federal guidelines are not met.
 - c. There are two types of categorical grants:
 - (1) **Project grants:** the most common type of categorical grant; awarded on the basis of *competitive applications* (such as grants to university professors from the National Science Foundation).

- (2) **Formula grants:** distributed according to a formula; states and local governments automatically receive funds based on a formula developed from factors such as population, per capita income, or percentage of rural population (such as Medicare, Aid for Families with Dependent Children, and public housing).
- 2. **Block grants** are used to support broad programs in areas like community development and social services.
 - a. In response to complaints about the cumbersome paperwork and restrictive federal requirements attached to categorical grants, Congress established block grants to support broad programs.
 - b. States have discretion in deciding how to spend the money.
- D. On the whole, federal grant distribution follows the principle of *universalism*—that is, something for everybody, even though some money goes where it is not really needed.
- E. There are some occasions when states would prefer *not* to receive some federal aid—such as when Congress extends a program that is administered by the states and only partly funded by the national government, also known as an **underfunded mandate**. This means that the states have to budget more funds for the project in order to receive federal grant money.
- F. Of even greater concern to states are **unfunded mandates**. These require state and local governments to spend money to comply with laws such as the Clean Air Act of 1970 and the Americans with Disabilities Act of 1990 with no financial help from the federal government that enacted the laws. In addition, federal courts create unfunded mandates for states regarding school desegregation, prison construction, and other policies. In 1995, Congress passed a law that will make it more difficult for Congress to impose new unfunded mandates.

IV. UNDERSTANDING FEDERALISM

- A. By decentralizing the political system, federalism was *designed to contribute to the limited form of democracy* supported by the founders.
- B. Advantages for democracy.
 - 1. Different levels of government provide more opportunities for participation in politics.
 - 2. Additional levels of government contribute to democracy by increasing access to government.
 - 3. Two levels of government increase the opportunities for government to be responsive to the demands for policies.
 - 4. A party that loses strength at the national level can rebuild and groom leaders at the state and local levels.
 - 5. It is possible for the diversity of opinion within the country to be reflected in different public policies among the different states.
 - 6. By handling most disputes over policy at the state and local level, federalism reduces decision making and conflict at the national level.
- C. Disadvantages for democracy.
 - 1. The quality of services like education is heavily dependent on the state in which the service is provided; states differ greatly in the resources they can devote to public services.

2. Diversity in policy can discourage states from providing services that would otherwise be available because poor people may be attracted from states with lower benefits.
 3. Federalism may have a negative effect on democracy when local interests are able to impede national majority support of certain policies.
 4. The vast number of local governments makes it difficult for many Americans to know which government is responsible for certain functions.
- D. Federalism and the scope of the national government.
1. As the United States changed from an agricultural to an industrial nation, new problems arose and with them new demands for governmental action.
 2. Most problems or policies required the authority and resources of the national government.
 3. The national government's share of expenditures has grown rapidly since 1929; today it spends about 20 percent of the GDP, while state and local governments spend about 12 percent today.
 4. The growth of the national government has not supplanted the states.

KEY TERMS AND CONCEPTS

Block grants: broad program grants given more or less automatically to states and communities, which exercise discretion in how the money is spent.

Categorical grants: grants that can be used only for specific purposes or categories of state and local spending.

Cooperative federalism: where state and the national government responsibilities are mingled and blurred like a marble cake; powers and policies are shared.

Devolution: transferring responsibility for policies from the federal government to state and local governments.

Dual federalism: where states and the national government each remain supreme within their own spheres of power, much like a layer cake.

Elastic clause: the statement in the Constitution which says that Congress has the power to make all laws necessary and proper for carrying out its duties.

Enumerated powers: powers of Congress found in Article I, Section 8 of the Constitution.

Extradition: the Constitution requires each state to return a person charged with a crime in another state to that state for trial or imprisonment.

Federalism: a system of shared power between two or more levels of government.

Fiscal federalism: the pattern of spending, taxing, and providing grants in the federal system.

Formula grants: a type of categorical grant where states and local governments do not apply for a grant but are given funds on the basis of a formula.

Full faith and credit: Article IV of the Constitution requires states to provide reciprocity toward other states' public acts, records, and civil judicial proceedings.

Gibbons v. Ogden: the 1824 Supreme Court case which further expanded Congress' power to regulate interstate and international commerce by defining commerce very broadly to incorporate every form of commercial activity.

Implied powers: powers beyond Congress' enumerated powers that ensure that it can carry out its duties.

Intergovernmental relations: the term used to describe the entire set of interactions among national, state, and local governments.

McCulloch v. Maryland: the 1819 Supreme Court case, which established the supremacy of the national government over the states, included both enumerated and implied powers of Congress.

Privileges and immunities: the Constitution prohibits states from discriminating against citizens of other states.

Project grant: categorical grants awarded on the basis of competitive applications.

Supremacy clause: Article VI of the Constitution states that the supreme law of the land is the Constitution, the laws of the national government, and treaties.

Tenth Amendment: specifies that powers not delegated to the national government are reserved for the state government or the people.

Unitary government: a system where all power resides in the central government.

TEACHING IDEAS: CLASS DISCUSSION AND STUDENT PROJECTS

- Ask your students to evaluate the federal response to Hurricane Katrina. (You may wish to assign additional articles to supplement this chapter's introductory comments.) The response was largely viewed as a massive failure; is this a fair assessment? If so, who or what institutions are to blame? How much responsibility should the states and local governments assume, and how much should the national government assume? What should be their respective roles? Should the different levels of government react differently than they would in response to the loss of homes or businesses during a financial crisis?
- Assign two groups of students to serve as panels to debate the following question: Does the American form of federalism increase democracy, or does it have a negative effect on democracy?
- Hold an in-class discussion on the following: How would politics and policies be different in America if there were a unitary system instead of a federal system? Or a confederation instead of a federal system?
- Ask students to study the budgets of the local school system, university, or city to determine the various proportions of revenue that the federal, state, and local governments contribute. Would the school district, university, or city benefit from a change in how it is funded?

- For class discussion, ask students whether democracy in the U.S. would continue to exist without federalism. If it would, in what ways would it change? Be sure to remind them that unitary democratic systems exist in most European nations.
- Assign students either individually or in groups to investigate the funding sources of a “local” project, encouraging them to use sources such as government documents, interviews with elected and appointed officials, and newspaper archives. Who was responsible for the project being funded? Were there any “strings” attached to federal or state monies?
- Assign the students an essay discussing whether they think the federalist system influenced the civil rights movement. Would this change have occurred faster in the South if America had a unitary democratic system? Can the students think of any negative effect such a system might have had on the outcome of the civil rights movement?
- Assign students to work in groups on different policy areas (e.g., transportation, agriculture, environment, welfare) by researching President George W. Bush’s most recent budget proposals. What types of grant programs are proposed for distributing funds to states and localities? Are the nature and funding levels of these programs different from Clinton’s budget in 1997?
- Discuss the role of the federal, state, and local governments in responding to the 9/11 attacks on the World Trade Center in New York City. Should the federal government have done more? Why or why not? Is the funding going where it should? What does this experience illustrate about federal aid?

BACKGROUND READING

Anton, Thomas. *American Federalism and Public Policy*. Philadelphia: Temple University Press, 1989.

Beer, Samuel H. *To Make a Nation: The Rediscovery of American Federalism*. Cambridge, MA: Belknap Press of Harvard University Press, 1993.

Elazar, Daniel J. *American Federalism: A View from the States*. 3rd. ed. New York: Harper and Row, 1984.

Gerston, Larry N. *American Federalism*. New York: M.E. Sharpe, 2007.

O’Toole, Laurence. *American Intergovernmental Relations*. 4th ed. Washington, DC: CQ Pres, 2006.

Peterson, Paul A. *The Price of Federalism*. Washington, D.C.: Brookings Institution, 1995.

Posner, Paul L. and Timothy J. Conlan. *Intergovernmental Management for the 21st Century*. Washington, DC: Brookings Institution, 2007.

Walker, David B. *The Rebirth of Federalism*. New York: Chatham House Publishers, 2000.

Zimmerman, Joseph F. *Contemporary American Federalism: The Growth of National Power*. New York: Praeger, 1992.

MEDIA SUGGESTIONS

Federalism. Insight Media, 1989.

Part of Government by Consent: A National Perspective. This film examines the distribution of power between state and national governments.

Federalism: The National Government Versus the States. Columbia University Seminars on Media and Society, 1984.

Number thirteen in the series “The Constitution: That Delicate Balance,” produced by the Corporation for Public Broadcasting. This program examines how much power the federal government can exert over state affairs.

CHAPTER FOUR: CIVIL LIBERTIES AND PUBLIC POLICY

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LEARNING OBJECTIVES

After studying this chapter, students should be able to:

- Examine how decisions of the Supreme Court have extended specific provisions of the Bill of Rights to the states as part of the incorporation doctrine.
- Describe how the two constitutional statements about religion and government—the *establishment clause* and the *free exercise clause*—may sometimes conflict.
- Examine what the First Congress may have intended by using the terms *establishment* and *free exercise* of religion.
- Establish why the Supreme Court will usually not permit prior restraint on speech and press.
- Explain why it has been so difficult for the courts to clearly define which types of materials are considered to be obscene.
- Differentiate between *freedom of speech* and related concepts such as *symbolic speech* and *freedom of expression*.
- Understand the conflict that can occur between free speech and public order.

- Determine how essential rights such as the right to a fair trial can conflict with other rights such as the right to a free press.
- Identify the two facets of freedom of assembly and explain how they may conflict with other societal values.
- Explain how specific provisions of the Bill of Rights have been used to extend basic rights to defendants in criminal trials.
- Ascertain how concepts such as a *right to privacy* can be inferred or implied from the Bill of Rights.
- Explain why civil liberties are seen as an individual's protection against the *government*.

C CHAPTER OVERVIEW

INTRODUCTION

Civil liberties are individual legal and constitutional *protections against the government*. Although Americans' civil liberties are established in the Bill of Rights, the courts determine what the Constitution actually means through the cases they decide. Disputes about civil liberties are frequent because the issues involved are complex and divisive. Throughout this chapter, students are introduced to the nuances of judicial decision making through special features called *You Are the Judge*. Students can play the role of judge after reading a short summary of the case and a prompt for their decision. They can also read how the case was actually decided and consider the constitutional, statutory, political, and/or practical basis of that decision.

THE BILL OF RIGHTS—THEN AND NOW

Political scientists have discovered that people are advocates of rights *in theory*, but their support wavers when it comes time to put those rights into practice. Cases become particularly difficult when *liberties are in conflict*—such as free press versus a fair trial or free speech versus public order—or where the facts and interpretations are subtle and ambiguous.

The **Bill of Rights** is fundamental to Americans' freedom. All of the state constitutions had bills of rights by the time of the 1787 convention, and the issue of adding a bill of rights to the proposed national constitution had become a condition of ratification. The Bill of Rights was passed as a group by the First Congress in 1789; the first ten amendments were ratified and became part of the Constitution in 1791.

The Bill of Rights was written to *restrict the powers of the new central government*. The First Amendment establishes the four great liberties: freedom of the press, of speech, of religion, and of assembly. What happens, however, if a state passes a law violating one of the rights protected by the federal Bill of Rights and the state's constitution does not prohibit this abridgement of freedom? In ***Barron v. Baltimore*** (1833), the Supreme Court ruled that the Bill of Rights restrained *only* the national government and not states and cities. It was not until 1925 that the Court relied on the **Fourteenth Amendment** to find

that a state government must respect some First Amendment rights (*Gitlow v. New York*). In *Gitlow*, the Court announced that freedoms of speech and press “were fundamental personal rights and liberties protected by the due process clause of the Fourteenth Amendment from impairment by the states.”

The Supreme Court gradually applied most of the Bill of Rights to the states, particularly during the era of Chief Justice Earl Warren in the 1960s, developing the concept of the incorporation doctrine. At the present time, only the Second, Third, and Seventh Amendments and the grand jury requirement of the Fifth Amendment have not been applied specifically to the states. Not everyone agrees that the Fourteenth Amendment incorporated parts of the Bill of Rights into state laws; in 1985, Edwin Meese (then attorney general) strongly criticized *Gitlow* and called for “disincorporation” of the Bill of Rights.

FREEDOM OF RELIGION

The **First Amendment** makes two basic statements about religion and government, commonly referred to as the **establishment clause** and the **free exercise clause**. Sometimes these freedoms conflict, but cases involving these clauses usually raise different kinds of conflicts.

Some nations, like Great Britain, have an *established church* that is officially supported by the government. A few American colonies had official churches, but the religious persecutions that incited many colonists to move to America discouraged any desire for the First Congress to establish a national church in the United States. Debate still continues over what else the First Congress may have intended for the establishment clause. Some people believe that the establishment clause meant only that the government could not favor one religion over another. Thomas Jefferson argued that the First Amendment created a “**wall of separation**” between church and state that forbade any support for religion at all.

Debate has been especially intense over questions of aid to church-related schools and prayers or Bible-reading in the public schools. School prayer is possibly the most controversial religious issue. In 1962 and 1963, the Court ruled that voluntary recitations of prayers or Bible passages, when done as part of classroom exercises in public schools, violated the establishment clause (*Engel v. Vitale* and *School District of Abington Township, Pennsylvania v. Schempp*). A majority of the public has never favored the Court’s decisions on school prayer. Some religious groups pushed for a constitutional amendment permitting school prayer, and many school districts simply ignored the decision. In *Employment Division v. Smith* (1990), the Supreme Court ruled that states can prohibit certain religious practices, but not religion itself.

There has always been a fine line between aid to church-related schools that is permissible and aid that is not. In 1971, the Supreme Court declared that aid to church-related schools must have a secular legislative purpose, cannot be used to advance or inhibit religion, and should avoid excessive government “entanglement” with religion (*Lemon v. Kurtzman*). In a landmark decision in 2002, the Court in *Zelman v. Simmons-Harris* upheld a program

that provided some families in Cleveland, Ohio, with vouchers that could be used to pay tuition at religious schools.

Conservative religious groups have had an impact on the political agenda. They devoted much of their time and energies in recent years to the issues of *school prayer* and *creation science*, and while they lost some battles (such as the battle over teaching *creation science* in the public schools), they have won others (for example, the Court decision that religious scenes could be set up on public property). Thus, in 1992, the Court ruled that a school-sponsored prayer at a public school graduation violated the constitutional separation of church and state. In 2000, the Court held that student-led prayer at football games was also unconstitutional.

The guarantee of *free exercise* of religion is also more complicated than it appears at first glance. The free exercise of religious beliefs sometimes clashes with society's other values and laws. The Supreme Court has consistently maintained that people have an absolute right to *believe* what they want, but the courts have been more cautious about the right to *practice* a faith.

FREEDOM OF EXPRESSION

The courts have frequently wrestled with the question of whether **freedom of expression** (like **freedom of conscience**) is an **absolute**. The courts have often ruled that there are instances when speech needs to be controlled, especially when the First Amendment conflicts with other rights. In their attempts to draw the line separating *permissible* from *impermissible speech*, judges have had to *balance* freedom of expression against competing values like public order, national security, and the right to a fair trial.

The courts have also had to decide what kinds of activities constitute *speech* (or press) within the meaning of the First Amendment. Certain forms of *nonverbal communication* (like picketing) are considered **symbolic speech** and are protected under the First Amendment. Other forms of expression are considered to be *action* and are not protected. The Court has generally struck down **prior restraint** of speech and press (censorship that prevents publication), although the writer or speaker could be punished for violating a law or someone's rights *after* publication (*Near v. Minnesota*, 1931).

Crises such as war often bring government efforts to enforce censorship. In *Schenck v. United States* (1919), Justice Oliver Wendell Holmes declared that government can limit speech if it provokes a **clear and present danger** of "substantive evils." Free speech advocates did little to stem the relentless persecution of *McCarthyism* during the "cold war" of the 1950s, when Senator Joseph McCarthy's unproven accusations that many public officials were Communists created an atmosphere in which the courts placed broad restrictions on freedom of expression. By the 1960s, the political climate had changed, and courts today are very supportive of the right to protest, pass out leaflets, or gather signatures on petitions (as long as it is done in public places).

The Bill of Rights is also a source of potential *conflicts between different types of freedoms*. The Constitution clearly meant to guarantee the right to a **fair trial** as well as the right to

a **free press**, but a trial may not be fair if pretrial press coverage makes it impossible to select an impartial jury. Likewise, journalists seek full freedom to cover all trials (they argue that the public has a right to know), but they sometimes defend their right to keep some of their own files secret in order to protect a confidential source. In **Zurcher v. Stanford Daily** (1978), the Supreme Court disagreed with this claim.

Efforts to define **obscenity** have perplexed the courts for years. Although the Supreme Court has held that, “*obscenity is not within the area of constitutionally protected speech or press*” (**Roth v. United States**, 1957), it has proven difficult to determine what is legally obscene. The Court tried to clarify its doctrine by spelling out what could be classified as obscene and thus outside First Amendment protection in the 1973 case of **Miller v. California**. Then, Chief Justice Warren Burger wrote that materials were obscene if, taken as a whole, they appealed “to a prurient interest in sex”; that they showed “patently offensive” sexual conduct that was specifically defined by an obscenity law; and that, taken as a whole, they lacked “serious literary, artistic, political, or scientific value.”

Advances in technology have created a new wrinkle in the obscenity issue. The Internet and the World Wide Web make it easier to distribute obscene material rapidly, and a number of online information services have taken advantage of this opportunity.

In 1996, Congress passed the Communications Decency Act, banning obscene material and criminalizing the transmission of indecent speech or images to anyone under 18 years of age. The new law made no exception for material that has serious literary, artistic, political, or scientific merit as outlined in **Miller v. California**. In 1997, the Supreme Court overturned this law as being overly broad and vague and a violation of free speech. In 2002, the Court overturned a law banning virtual child pornography on similar grounds. Apparently the Supreme Court views the Internet similarly to print media, with similar protections against government regulation.

Libel and **slander** also raise *freedom of expression* issues that involve *competing values*. If public debate is not free, there can be no *democracy*. Conversely, some reputations will be unfairly damaged in the process if there are not limitations. Libel (the publication of statements known to be false that tend to damage a person’s reputation) and slander (spoken defamation) are not protected by the First Amendment, but the Court has held that statements about **public figures** are libelous only if made with *malice* and *reckless disregard* for the truth (**New York Times v. Sullivan**, 1964). The right to criticize the government (which the Supreme Court termed “the central meaning of the First Amendment”) is not libel or slander.

Wearing an armband, burning a flag, and marching in a parade are examples of **symbolic speech**: actions that do not consist of speaking or writing but that express an opinion. When Gregory Johnson set a flag on fire at the 1984 Republican National Convention in Dallas to protest nuclear arms buildup, the Supreme Court decided that the state law prohibiting flag desecration violated the First Amendment (**Texas v. Johnson**, 1989).

COMMERCIAL SPEECH

Commercial speech (such as advertising) is more restricted than are expressions of opinion on religious, political, or other matters. Similarly, radio and television stations are subject to more restrictions than the print media (justified by the fact that only a limited number of broadcast frequencies are available). The Federal Trade Commission (FTC) decides what kinds of goods may be advertised on radio and television and regulates the content of such advertising. The FTC attempts to ensure that advertisers do not make false claims for their products, but “truth” in advertising does not prevent misleading promises. Nevertheless, commercial speech on the airwaves is regulated in ways that would clearly be impossible in the political or religious realm.

The Federal Communications Commission (FCC) regulates the content, nature, and very existence of radio and television broadcasting. Although newspapers do not need licenses, radio and television stations do. The state of Florida passed a law requiring newspapers in the state to provide space for political candidates to reply to newspaper criticisms. The Supreme Court, without hesitation, voided this law (*Miami Herald Publishing Company v. Tornillo*, 1974). Earlier, in *Red Lion Broadcasting Company v. Federal Communications Commission* (1969), the Court upheld similar restrictions on radio and television stations, reasoning that such laws were justified because only a limited number of broadcast frequencies were available.

FREEDOM OF ASSEMBLY

There are two facets to **freedom of assembly**. The *right to assemble* involves the right to gather together in order to make a statement, while the *right to associate* is the freedom to associate with people who share a common interest. The Supreme Court has generally upheld the right of any group—no matter how controversial or offensive—to *peaceably* assemble on public property. The *balance between freedom and order* is tested when protest verges on harassment.

RIGHT TO BEAR ARMS

Gun control has been very controversial. Many national, state, and local laws have been passed to regulate firearms. The National Rifle Association has invested millions of dollars to fight gun control. Surprisingly, the Supreme Court has rarely dealt with the issue. In 2008, the Supreme Court ruled in *District of Columbia v. Heller* that the Second Amendment protects an individual right to possess a firearm unconnected with service in a militia. Despite this ruling, the Second Amendment is not unlimited. Regulations such as restrictions on concealed weapons, limiting possession by felons and the mentally ill, forbidding firearms in certain areas, and restricting use are permitted.

DEFENDANTS' RIGHTS

The First Amendment guarantees the freedoms of religion, speech, press, and assembly. Most of the remaining rights in the Bill of Rights concern the rights of people accused of

crimes. These rights were originally intended to protect the accused in *political* arrests and trials. Today, the protections in the Fourth, Fifth, Sixth, and Eighth Amendments are primarily applied in criminal justice cases. Moreover, the Supreme Court's decisions have *extended most provisions of the Bill of Rights to the states* as part of the *general process of incorporation*.

The Bill of Rights covers every stage of the criminal justice system. The **Fourth Amendment** is quite specific in forbidding **unreasonable searches and seizures**. No court may issue a **search warrant** unless **probable cause** exists to believe that a crime has occurred or is about to occur, and warrants must describe the area to be searched and the material sought in the search. Since 1914, the courts have used the **exclusionary rule** to prevent illegally seized evidence from being introduced in federal courts. In 1961, the Supreme Court incorporated the exclusionary rule within the rights that restrict the states as well as the federal government (*Mapp v. Ohio*).

The Burger Court made a number of exceptions to the exclusionary rule, including the **good-faith exception** (*United States v. Leon*, 1984). The USA Patriot Act, passed just six weeks after the September 11, 2001, terrorist attacks, gave the government broad new powers for the wiretapping, surveillance, and investigation of terrorism suspects. The Patriot Act gave the federal government the power to examine a terrorist suspect's records held by third parties such as doctors, libraries, bookstores, universities, and Internet service providers. It also allowed searches of private property without probable cause and without notice to the owner until after the search has been executed.

Under the **Fifth Amendment** prohibition against forced **self-incrimination**, suspects cannot be compelled to provide evidence that can be used against them. The burden of proof rests on the police and the prosecutors, not the defendant. *Miranda v. Arizona* (1966) set guidelines for police questioning of suspects, whereby suspects must be informed of their constitutional rights. The more conservative Rehnquist Court made some *exceptions* to the *Miranda* rulings, but the Court made clear its continued support for the *Miranda* ruling in *Dickerson v. U.S.* (2000).

Although the **Sixth Amendment** has always ensured the **right to counsel** in *federal courts*, this right was not incorporated to state courts until recently. In 1932, the Supreme Court ordered states to provide an attorney for indigent defendants accused of a *capital crime* (*Powell v. Alabama*), and in 1963, the Court extended the same right to everyone accused of a *felony* (*Gideon v. Wainwright*). The Court later ruled that a lawyer must be provided for the accused *whenever imprisonment could be imposed* (*Argersinger v. Hamlin*, 1972). The Sixth Amendment also ensures the right to a **speedy trial** and an **impartial jury**, but most cases are settled through **plea bargaining** rather than through trial by jury. In recent times the Supreme Court has against judicial procedures enacted by the Bush administration used against "detainees" and others accused of terrorism.

The **Eighth Amendment** forbids **cruel and unusual punishment**, but it *does not define* the phrase. Most of the constitutional debate over cruel and unusual punishment has centered on the *death penalty*. In *Furman v. Georgia* (1972), the Court first confronted

the question of whether the death penalty is inherently cruel and unusual punishment. A divided Court overturned Georgia's death penalty law because its imposition was "freakish" and "random" in the way it was arbitrarily applied (particularly with regard to factors such as race and income). Thirty-five states passed new laws that were intended to be less arbitrary. In recent years, the Court has come down more clearly on the side of the death penalty. A divided Court rebuffed the last major challenge to the death penalty in *McCleskey v. Kemp* (1987), when it refused to rule that the penalty violated the equal protection of the law guaranteed by the Fourteenth Amendment. However, the number of death sentences issued has been sharply declining in the last decade due to DNA testing and public concerns about wrongful sentences.

THE RIGHT TO PRIVACY

Today's technologies raise key questions about *ethics* and the Constitution. Although the Constitution does not specifically mention a **right to privacy**, the Supreme Court has said that it is implied by several guarantees in the Bill of Rights. Questions involving a right to privacy have centered on such diverse issues as abortion rights, the drafting of state laws to define death, technological developments like in-vitro fertilization, and the right to die. Supporters of privacy rights argue that the Fourth Amendment was intended to protect privacy. Opponents claim that the Supreme Court was inventing protections not specified by the Constitution when it ruled on constitutionally protected "rights of privacy."

The Supreme Court first referred to the idea that the Constitution guarantees a right to privacy in a 1965 case involving a Connecticut law that forbade contraceptives (*Griswold v. Connecticut*), but the *most important application of privacy rights* came in the area of *abortion*. Americans are deeply divided on abortion: the positions of "pro-choice" and "pro-life" are irreconcilable.

Justice Harry Blackmun's majority opinion in *Roe v. Wade* (1973) followed the practice of medical authorities in dividing pregnancy into three equal *trimesters*. *Roe* forbade any state control of abortions during the first trimester; permitted states to allow regulated abortions to protect the mother's health in the second trimester; and allowed the states to ban abortion during the third trimester except when the mother's life was in danger. In 1989, a clinic in St. Louis challenged the constitutionality of a Missouri law that forbade the use of state funds or state employees to perform abortions, but the Court upheld the law in *Webster v. Reproductive Health Services* (1989). In 1992, the Court changed its *standard for evaluating restrictions on abortion* from one of "*strict scrutiny*" of any restraints on a "*fundamental right*" to one of "*undue burden*" that permits considerably more regulation (*Planned Parenthood v. Casey*). In 2000, the Court held in *Sternberg v. Carhart* that Nebraska's prohibition of "partial birth" abortions was unconstitutional because it placed an undue burden on women seeking an abortion by limiting their options to less safe procedures and because the law provided no exception for cases where the health of the mother was at risk. Beginning in 1994, the Supreme Court strengthened women's access to health clinics, while Congress passed the Freedom of Access to Clinic Entrances Act, which made it a federal crime to intimidate abortion providers or women seeking abortions.

UNDERSTANDING CIVIL LIBERTIES

American government is both *democratic* (because it is governed by officials elected by the people and answerable to them) and *constitutional* (because it has a fundamental organic law, the Constitution, that limits the things government can do). The democratic and constitutional components of government can produce conflicts, but they also reinforce one another. One task that government must perform is to resolve conflicts between rights.

The rights guaranteed by the First Amendment are essential to a democracy. Likewise, the rights guaranteed by the Fourth, Fifth, Sixth, and Eighth Amendments protect all Americans, but they also make it harder to punish criminals. Ultimately, it is the courts that decide what constitutional guarantees mean in practice: although the federal courts are the *branch of government least subject to majority rule*, the courts *enhance democracy by protecting liberty and equality from the excesses of majority rule*.

CHAPTER OUTLINE

I. THE BILL OF RIGHTS—THEN AND NOW

- A. **Civil liberties** are individual legal and constitutional protections against the government. They are essential for democracy.
 - 1. Americans' civil liberties are set down in the **Bill of Rights**, but the courts are the arbiters of these liberties because they determine what the Constitution means in the cases that they decide.
 - a. Although the original Constitution had no bill of rights, the states made it clear that adding one was a condition of ratification.
 - b. The first ten amendments (ratified in 1791) comprise the Bill of Rights.
 - c. The Bill of Rights was passed in a period of history when British abuses of the colonists' civil liberties were still a recent and bitter memory.
 - 2. Political scientists have found that people are supporters of rights in theory, but their support often falters when it comes time to put those rights into practice.
 - 3. Cases become particularly difficult *when liberties are in conflict* (such as free press versus a fair trial or free speech versus public order) or where the facts and interpretations are subtle and ambiguous.
- B. The Bill of Rights was written to *restrict the powers* of the new central government (every state constitution had its own bill of rights).
 - 1. In ***Barron v. Baltimore*** (1833), the Court ruled that the Bill of Rights restrained only the national government, not states and cities.
 - 2. The First Amendment prohibits Congress from passing any laws that violate freedom of the press, of speech, of religion, and of assembly.
 - 3. **Incorporation doctrine** provides the rationale for the process by which fundamental freedoms have been applied against state action through interpretation of the Fourteenth Amendment.

- a. The **Fourteenth Amendment** (ratified in 1868) included guarantees of *privileges and immunities of citizens*, *due process of law*, and *equal protection of the law*, and explicitly applied these guarantees against the *states*.
 - b. It was not until 1925 that the Court relied on the Fourteenth Amendment to find that a state government must respect some First Amendment rights (***Gitlow v. New York***); in *Gitlow*, the Court announced that freedoms of speech and press “were fundamental personal rights and liberties protected by the due process clause of the Fourteenth Amendment from impairment by the states.”
 - c. The Supreme Court gradually applied most of the Bill of Rights to the states, particularly during the era of Chief Justice Earl Warren in the 1960s.
 - d. At the present time, only the Second, Third, and Seventh Amendments and the grand jury requirement of the Fifth Amendment have not been applied specifically to the states.
4. Not everyone agrees that the Fourteenth Amendment incorporated parts of the Bill of Rights into state laws; in 1985, Edwin Meese (then U.S. Attorney General) strongly criticized *Gitlow* and called for “disincorporation” of the Bill of Rights.

II. FREEDOM OF RELIGION

- A. The **First Amendment** includes *two* statements about religion and government, commonly referred to as the *establishment clause* and the *free exercise clause*.
- B. These freedoms sometimes conflict, but establishment and free exercise cases usually raise different kinds of conflict.
- C. The **establishment clause** states that “Congress shall make no law respecting an establishment of religion.”
 1. This clause clearly prohibits an establishment of a national church in the United States (a reaction to the religious persecutions that had convinced many colonists to move to America).
 2. Debate still continues over what else the First Congress may have intended for the establishment clause.
 - a. Thomas Jefferson argued that the First Amendment created a “**wall of separation**” between church and state, which would prohibit not only favoritism but any support for religion at all.
 - b. Proponents of aid to parochial schools argue that it does not favor any particular religion; opponents claim that the Roman Catholic church gets most of the aid.
 - c. In ***Lemon v. Kurtzman*** (1971), the Supreme Court declared that aid to church-related schools must have a secular purpose, cannot be used to advance or inhibit religion, and should avoid excessive government “entanglement” with religion.
 - d. In a landmark decision in 2002, the Court in ***Zelman v. Simmons-Harris*** upheld a program that provided some families in Cleveland, Ohio, with vouchers that could be used to pay tuition at religious schools.
 - e. School prayer is possibly the most controversial religious issue.

- (1) In 1962 and 1963, the Court ruled that voluntary recitations of prayers or Bible passages, when done as part of classroom exercises in public schools, violated the establishment clause (*Engel v. Vitale* and *School District of Abington Township, Pennsylvania v. Schempp*).
 - (2) In *Engel* and *Abington*, the Court observed that “the place of religion in our society is an exalted one, but in the relationship between man and religion, the State is firmly committed to a position of neutrality.”
 - (3) A majority of the public has never favored the Court’s decisions on school prayer.
3. Fundamentalist Christians and conservative religious groups devote much of their time and energies to the issues of *school prayer and creation science*.
- E. The First Amendment also guarantees the **free exercise** of religion.
1. The free exercise of religious beliefs sometimes clashes with society’s other values or laws, as occurred when the Amish refused to send their children to public schools.
 2. The Supreme Court has consistently maintained that people have an absolute right to *believe* what they want, but the courts have been more cautious about the right to *practice* a belief.
 3. In *Employment Division v. Smith* (1988) the Court discarded its previous requirement for a compelling interest before a government could even indirectly limit or prohibit religious practices.
 4. In the Religious Freedom Restoration Act of 1993, Congress attempted to overcome this ruling, but the law was found unconstitutional by the Supreme Court in 1997 (*Boerne v. Flores*).

III. FREEDOM OF EXPRESSION

- A. Does “no law” in the First Amendment really mean “*no law*”? The courts have frequently wrestled with the question of whether **freedom of expression** (like **freedom of conscience**) is an **absolute**.
1. Supreme Court Justice Hugo Black believed that the words *no law* literally meant that Congress shall make *no* laws abridging the fundamental rights of the First Amendment.
 - a. The courts have often ruled that there are instances when speech needs to be controlled, especially when the First Amendment conflicts with other rights (as when Justice Oliver Wendell Holmes wrote in 1919 that “*the most stringent protection of free speech would not protect a man in falsely shouting ‘fire’ in a theater and causing a panic*”).
 - b. In their attempts to draw the line separating *permissible* from *impermissible speech*, judges have had to balance freedom of expression against competing values like public order, national security, and the right to a fair trial.
 2. The courts have also had to decide what kinds of activities constitute *speech* (or press) within the meaning of the First Amendment.

- a. Certain forms of *nonverbal communication* (like picketing) are considered **symbolic speech**, and are protected under the First Amendment.
 - b. Other forms of expression are considered to be *action*, and are not protected.
- B. **Prior restraint:** a government's actions that *prevent* material from being published.
 1. The Supreme Court has generally struck down prior restraint of speech and press (*Near v. Minnesota*, 1931), although the writer or speaker could be punished for violating a law or someone's rights *after* publication.
 2. There are exceptions to the general doctrine that prohibits prior restraint. Also, many argue that government should sometimes limit individual behavior on the grounds of *national security*.
- C. Free speech and public order.
 1. War often brings government efforts to enforce censorship.
 - a. In *Schenck v. United States* (1919), Justice Oliver Wendell Holmes declared that government can limit speech if it provokes a **clear and present danger** of "substantive evils that Congress has a right to prevent."
 - b. The **Smith Act** of 1940 forbade the *advocacy* of violent overthrow of the American government.
 - c. Free speech advocates did little to stem the relentless persecution known as *McCarthyism* during the "cold war" of the 1950s, when Senator Joseph McCarthy's unproven accusations that many public officials were Communists created an atmosphere in which broad restrictions were placed on freedom of expression.
 - d. By the 1960s, the political climate had changed and the Court narrowed the interpretation of the Smith Act so that the government could no longer use it to prosecute dissenters.
 2. Today, courts are very supportive of the right to protest, pass out leaflets, or gather signatures on petitions (as long as it is done in public places) but not supportive of inciting others to imminent lawless action.
- D. Free press versus free trial.
 1. The Bill of Rights is a source of potential *conflicts between different types of freedoms*: the Constitution clearly meant to guarantee the right to a **fair trial** as well as the right to a **free press**, but a trial may not be fair if pretrial press coverage makes it impossible to select an impartial jury.
 2. Journalists seek full freedom to cover all trials: they argue that the public has a *right to know*.
 - a. Although reporters want *trials to be open to them*, they sometimes defend their right to keep some of their own files secret in order to protect a *confidential source*.
 - b. A few states have passed **shield laws** to protect reporters in situations where they need to protect a confidential source, but in most states, reporters have no more rights than other citizens once a case has come to trial.

- c. The Supreme Court has ruled that (in the absence of shield laws) *the right to a fair trial preempts* the reporter's right to protect sources (***Branzburg v. Hayes***, 1972) and has sustained the right of police to obtain a search warrant to search the files of a student newspaper (***Zurcher v. Stanford Daily***, 1976).
- E. Efforts to define **obscenity** have perplexed the courts for years.
1. Public standards vary from time to time, place to place, and person to person.
 2. Work that some call "obscene" may be "art" to others.
 3. No nationwide consensus exists that offensive material should be banned.
 4. The newest issue in the obscenity controversy involves the claim of some women's groups that pornography degrades and dehumanizes women.
 5. The courts have consistently ruled that states may protect *children* from obscenity (***Osborne v. Ohio***, 1991); *adults* often have legal access to the same material.
 6. Although the Supreme Court has held that "*obscenity is not within the area of constitutionally protected speech or press*" (***Roth v. United States***, 1957), it has proven difficult to determine just what is obscene.
 7. In ***Miller v. California*** (1973), the Court tried to clarify what could be classified as obscene, and therefore outside First Amendment protection.
 - a. Chief Justice Warren Burger wrote that materials were obscene if the work, *taken as a whole*, appealed to a "*prurient interest*" in sex; *and* if it showed "*patently offensive sexual contact*"; *and* if it "*lacked serious artistic, literary, political, or scientific merit.*"
 - b. In *Miller*, the Court also ruled that decisions should be made to reflect the standards of *local* (not national) communities.
 - c. In 2002, the Supreme Court overturned a law banning virtual child pornography, suggesting that the Court views the Internet similarly to print media, with similar protections against government regulation.
- F. **Libel** (the publication of statements known to be false that tend to damage a person's reputation) and **slander** (spoken defamation) are *not protected* by the First Amendment.
1. Libel and slander involve *freedom of expression* issues that involve *competing values*.
 - a. If public debate is not free, there can be no *democracy*.
 - b. Conversely, some reputations will be unfairly damaged in the process.
 2. The Court has held that statements about **public figures** are libelous only if made with *malice* and *reckless disregard* for the truth (***New York Times v. Sullivan***, 1964).
 - a. The right to criticize the government (which the Supreme Court termed "the central meaning of the First Amendment") is not libel or slander.
 - b. In 1984, General William Westmoreland dropped his suit against CBS in return for a mild apology; he realized that it would be impossible to prove that the network had been *intentionally malicious*, even though he was able to show that CBS had knowingly made factual errors.
 3. **Private persons** only need to show that statements about them were *defamatory falsehoods* and that the author was *negligent*.

- G. **Symbolic speech** refers to *actions that do not consist of speaking or writing but that express an opinion*.
1. Broadly interpreted, *freedom of speech* is a guarantee of *freedom of expression*.
 2. The doctrine of symbolic speech *is not precise*: burning a flag is protected speech, but burning a draft card is not (*Texas v. Johnson*, 1989, and *U.S. v. O'Brien*, 1968).

IV. COMMERCIAL SPEECH

- A. **Commercial speech** (such as advertising) is more restricted than are expressions of opinion on religious, political, or other matters.
- B. The **Federal Trade Commission (FTC)** decides what kinds of materials may be advertised on radio and television, and regulates the content of advertising.
1. Although commercial speech is regulated more rigidly than the other types of speech, the courts have been broadening its protection under the Constitution; in recent years, the courts have struck down many restrictions (including restraints against advertising for professional services and for certain products such as condoms) as violations of freedom of speech.
- C. *Radio and television stations* are subject to more restrictions than the print media (justified by the fact that only a limited number of broadcast frequencies are available).
1. The **Federal Communications Commission (FCC)** regulates the content and nature (and the very existence) of radio and television broadcasting.
 2. A licensed station must comply with regulations that include provisions for a certain percentage of broadcast time for public service, news, children's programming, political candidates, or views other than those its owners support.
 3. In 2000, in *United States v. Playboy Entertainment Group*, the Supreme Court agreed that although government had a legitimate right to regulate sexually oriented programming, any such regulation must be narrowly tailored to promote a compelling government interest.

V. FREEDOM OF ASSEMBLY

- A. Freedom of assembly provides the constitutional basis for forming interest groups and political parties, for picketing and protesting in groups.
- B. *Two facets* of the freedom of assembly.
1. **Right to assemble:** the right to gather together in order to make a statement.
 - a. Within reasonable limits (called *time, place, and manner restrictions*), freedom of assembly includes the rights to parade, picket, and protest.
 - b. The Supreme Court has generally upheld the right of any group—no matter how controversial or offensive—to peaceably assemble *on public property*.
 - c. The *balance between freedom and order* is tested when protest verges on harassment (as illustrated by the dispute over protesters lined up outside abortion clinics).
 2. **Right to associate:** freedom to associate with people who share a common interest.
 - a. The right to associate includes the right to meet with people who want to create political change.

- b. In 1958, the Court found Alabama's attempt to require the NAACP to turn over its membership list to be an unconstitutional restriction of freedom of association (*NAACP v. Alabama*).

VI. RIGHT TO BEAR ARMS

- A. **Gun control** continues to be a very controversial issue.
- B. National, state, and local laws have placed many regulations on gun ownership.
- C. *District of Columbia v. Heller* (2008)
 - 1. Ruled on a DC law which forbid the possession of handguns.
 - 2. The Supreme Court ruled that the Second Amendment protects an individual's right to possess firearms.
- D. The Second Amendment right is not unlimited and regulations in certain areas continue.

VII. DEFENDANTS' RIGHTS

- A. Interpreting defendants' rights.
 - 1. The **First Amendment** guarantees the *freedoms of religion, speech, press, and assembly*.
 - 2. Most of the remaining rights in the Bill of Rights concern the rights of people accused of crimes.
 - a. These rights were originally intended to protect the accused in *political* arrests and trials.
 - b. Today, the protections in the *Fourth, Fifth, Sixth, and Eighth Amendments* are primarily applied in *criminal justice cases*.
 - 3. The language of the Bill of Rights is vague, and defendants' rights are not well defined.
 - 4. The Supreme Court's decisions have *extended most provisions of the Bill of Rights to the states* as part of the *general process of incorporation*.
- B. The **Fourth Amendment** is quite specific in forbidding **unreasonable searches and seizures**.
 - 1. No court may issue a **search warrant** unless **probable cause** exists to believe that a crime has occurred or is about to occur.
 - 2. Warrants must specify the area to be searched and the material sought in the search.
 - 3. Since 1914, the courts have used the **exclusionary rule** to prevent illegally seized evidence from being introduced in the courtroom.
 - a. In *Mapp v. Ohio* (1961), the Supreme Court incorporated the exclusionary rule within the rights that restrict the states as well as the federal government.
 - b. *Critics of the exclusionary rule* argue that its strict application may permit guilty persons to go free because of police carelessness or innocent errors (or "technicalities").
 - c. *Supporters of the exclusionary rule* respond that the Constitution is not a technicality; defendants' rights protect the accused in a system whereby everyone is presumed to be innocent until proven guilty.
 - d. The Burger Court made some *exceptions to the exclusionary rule*.

- e. Warrantless searches are valid if probable cause exists, if the search is necessary to protect an officer's safety, or if the search is limited to material relevant to the suspected crime or within the suspect's immediate control.
- C. The **Fifth Amendment** prohibits forced **self-incrimination**.
1. Suspects cannot be compelled to provide evidence that can be used against them.
 - a. The burden of proof rests on the police and the prosecutors, not the defendant.
 - b. This right applies to congressional hearings and police stations, as well as to courtrooms.
 - c. Suspects *must testify* if the government guarantees **immunity** from prosecution.
 2. ***Miranda v. Arizona*** (1966) set guidelines for police questioning of suspects.
 - a. Suspects must be *informed* of their constitutional right to remain silent.
 - b. Suspects must be warned that what they say can be used against them in a court of law.
 - c. Suspects must be told that they have a right to have a lawyer present during questioning, and that a lawyer will be provided if the accused cannot afford one.
 3. The more conservative Supreme Court under Chief Justice Burger did not weaken the *Miranda* rulings, but the Rehnquist Court did begin to make exceptions: in 1991, the Court held that a *coerced confession* is "*harmless error*" if other evidence is sufficient for conviction (***Arizona v. Fulminante***).
 4. If law enforcement officials encourage persons to commit crimes (such as accepting bribes or purchasing illicit drugs) that they otherwise would not commit, convictions for these crimes will be overturned by the courts.
- D. Although the **Sixth Amendment** has always ensured the **right to counsel** in *federal courts*, this right was not extended (*incorporated*) to state courts until recently.
1. In 1932, the Supreme Court ordered states to provide an attorney for indigent defendants accused of a *capital crime* (***Powell v. Alabama***).
 2. In 1963, the Court extended the same right to everyone accused of a *felony* (***Gideon v. Wainwright***, which was heard by the Court only after Clarence Gideon wrote a *pauper's petition* with the help of the prison's law books).
 3. The Court later ruled that a lawyer must be provided for the accused *whenever imprisonment could be imposed* (***Argersinger v. Hamlin***, 1972).
- E. The Sixth Amendment also ensures the right to a **speedy trial** and an **impartial jury**.
1. Most cases (90 percent) are settled through **plea bargaining** rather than through trial by jury.
 - a. In plea bargaining, an agreement is made between a defendant's lawyer and a prosecutor to the effect that a defendant will plead guilty to a lesser crime or to fewer crimes and often results in greatly reduced punishment.

- b. Critics believe that plea bargaining permits many criminals to avoid deserved punishment; however, it also saves the state time and money.
 - 2. The Constitution does not specify the size of a jury; tradition has set jury size at 12, but six jurors are sometimes used in petty cases.
 - 3. Juries traditionally had to be unanimous in order to convict, but the Burger Court *permitted states to use fewer than 12 jurors* and to *convict with less than a unanimous vote*. Federal courts still employ juries of 12 persons and require unanimous votes for a criminal conviction.
- F. The **Eighth Amendment** forbids **cruel and unusual punishment**, but it *does not define* the phrase.
- 1. Most of the constitutional debate over cruel and unusual punishment has centered on the *death penalty*.
 - a. ***Witherspoon v. Illinois*** (1968) overturned a death sentence because opponents of the death penalty had been excluded from the jury at sentencing.
 - b. ***Furman v. Georgia*** (1972) overturned Georgia's death penalty law because its imposition was "freakish" and "random" in the way it was arbitrarily applied (particularly with regard to factors such as race and income).
 - c. ***Woodson v. North Carolina*** (1976) ruled against mandatory death penalties.
 - d. ***Gregg v. Georgia*** (1976) found that the death penalty is "an extreme sanction, suitable to the most extreme of crimes."
 - e. ***McCleskey v. Kemp*** (1987) upheld the constitutionality of the death penalty against charges that it violated the **Fourteenth Amendment** because minority defendants were more likely to receive the death penalty than were White defendants.
 - 2. The Supreme Court has recently held that it was constitutionally acceptable to execute 16- or 17-year-olds or mentally retarded persons; has made it more difficult for death row inmates to force legal delays through *habeas corpus* petitions; and has allowed "*victim impact*" *statements* detailing the character of murder victims and their families' suffering to be used against a defendant.
 - 3. In 2002, however, the Court prohibited executing mentally retarded persons and required that a jury, not just a judge, find an aggravating circumstance necessary for imposition of the death penalty.
 - 4. Death sentences are in steep decline today due to DNA testing and public concerns over wrongful sentences.

VIII. THE RIGHT TO PRIVACY

- A. Today's technologies raise key questions about *ethics* and the Constitution.
 - 1. Although the Constitution does not specifically mention a **right to privacy**, the Supreme Court has said that it is implied by several guarantees in the Bill of Rights.
 - 2. In 1928, Justice Brandeis called privacy "the right to be left alone."
 - 3. Questions involving a right to privacy have centered on such diverse issues as abortion rights; the drafting of state laws to define death; technological developments like in-vitro fertilization, frozen embryos, and artificial

- insemination; and even the right to die (a patient's right to refuse treatment, or the right of families of a guardian to exercise the patient's right when a patient is no longer able to communicate).
- B. The Supreme Court first referred to the idea that the constitution guarantees a right to privacy in a 1965 case involving a Connecticut law that forbade contraceptives.
1. In **Griswold v. Connecticut**, the Court found that various portions of the Bill of Rights cast "*penumbras*"—unstated liberties implied by the explicitly stated rights—that protected a right to privacy.
 2. Supporters of privacy rights argued that the Fourth Amendment was intended to protect privacy.
 3. Critics of the ruling claimed that the Supreme Court was inventing protections not specified by the Constitution.
- C. The *most important application of privacy rights* came in the area of *abortion*.
1. Americans are deeply divided on abortion: the positions of "pro-choice" and "pro-life" are irreconcilable (making abortion a politician's nightmare).
 2. Supreme Court Justice Harry Blackmun's opinion in **Roe v. Wade** (1973) followed that of medical authorities in dividing pregnancy into three equal *trimesters*.
 3. *Roe* forbade any state control of abortions during the first trimester, permitted states to allow regulated abortions to protect the mother's health in the second trimester, and allowed the states to ban abortion during the third trimester except when the mother's life was in danger.
 4. *Roe* caused a furor that has never subsided, and numerous state and federal regulations were passed, which prohibited the use of funds for abortions.
 - a. A clinic in St. Louis challenged the constitutionality of a Missouri law that forbade the use of state funds or state employees to perform abortions, but the Court upheld the law in **Webster v. Reproductive Health Services** (1989).
 - b. The Court has also upheld laws requiring minors to obtain the permission of one or both parents or a judge before obtaining an abortion, and in **Rust v. Sullivan** (1991), the Court upheld a Department of Health and Human Services ruling that provided that family planning services that received federal funds could not provide women with *any* counseling regarding abortions. (President Clinton lifted the ban on abortion counseling on his third day in office.)
 5. In 1992, the Court changed its *standard for evaluating restrictions on abortion* from one of "*strict scrutiny*" of any restraints on a "*fundamental right*" to one of "*undue burden*" that permits considerably more regulation (**Planned Parenthood v. Casey**).
 6. In 1997, the Court also upheld a 15-foot buffer zone. In another case, the Court decided that abortion clinics can invoke the federal racketeering law to sue violent anti-abortion protest groups for damages.
 7. In 2000, the Court held in **Sternberg v. Carhart** that Nebraska's prohibition of "partial birth" abortions was unconstitutional because it placed an undue burden on women seeking an abortion by limiting their options to less safe

procedures and because the law provided no exception for cases where the health of the mother was at risk.

IX. UNDERSTANDING CIVIL LIBERTIES

- A. American government is both *democratic* (because it is governed by officials elected by the people and answerable to them) and *constitutional* (because it has a fundamental organic law, the Constitution, that limits the things government can do).
- B. The democratic and constitutional components of government can produce conflicts, but they also reinforce one another.
- C. Civil liberties and democracy.
 - 1. Individual rights may conflict with other values.
 - a. The rights guaranteed by the First Amendment are essential to a democracy.
 - b. Individual participation and the expression of ideas are crucial components of democracy, but so is majority rule, which can conflict with individual rights.
 - c. The rights guaranteed by the Fourth, Fifth, Sixth, and Eighth Amendments protect all Americans, but they also make it harder to punish criminals.
 - 2. Ultimately, the courts decide what constitutional guarantees mean in practice: although the federal courts are the *branch of government least subject to majority rule*, the courts *enhance democracy by protecting liberty and equality from the excesses of majority rule*.
- D. Civil liberties and the scope of government.
 - 1. Today's government is huge and commands vast, powerful technologies.
 - 2. Since Americans can no longer avoid the attention of government, strict limitations on governmental power are essential—limitations that are provided by the Bill of Rights.
 - 3. In general, civil liberties limit the scope of government. However, in some instances, such as protecting the right to abortion, an expansion of freedom may require simultaneous expansion of government to protect those freedoms.

KEY TERMS AND CONCEPTS

Bill of Rights: the first ten amendments to the Constitution.

Civil Liberties: legal and constitutional protections against government infringement of political liberties and criminal rights.

Commercial Speech: communication in the form of advertising.

Cruel and unusual punishment: Eighth Amendment prohibits such punishment.

Eighth Amendment: forbids cruel and unusual punishment, although it does not define this phrase.

Establishment clause: First Amendment prohibits government from establishing a religion; is the basis for separation of church and state.

Exclusionary rule: prohibits government from including illegally obtained evidence in a trial.

Fifth Amendment: prohibits government from forcing individuals to testify against themselves.

First Amendment: establishes freedom of religion, press, speech, and assembly.

Fourteenth Amendment: prohibits states from denying equal protection of the laws.

Free exercise clause: government is prohibited in the First Amendment from interfering in the practice of religion.

Incorporation Doctrine: legal concept under which the Supreme Court has nationalized the Bill of Rights by making most of its provisions applicable to the states through the Fourteenth Amendment.

Libel: publication of false or malicious statements that damage someone's reputation.

Plea bargaining: an actual bargain struck between the defendant's lawyer and the prosecutor to the effect that the defendant will plead guilty to a lesser crime (or fewer crimes) in exchange for the state's promise not to prosecute the defendant for a more serious (or additional) crime.

Prior restraint: government instrument to prevent material from being published.

Probable cause: police must have a good reason to arrest someone.

Right to privacy: a contrived right from unstated liberties in the Bill of Rights.

Search warrant: written authorization from a court specifying the area to be searched and what the police are searching for.

Self-incrimination: testifying against oneself.

Sixth Amendment: designed to protect individuals accused of crimes; includes the right to counsel, the right to confront witnesses, and the right to a speedy and public trial.

Symbolic Speech: political actions instead of words.

Unreasonable searches and seizures: obtaining evidence without a good reason.

KEY CASES

Barron v. Baltimore (1833)
Engel v. Vitale (1962)
Gideon v. Wainwright (1963)
Gitlow v. New York (1925)
Gregg v. Georgia (1976)
Lemon v. Kurtzman (1971)
Mapp v. Ohio (1961)
McCleskey v. Kemp (1987)
Miami Herald Publishing Co. v. Tornillo (1974)
Miller v. California (1973)
Miranda v. Arizona (1966)
NAACP v. Alabama (1954)
Near v. Minnesota (1931)
New York Times v. Sullivan (1964)
Planned Parenthood v. Casey (1992)
Red Lion Broadcasting Co. v. Federal Communications Commission (1969)
Roe v. Wade (1973)
Roth v. United States (1957)
Schenck v. United States (1919)
School District of Abington Township, Pennsylvania v. Schempp (1963)
Texas v. Johnson (1989)
Zelman v. Simmons-Harris (2002)
Zurcher v. Stanford (1976)

TEACHING IDEAS: CLASS DISCUSSION AND STUDENT PROJECTS

- Special features entitled *You Are the Judge* are dispersed throughout this chapter. Each feature describes a real case brought before the courts and asks students to evaluate it and render a judgment. They can also read how the case was actually decided and consider the constitutional, statutory, political, and/or practical basis of that decision.
- We know that people often support rights in theory, but their support may disappear when it comes time to put those rights into practice. Set aside part of one class period for students to list both supports and objections to extending rights to controversial and unpopular groups. You could “set the stage” by first introducing your class to one or two famous incidents, such as the demands of the American Nazi Party in 1977 to march through a Jewish neighborhood in Skokie, Illinois.
- Although the Supreme Court has ruled that obscenity is not protected by the First Amendment, it has been difficult to determine precisely what is obscene. Ask your students to “try their hands” at writing a definition that could be used by a court or a censorship panel to distinguish *obscenity* from legally protected *art*.
- The textbook points out that libel is a freedom of expression that involves competing values. If public debate is not free, there can be no democracy, but with free public debate, some reputations will be unfairly damaged. Ask your class to consider the way in which the courts distinguish between *public persons* and *private persons*, and ask them to evaluate whether it is fair (or appropriate) to use this distinction. How would they change the process to make it more equitable? Would the public lose its ability to evaluate candidates for public office if candidates could sue for libel or slander as readily as persons who are not in the public eye? What rights of privacy should public figures retain?
- Ask your class to consider the problem of crime control, both from the position of protecting individual liberties for “unsavory” people in order to protect rights for everyone, and from the perspective of protecting the rights of “society” and of victims.
- One task that government must perform is to resolve conflicts between rights. Class participation can be animated if you will encourage your students to think about potential conflicts within the Bill of Rights, such as possible conflicts between public order and free speech. Ask your class to consider the nature of individual rights from the perspective of a victim’s family and from the outlook of a defendant’s family.
- Ask students to find the facts surrounding a current conflict over civil liberties, either using the Internet or the daily newspaper, and to lead a class discussion over these facts. What rights or values are in conflict? Ask students to explain how, and why, they would decide the case. Also encourage the students to follow the case over the course of the semester or quarter, and to write a brief essay describing the issues involved and their final position in the conflict.

- Each of the following exercises may be modified to be either class participation/debate assignments or writing assignments. In either case, they may also be modified to ask students to locate a particular case that serves as an example of the conflicting rights. Ask students to use Lexis/Nexis, the Internet, or other records to brief the class on the particular case (rather than discussing these rights in the abstract).
- There is a fine line between aid to parochial schools that is permissible and aid that is not. Divide the class into panels, and ask them to debate the merits and problems of government aid to church-related schools. Ask members of the panels to prepare for the debate by reading summaries of cases that are used in the textbook to illustrate the establishment clause of the Constitution. Also encourage panelists to research how recent decisions of the Supreme Court have modified these policies.
- A majority of the public has never favored the Court's decisions on school prayer. Assign short essays, in which each student would take one of the following positions: (1) The school prayer decisions demonstrate the Court's important role in protecting minority rights in the face of majority opinion; *or* (2) The school prayer decisions demonstrate how the Court has lost sight of the traditional values that were favored by the framers of the Constitution.
- Reporters argue that freedom of the press guarantees them certain rights that other potential witnesses cannot claim, such as the right to protect confidential sources, even in criminal trials. Divide the class into sections, with one section assigned the task of defending the right of journalists to shield confidential sources and the other section assigned the task of showing that reporters have no more rights than other citizens. Each section should select a spokesperson to present the group's analysis.
- Ask students to debate the validity of the Second Amendment in today's society. What restrictions should the government be allowed to place on the ownership of firearms?
- The Internet has changed the way we communicate and the way we conduct business in American society. One recent example is the debate over sharing music and movies online. Engage the students in a discussion about future constitutional and legal challenges the Internet might create.
- Assign the students two articles about the Patriot Act to read—one supportive and one opposing. Ask students how they would balance the two goals of safeguarding our security and protecting our civil liberties.

BACKGROUND READING

Amar, Akhil Reed. *The Bill of Rights: Construction and Reconstruction*. New Haven: Yale University Press, 1998.

Amar, Akhil Reed, and Alan Hirsch. *For the People: What the Constitution Really Says About Your Rights*. New York: Free Press, 1998.

Carpenter, Ted Galen. *The Captive Press: Foreign Policy Crises and the First Amendment*. Washington, D.C.: Cato Institute, 1995.

Devins, Neal. *Shaping Constitutional Values: Elected Government, the Supreme Court and the Abortion Debate*. Baltimore: Johns Hopkins University Press, 1996.

Domino, John C. *Civil Rights and Liberties: Toward the Twenty-first Century*. New York: Addison-Wesley, 1994.

Lee, Taeku. *Mobilizing Public Opinion*. Chicago: University of Chicago Press, 2002.

Leo, Richard A., and George C. Thomas III, eds. *The Miranda Debate: Law, Justice and Policing*. Boston: Northeastern University Press, 1998.

Levy, Leonard W. *Origins of the Bill of Rights*. New Haven and London: Yale University Press, 1999.

Lewis, Anthony. *Gideon's Trumpet*. New York: Vintage Books, 1989.

Rose, Melody. *Safe, Legal, and Unavailable: Abortion Politics in the United States*. Washington, DC: CQ Press, 2007.

MEDIA SUGGESTIONS

The American Civil Liberties Union: A History. Films for the Humanities and Sciences, 1997.

Provides an overview of the development of the ACLU, highlighting the major civil rights and liberties cases and issues in which it has been involved since its inception. .

Bill of Rights: Bill of Responsibility. Films for the Humanities and Sciences, 1995.

This program, hosted by Bill Maher of television's "Politically Incorrect," considers the meaning of the Constitution and the Bill of Rights in the context of current political issues and controversies.

Constitutional Law: First Amendment Jurisprudence and Religion. Insight Media, 2005.
A panel of experts examine issues regarding freedom of religion.

Constitutional Law: First Amendment Jurisprudence and the Media. Insight Media, 2005.
A panel of experts examine the impact s of the media on the justice system.

Free Speech for Sale: A Bill Moyers Special. Films for the Humanities and Science, 1999.
Bill Moyers and others examine how big business uses the media to try to control public debate.

Gideon's Trumpet. Dir. Robert Collins. Hallmark Hall of Fame Productions, 1980.
A dramatic recreation of the events leading up to the case ***Gideon v. Wainwright*** (1963) starring Henry Fonda.

The Soul of the Nation: Keeping the Faith. Films for the Humanities and Sciences, 1996.
This film examines the role of religion in the U.S. and examines the issue of separation between church and state.

You Can't Say That! "Politically Correct" Free Speech. Films for the Humanities and Science, 2000.
ABC reporter John Stossel examines constraints on free speech due to the politically correct movement.

Watch What You Say: Free Speech in Times of National Crisis. Films for the Humanities and Science, 2001.
This film narrated by ABC's Ted Koppel examines issues of free speech after 9/11.

CHAPTER FIVE: CIVIL RIGHTS AND PUBLIC POLICY

PEDAGOGICAL FEATURES

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- p. 165 **Table 5.3:** *Toward Racial Equality: Milestones in the Era of Reconstruction and Resegregation*
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- p. 199 **For Further Reading**

LEARNING OBJECTIVES

After studying this chapter, students should be able to:

- Understand how civil rights have been used to extend more equality to groups that historically have been subject to discrimination.
- Analyze different interpretations of *equality*, such as equality of opportunity contrasted with equality of results.
- Identify provisions of the Bill of Rights that have implications for equality.
- Explain how the Fourteenth Amendment guarantee of “equal protection of the laws” has been applied to the idea of equality.
- Summarize the reasoning of the Court in the 1954 case of ***Brown v. Board of Education*** and use this case to show how the Court set aside its earlier precedent in ***Plessy v. Ferguson***.
- Show the significance of the Civil Rights Act of 1964 and explain why efforts for civil rights legislation were finally successful in the mid-1960s.
- Trace the attempts of southern states to deny African Americans the right to vote even after the passage of the Fifteenth Amendment.
- Identify the major public policy milestones in the movement toward gender equality.
- Determine the ways in which Americans with disabilities have become the successors to the civil rights movement.
- Explain why gay and lesbian activists may face the toughest battle for equality of any of America's minority groups.

- Describe the opposing positions of those who favor affirmative action and those who claim that these policies simply create reverse discrimination.
- Analyze how the important democratic principles of *equality* and *individual liberty* may actually conflict with each other.
- Determine how civil rights laws increase the scope and power of government.

CHAPTER OVERVIEW

INTRODUCTION

When the value of equality conflicts with the value of liberty—when individuals in privileged positions are challenged to give them up—citizens often look to the government to resolve the issue. This chapter examines what the Constitution says about equality and how constitutional rights to equality have been interpreted. It also reviews the development of civil rights in the United States, highlighting the important role of the court system in expanding equality over the past three decades.

RACIAL EQUALITY: TWO CENTURIES OF STRUGGLE

The real meaning of equality is both elusive and divisive. Most Americans favor **equality** in the abstract, but the concrete struggle for equal rights has been our nation's most bitter battle. The rallying call for groups demanding more equality has been **civil rights**, which are policies that extend basic rights to groups historically subject to discrimination. Philosophically, the struggle for equality involves defining the term; constitutionally, it involves interpreting laws; politically, it often involves power.

American society does not emphasize equal results or equal rewards. A belief in equal rights has often led to a belief in equality of opportunity. Today's debates over inequality in America center on racial discrimination, gender discrimination, and discrimination based on factors such as age, disability, and sexual preference.

The delegates to the Constitutional Convention came up with a plan for government rather than guarantees of individual rights, and the word *equality* does not even appear in the original Constitution. The only place in which the idea of equality clearly appears in the Constitution is in the **Fourteenth Amendment**, which prohibits the states from denying "*equal protection of the laws*" to any person. It was not until the mid-twentieth century that the Fourteenth Amendment was used to assure rights for disadvantaged groups, but the equal protection clause gradually became the vehicle for more expansive constitutional interpretations.

The Court has developed three levels of *judicial scrutiny* (or *classifications*). Most classifications that are **reasonable** (that bear a rational relationship to some legitimate governmental purpose) are constitutional. Racial and ethnic classifications are **inherently suspect**—they are presumed to be invalid and are upheld only if they serve a "*compelling public interest*" that cannot be accomplished in some other way. Classifications based on gender fall somewhere between *reasonable* and *inherently suspect*—gender classifications must bear a **substantial** relationship to an *important legislative purpose*.

RACE, THE CONSTITUTION, AND PUBLIC POLICY

African Americans have been the most visible minority group in the United States, and the civil rights laws that African-American groups pushed for have also benefited members of other minority groups. Three eras define African Americans' struggle for equality in America: the era of slavery, from the beginnings of colonization until the end of the Civil War; the era of reconstruction and resegregation, from the end of the Civil War until 1954; and the era of civil rights, from 1954 to the present.

The delegates to the Constitutional Convention did their best to avoid facing the divergence between slavery and the principles of the Declaration of Independence. During the slavery era, any public policy of the slave states or the federal government had to accommodate the property interests of slave owners. The Union victory in the Civil War and the ratification of the **Thirteenth Amendment** ended slavery. After the Civil War ended, Congress imposed strict conditions on the former Confederate states before they could be readmitted to the Union. Many African-American men held state and federal offices during the ten years following the war. As soon as they regained control following Reconstruction, White Southerners imposed a code of "*Jim Crow laws*" that required African Americans to use separate public facilities and school systems.

Although some limited progress was made in the first half of the twentieth century, during this period segregation was legally required in the South (*de jure*) and sanctioned in the North (*de facto*). The Supreme Court provided constitutional justification for segregation in *Plessy v. Ferguson* (1896) when it held that segregation in public facilities was not unconstitutional as long as the facilities were *substantially equal* (a principle that was commonly referred to as the "**separate but equal**" doctrine, though subsequent decisions paid more attention to the "separate" than to the "equal" part).

The Supreme Court decision in *Brown v. Board of Education* (1954) really marks the beginning of the era of civil rights. In a landmark decision, the Court held that school segregation was *inherently unconstitutional* because it violated the Fourteenth Amendment's guarantee of *equal protection*. The modern **civil rights movement** began in 1955 when Rosa Parks refused to give up her seat in the front of a Montgomery, Alabama, bus (where only Whites were permitted to sit). The boycott that followed her arrest is often seen as the beginning of the African-American civil rights movement. Sit-ins, marches, and civil disobedience were key strategies of the civil rights movement.

Desegregation proceeded slowly in the South, and some federal judges ordered the *busing* of students to achieve *racially balanced schools*. The **Civil Rights Act of 1964** made racial discrimination illegal in hotels, motels, restaurants, and other places of public accommodation. The Act also forbade many forms of job discrimination, and Congress cut off federal aid to schools that remained segregated.

The early Republic limited **suffrage** primarily to property-holding White males. The **Fifteenth Amendment** (1870) guaranteed African Americans the right to vote, but full *implementation* did not occur for another century. States used various methods to circumvent the Fifteenth Amendment, including literacy tests with grandfather clauses, **White primaries**, and **poll taxes**.

The **Voting Rights Act of 1965** prohibited any government from using voting procedures that denied a person the vote on the basis of race or color. Poll taxes in federal elections were prohibited by the **Twenty-fourth Amendment** (1964), and poll taxes in state elections were invalidated by the Supreme Court two years later (*Harper v. Virginia State Board of Elections*).

The civil rights laws that African-American groups pushed for have benefited members of other minority groups such as American Indians, Asians, and Hispanics. The United States is heading toward a *minority majority* status, when minority groups will outnumber Caucasians of European descent. Hispanic Americans will soon displace African Americans as the largest minority group.

Like Native Americans, Hispanic Americans benefit from the nondiscrimination policies originally passed to protect African Americans. Hispanic Americans are the largest minority group. *Hernandez v. Texas* (1954) extended protections to Hispanics. Asian Americans are the fastest growing minority group; their representation in the American population rose from 0.5 percent to four percent from 1960 to 2000. There are more than 1.2 million persons of Arab ancestry in the United States. Since the terrorist attacks of September 11, 2001, Arab, Muslim, Sikh, and South Asian Americans, and those perceived to be members of these groups, have been the victims of increased numbers of bias-related assaults, threats, vandalism, and arson.

WOMEN, THE CONSTITUTION, AND PUBLIC POLICY

The first women's rights activists were products of the abolitionist movement. The legal doctrine of *coverture* deprived married women of any identity separate from that of their husbands. Lucretia Mott and Elizabeth Cady Stanton organized a meeting at Seneca Falls, New York, to discuss women's rights. The *Seneca Falls Declaration of Sentiments and Resolutions* (signed on July 19, 1848) was the beginning of the movement that would culminate in the ratification of the **Nineteenth Amendment** (1920), which gave women the right to vote.

The feminist movement seemed to lose momentum after winning the vote, possibly because the vote was about the only goal on which all feminists agreed. Public policy toward women continued to be dominated by *protectionism* (which also protected male workers from female competition), and state laws tended to reflect and reinforce the traditional family roles. Alice Paul, the author of the original Equal Rights Amendment (ERA), was one activist who claimed that the real result of protectionist law was to perpetuate gender inequality.

Before the advent of the contemporary feminist movement, the Supreme Court upheld virtually all cases of sex-based discrimination. In *Reed v. Reed* (1971), the Court ruled that any "arbitrary" sex-based classification violated the equal protection clause of the Fourteenth Amendment (marking the first time the Court applied the Fourteenth Amendment to a case involving classification by sex). Five years later, *Craig v. Boren* established a "medium scrutiny" standard: gender discrimination would be presumed to be neither valid nor invalid. The courts were to show less deference to gender classifications than to more routine classifications, but more deference than to racial classifications. The

Supreme Court has now ruled on many occasions against gender discrimination in employment and business activity. Some of the litigants have been *men seeking equality with women* in their treatment under the law.

Some important progress was made through congressional legislation. The *Civil Rights Act of 1964* banned sex discrimination in employment; in 1972, the *Equal Employment Opportunity Commission (EEOC)* was given the power to sue employers suspected of illegal discrimination; and *Title IX of the Education Act of 1972* forbade sex discrimination in federally subsidized education programs, including athletics. The Court has remained silent so far on the issue of “**comparable worth**” (which refers to the fact that traditional women’s jobs often pay much less than men’s jobs that demand comparable skill).

Women now comprise 14 percent of the armed forces and compete directly with men for promotion. Statutes and regulations prohibit women from serving in combat, but the Persian Gulf War demonstrates that policy and practice are not always the same, since women piloted helicopters at the front and some were taken as prisoners of war.

Many women are now making claims for their civil rights. In the 1990s, national attention has focused on issues of **sexual harassment**. For example, the Supreme Court again spoke expansively about sexual harassment in the workplace in *Faragher v. City of Boca Raton*. The Court made it clear that employers are responsible for preventing and eliminating harassment at work. They can be held liable for even those harassing acts of supervisory employees that violate clear policies and of which top management has no knowledge.

NEWLY ACTIVE GROUPS UNDER THE CIVIL RIGHTS UMBRELLA

New activist groups now realize that policies that were enacted to protect racial minorities and women can also be applied to other groups. Aging Americans, young Americans, the disabled, and homosexuals have begun to exert their own demands for civil rights.

People in their eighties comprise the fastest growing age group in this country. It is not clear what the fate of the **gray liberation movement** will be as its members approach the status of a *minority majority*.

Young people have also suffered from inferior treatment under the law. There are obvious difficulties in organizing a “children’s rights movement,” but there have been instances of young people who were successful in asserting their rights (including a youth who “divorced” his parents).

Americans with disabilities have suffered from both direct and indirect discrimination. The **Americans with Disabilities Act of 1990** requires employers and public facilities to provide “*reasonable accommodations*” and prohibits employment discrimination against the disabled.

Gay activists *may face the toughest battle for equality*. Homosexual activity is illegal in some states, and homosexuals often face prejudice in hiring, education, access to public accommodations, and housing. A substantial percentage of the American public expresses opposition to the entrance of homosexuals into many common occupations. However, gay activists have won some important victories. Seven states and more than 100 communities have passed laws protecting homosexuals against some forms of discrimination.

AFFIRMATIVE ACTION

The interests of women and minorities have converged on the issue of **affirmative action** (policies requiring special efforts in employment, promotion, or school admissions on behalf of disadvantaged groups). The goal of affirmative action is to *move beyond equal opportunity* toward *equal results*.

Some groups have claimed that affirmative action programs constitute “**reverse discrimination**.” In *Regents of the University of California v. Bakke* (1978), the Supreme Court rejected a plan at the University of California at Davis that set aside 16 out of a total of 100 places in the entering class for “disadvantaged groups.” The Court objected to the use of a quota of positions for particular groups, but the Court said that a university could use race or ethnic background as one component in the admissions procedure. The Court has also permitted a special training program that was intended to rectify years of past discrimination (*United Steelworkers of America, AFL-CIO v. Weber*, 1979). However, in 1995, in *Adarand Constructors v. Peña*, the Court held that federal programs that classify people by race, even for an ostensibly benign purpose such as expanding opportunities for minorities, should be presumed to be unconstitutional.

In 1996, California voters passed Proposition 209, which banned state affirmative action programs based on race, ethnicity, or gender in public hiring, contracting, and education admissions. Opponents immediately filed a lawsuit in federal court to block enforcement of the law, claiming that it violated the Fourteenth Amendment. Ultimately, the U.S. Supreme Court will have to resolve the issue, but there is little question that support for Proposition 209 represents a widespread skepticism about affirmative action programs. A federal court of appeals placed a similar ban on universities in Texas, Oklahoma, and Mississippi, while another court upheld racial preferences at the University of Michigan in 2002, agreeing that there was a compelling interest in promoting racial diversity on campus. In *Gratz v. Bollinger* (2003), however, the Court struck down the University of Michigan’s system of undergraduate admissions in which every applicant from an underrepresented racial or ethnic minority group was automatically awarded 20 points of the 100 needed to guarantee admission.

Surveys find that most Americans oppose affirmative action programs, even though Americans in general support nondiscrimination in employment and education. Opposition is especially strong when people view affirmative action as *reverse discrimination*, where less qualified individuals get hired or admitted to educational or training programs.

Affirmative action supporters believe that increasing the number of women and minorities in desirable jobs is such an important social goal that it should be considered when determining an individual’s qualifications. They claim that what White males lose from affirmative action programs are privileges to which they were never entitled in the first place; after all, nobody has the right to be a doctor or a road dispatcher.

UNDERSTANDING CIVIL RIGHTS AND PUBLIC POLICY

Democracy is often in conflict with itself—both *equality* and *individual liberty* are important democratic principles, but they *may conflict with each other*. For example, equality tends to favor majority rule, but equality threatens individual liberty in situations where the majority may want to deprive the minority of its rights.

Civil rights laws increase the *scope and power of government* since these laws place both restrictions and obligations on individuals and institutions. Libertarians and those conservatives who want to reduce the size of government are uneasy with civil rights laws (and sometimes hostile to them).

C CHAPTER OUTLINE

I. TWO CENTURIES OF STRUGGLE

- A. Most Americans favor **equality** in the *abstract*, but the *concrete struggle for equal rights* has been our nation's most bitter battle.
- B. The real meaning of equality is both elusive and divisive.
 - 1. **Civil rights** are the policies that extend basic rights to groups historically subject to discrimination.
 - 2. The modern **civil rights movement** began in 1955 when Rosa Parks refused to give up her seat in the front of a Montgomery, Alabama, bus (where only Whites were permitted to sit); the boycott that followed her arrest is often seen as the beginning of the African-American civil rights movement.
- C. Today's debates over inequality in America center on racial discrimination, gender discrimination, and factors such as discrimination based on age, disability, and sexual preference.
- D. Conceptions of equality.
 - 1. Philosophically, the struggle for equality involves defining the term; constitutionally, it involves interpreting laws; politically, it often involves power.
 - 2. American society does not emphasize equal results or equal rewards—a belief in equal rights has often led to a belief in equality of *opportunity*.
- E. The Constitution and inequality.
 - 1. Jefferson's statement in the Declaration of Independence that "all men are created equal" did not mean that he thought there were no differences among people.
 - 2. Few colonists were eager to defend slavery, and the delegates to the Constitutional Convention *did their best to avoid* facing the divergence between slavery and the principles of the Declaration of Independence.
 - 3. Women's rights received even less attention than did slavery at the Convention.
 - 4. The delegates to the Constitutional Convention came up with *a plan for government*, not guarantees of individual rights: the word *equality* does not even appear in the original Constitution.
 - a. Even the Bill of Rights does not directly mention equality, but it does have implications for the principle of equality since it does not limit the scope of its guarantees to any specified groups.
 - b. The only place in which the idea of equality clearly appears in the Constitution is in the **Fourteenth Amendment**, which prohibits the states from denying "*equal protection of the laws*" to any person.
 - 5. What does **equal protection of the laws** mean?
 - a. It was not until the mid-twentieth century that the Fourteenth Amendment was used to assure rights for disadvantaged groups.

- b. Over the last 100 years, the equal protection clause has become the vehicle for more expansive constitutional interpretations.
- 6. The Court has developed three levels of *judicial scrutiny* (or *classifications*).
 - a. Most classifications that are **reasonable** (that bear a rational relationship to some legitimate governmental purpose) are constitutional.
 - b. Racial and ethnic classifications are **inherently suspect**: they are presumed to be invalid and are upheld only if they serve a “*compelling public interest*” that cannot be accomplished in some other way.
 - c. Classifications based on gender fit somewhere between *reasonable* and *inherently suspect*: gender classifications must bear a **substantial** relationship to an *important legislative purpose* (and is sometimes called “*medium scrutiny*”).

II. RACE, THE CONSTITUTION, AND PUBLIC POLICY

- A. The civil rights laws that African-American groups pushed for have also benefited members of other minority groups.
- B. Three eras define African Americans’ struggle for equality in America: the era of slavery, from the beginnings of colonization until the end of the Civil War; the era of reconstruction and resegregation, from the end of the Civil War until 1954; and the era of civil rights, from 1954 to the present.
- C. The era of slavery (1600s–1865).
 - 1. During the slavery era, any public policy of the slave states or the federal government had to accommodate the property interests of slave owners.
 - 2. The most infamous statement in defense of slavery occurred in ***Dred Scott v. Sandford*** (1857), in which Chief Justice Taney declared that an African-American man was “chattel” and had no rights under a White man’s government; Congress had no power to ban slavery in the western territories (thereby effectively invalidating the *Missouri Compromise*).
 - 3. The Union victory in the Civil War and the ratification of the **Thirteenth Amendment** ended slavery.
- D. The era of reconstruction and resegregation (end of Civil War to 1954).
 - 1. After the Civil War ended, Congress imposed strict conditions on the former Confederate States before they could be readmitted to the Union.
 - 2. As soon as they regained power, White Southerners imposed a code of “**Jim Crow laws**,” or *Black Codes* (segregation laws that required African Americans to use separate public facilities and school systems); although not required *by law*, segregation was also *common practice* in the North.
 - 3. In the era of segregation, housing, schools, and jobs were, in one way or another, classified as “White” or “colored.”
 - 4. The Supreme Court provided constitutional justification for segregation in ***Plessy v. Ferguson*** (1896) when it held that segregation in public facilities was not unconstitutional as long as the facilities were *substantially equal* (a principle that was commonly referred to as the “**separate but equal**” doctrine, though subsequent decisions paid more attention to the “separate” than to the “equal” part).

5. Some limited progress was made in the first half of the twentieth century, including executive orders (such as desegregation of the armed forces) and court decisions (including ***Guinn v. United States***, 1915, which banned the grandfather clause in voting; ***Smith v. Allwright***, 1944, overturning all-White primaries; and ***Sweatt v. Painter***, 1950, which held that Blacks are entitled to the same professional and graduate education as students of other races).
- E. The era of civil rights (1954–present).
1. During the period leading up to the civil rights movement, segregation was legally required in the South (*de jure*) and sanctioned in the North (*de facto*).
 2. ***Brown v. Board of Education*** (1954) marks the *beginning of the era of civil rights*.
 - a. The Supreme Court used *Brown* to set aside its earlier precedent of ***Plessy v. Ferguson*** (1896).
 - b. In a landmark decision, the Court held that school segregation was *inherently unconstitutional* because it violated the Fourteenth Amendment’s guarantee of *equal protection*.
 - c. In 1955, the Court ordered lower courts to proceed with “all deliberate speed” to desegregate public schools; however, desegregation moved very slowly until the passage of the **Civil Rights Act of 1964**, which denied federal funds to segregated schools.
 3. The **civil rights movement** organized both African Americans and Whites to end the policies and practices of segregation.
 - a. The movement began in 1955 when Rosa Parks refused to give up her seat in the front of a Montgomery, Alabama, bus (where only Whites were allowed to sit); her arrest resulted in a boycott led by Rev. Martin Luther King, Jr.
 - b. *Sit-ins, marches, and civil disobedience* were key strategies of the civil rights movement, which sought to establish *equal opportunities* in the *political and economic sectors* and to bring an end to policies that put up barriers against people because of race.
 4. The 1950s and 1960s saw a marked increase in public policies designed to foster racial equality.
 - a. The Civil Rights Act of 1964 made racial discrimination illegal in hotels, motels, restaurants, and other places of public accommodation; it also forbade many forms of job discrimination, and Congress cut off federal aid to schools that remained segregated.
 - b. Desegregation proceeded slowly in the South and some federal judges ordered the *busing* of students to achieve *racially balanced schools* (upheld by the Supreme Court in ***Swann v. Charlotte-Mecklenberg County Schools***, 1971).
- F. Getting and using the right to vote.
1. The early Republic limited **suffrage** (the legal right to vote) primarily to property-holding White males.
 2. The **Fifteenth Amendment** (1870) guaranteed African Americans the right to vote, but full *implementation* did not occur for another century.

3. States used various methods to circumvent the Fifteenth Amendment:
 - a. **Grandfather clauses** exempted persons whose grandfathers were eligible to vote in 1860 from taking *literacy tests* in order to vote; the exemption obviously did not apply to grandchildren of slaves (declared unconstitutional in ***Guinn v. U.S.***, 1915).
 - b. **Poll taxes** were small taxes levied on the right to vote; the taxes often fell due at a time of year when poor sharecroppers had the least amount of cash available.
 - c. **White primaries** permitted political parties in the heavily Democratic South to exclude Blacks from primary elections on the pretext that political parties (and primaries) were private and not public institutions; this device deprived Blacks of a voice in the primaries, where the *real contest* occurred (declared unconstitutional in ***Smith v. Allwright***, 1944).
 - d. Many areas in the South employed **voter registration tests** (sometimes called **voter literacy tests**) in a discriminatory manner; some of the tests checked for an understanding of the Constitution.
4. The civil rights movement put suffrage high on its political agenda, and many barriers to African-American voting fell during the 1960s.
 - a. Poll taxes in federal elections were prohibited by the **Twenty-fourth Amendment** (1964); poll taxes in state elections were invalidated two years later in ***Harper v. Virginia State Board of Elections***.
 - b. The **Voting Rights Act of 1965** prohibited any government from using voting procedures that denied a person the vote on the basis of race or color.
 - (1) Federal election registrars were sent to areas that had long *histories of discrimination*, and many African Americans were registered in southern states as a direct result.
 - (2) The Voting Rights Act produced a major increase in the number of African Americans registered to vote in the southern states, and in the number of African Americans who held public office.
- G. The civil rights laws that African-American groups pushed for have benefited members of other minority groups such as American Indians, Asians, and Hispanics. The United States is heading toward a *minority majority* status, when minority groups will outnumber Caucasians of European descent.
 1. Native Americans:
 - a. The oldest minority group in America, but they were not made U.S. citizens until 1924.
 - b. The *Indian Claims Act* was enacted in 1946 to settle financial disputes arising from land taken from the Indians.
 2. Hispanic Americans:
 - a. Have *displaced* African Americans as the *largest minority group*, comprising about 13 percent of the U.S. population.
 - b. ***Hernandez v. Texas*** (1954) extended protection against discrimination to Hispanics.
 3. Asian Americans:

- a. The *fastest growing minority group*, they now comprise four percent of the U.S. population.
- b. During World War II, the U.S. government rounded up more than 100,000 Americans of Japanese descent and placed them in *internment camps* known as “war relocation centers.”
- c. The Supreme Court upheld the internment as constitutional in ***Korematsu v. United States*** (1944), but Congress later provided benefits for the former internees (which still have not been distributed).
4. Arab Americans and Muslims:
 - a. There are more than 1.2 million persons of Arab ancestry in the United States.
 - b. Since the terrorist attacks of September 11, 2001, Arab, Muslim, Sikh, and South Asian Americans, and those perceived to be members of these groups, have been the victims of increased numbers of bias-related assaults, threats, vandalism, and arson.

III. WOMEN, THE CONSTITUTION, AND PUBLIC POLICY

- A. The struggle for women’s equality has *emphasized legislation over litigation*.
- B. The battle for the vote.
 1. The *first women’s rights activists* were products of the *abolition* movement.
 2. The legal doctrine of **coverture** deprived married women of any identity separate from that of their husbands.
 3. Lucretia Mott and Elizabeth Cady Stanton organized a meeting at Seneca Falls, New York, to discuss women’s rights.
 4. The *Seneca Falls Declaration of Sentiments and Resolutions* (signed on July 19, 1848) was the beginning of the movement that would culminate in the ratification of the **Nineteenth Amendment** (1920), which gave women the right to vote.
- C. The “doldrums”: 1920–1960.
 1. The feminist movement seemed to lose momentum after winning the vote, possibly because the vote was about the only goal on which all feminists agreed.
 2. Alice Paul, the author of the **Equal Rights Amendment (ERA)**, claimed that the real result of protectionist law was to perpetuate *sexual inequality*; but most people in the 1920s saw the ERA as a *threat to the family*.
- D. The second feminist wave.
 1. The civil rights movement of the 1950s and 1960s attracted many women activists.
 2. Groups like the *National Organization for Women (NOW)* and the *National Women’s Political Caucus* were organized in the 1960s and 1970s.
 3. Judicial development.
 - a. Before the advent of the contemporary feminist movement, the Supreme Court upheld virtually all cases of sex-based discrimination.
 - b. In ***Reed v. Reed*** (1971), the Court ruled that any “arbitrary” sex-based classification violated the equal protection clause of the Fourteenth Amendment (marking the first time the Court applied the Fourteenth Amendment to a case involving classification by sex).

- c. In *Craig v. Boren* (1976), the Court established a “*medium scrutiny*” *standard*, under which sex discrimination would be presumed to be neither valid nor invalid.
 - d. The Supreme Court has now struck down many laws and rules for discriminating on the basis of gender; some of the litigants have been *men seeking equality with women* in their treatment under the law.
 - 4. The ERA was revived when Congress passed it in 1972 and granted a three-year extension six years later; the ERA fell three states short of ratification, but losing the ERA battle has stimulated vigorous feminist activity.
- E. Women in the workplace.
 - 1. As conditions have changed, public opinion and public policy demands have also changed.
 - a. The traditional family role of father at work/mother at home is becoming a thing of the past.
 - b. The civilian labor force includes 67 million women (78 million males).
 - c. There are 33 million female-headed households; about two-thirds of American mothers who have children below school age are in the labor force.
 - 2. Some important progress was made through congressional legislation:
 - a. The *Civil Rights Act of 1964* banned sex discrimination in employment.
 - b. In 1972, the *Equal Employment Opportunity Commission (EEOC)* was given the power to sue employers suspected of illegal discrimination.
 - c. *Title IX of the Education Act of 1972* forbade sex discrimination in federally subsidized education programs, including athletics.
 - d. Three of the most controversial issues that legislators will continue to face are wage discrimination, the role of women in the military, and sexual harassment.
 - 3. The Supreme Court has frequently ruled against gender discrimination in employment and business activity.
- F. Wage discrimination and comparable worth.
 - 1. The U.S. Supreme Court has remained silent so far on the issue of “**comparable worth**,” which refers to the fact that traditional women’s jobs often pay much less than men’s jobs that demand comparable skill.
 - 2. Median annual earnings for full-time women workers are only about three-fourths those of men.
- G. Women in the military.
 - 1. Women have served in every branch of the armed services since World War II (originally in separate units, but now as part of the regular service).
 - 2. Women comprise 14 percent of the armed forces, and compete directly with men for promotion.
 - 3. There are still two important differences between the treatment of men and women in military service:
 - a. Only men must register for the draft when they turn age 18 (upheld in *Rostker v. Goldberg*, 1981).
 - b. Statutes and regulations prohibit women from serving in combat.

- H. **Sexual harassment** can occur anywhere, but may be especially prevalent in male-dominated occupations such as the military. Sexual harassment violates federal policies against sexual discrimination in the workplace (although it was not a violation of federal policy when Anita Hill worked for Clarence Thomas).
1. In *Harris v. Forklift Systems* (1993), the Supreme Court held that no single factor is required to win a sexual harassment case under Title VII of the 1964 Civil Rights Act. The law is violated when the workplace environment “would reasonably be perceived, and is perceived, as hostile or abusive.”
 2. In 1996 and 1997, a number of army officers and noncommissioned officers had their careers ended, and some went to prison, for sexual harassment of female soldiers in training situations.
 3. In *Faragher v. City of Boca Raton* (1998), the Supreme Court stated that employers can be held liable for even those harassing acts of supervisory employees that violate clear policies and of which top management has no knowledge.

IV. NEWLY ACTIVE GROUPS UNDER THE CIVIL RIGHTS UMBRELLA

- A. New activist groups began to realize that policies that were enacted to protect racial minorities and women can also be applied to other groups, such as aging Americans, young Americans, the disabled, and homosexuals.
- B. Civil rights and the graying of America.
1. People in their eighties comprise the fastest growing age group in this country.
 2. Since 1967, Congress has passed several laws that ban various types of age discrimination.
 3. It is not clear what the fate of the **gray liberation movement** will be as its members approach the status of a *minority majority*.
- C. Civil rights and people with disabilities.
1. Americans with disabilities have suffered from both direct and indirect discrimination.
 2. The first rehabilitation laws were passed in the late 1920s; the *Rehabilitation Act of 1973* (twice vetoed by President Nixon as “too costly”) added disabled people to the list of Americans protected from discrimination.
 3. The **Americans with Disabilities Act of 1990** requires employers and public facilities to provide “*reasonable accommodations*,” and prohibits employment discrimination against the disabled.
 4. Questions have been raised over whether AIDS victims are handicapped and thus entitled to protection. So far, no case dealing with AIDS victims has reached the Supreme Court.
- D. Gay and lesbian rights.
1. Gay (or homosexual) activists *may face the toughest battle for equality*.
 - a. Homosexual activity is illegal in some states, and homosexuals often face prejudice in hiring, education, access to public accommodations, and housing.
 - b. There are no positive stereotypes commonly associated with homosexuality.
 - c. *Homophobia* (fear and hatred of homosexuals) has many causes, and homosexuals are often seen as safe targets for public hostility.

- d. A substantial percentage of the American public express opposition to homosexuals entering many common occupations.
- e. In 1993, President Clinton announced a new policy that barred the Pentagon from asking recruits or service personnel to disclose their sexual orientation. Popularly known as the “Don’t ask, don’t tell” policy, it also reaffirmed the Defense Department’s strict prohibition against homosexual conduct.
- 2. Despite some setbacks, gay activists have won some important victories.
 - a. Seven states and more than 100 communities have passed laws protecting homosexuals against some forms of discrimination.
 - b. Most colleges and universities now have gay rights organizations on campus.
- 3. The newest issue concerning gay rights is same-sex marriage. Most states have laws banning such marriages.

V. AFFIRMATIVE ACTION

- A. The interests of women and minorities have converged on the issue of **affirmative action** (policies requiring special efforts on behalf of disadvantaged groups).
 - 1. Affirmative action involves efforts to bring about increased employment, promotion, or admission for members of such groups.
 - 2. The goal of affirmative action is to *move beyond equal opportunity* toward *equal results*.
 - 3. The federal government has mandated that all state and local governments—together with each institution receiving aid from or contracting with the federal government—adopt an affirmative action program.
- B. Some groups have claimed that affirmative action programs constitute “**reverse discrimination**.”
 - 1. In *Regents of the University of California v. Bakke* (1978), the Court rejected a plan at the University of California at Davis that set aside 16 of a total of 100 places in the entering medical school class for “disadvantaged groups.”
 - a. The Court said a university could not set aside a *quota* of spots for particular groups.
 - b. However, the Court said that a university could adopt an “admissions program where race or ethnic background is simply one element in the selection process.”
 - 2. The following year, the Court ruled that a voluntary union-and-management-sponsored program was *not* discriminatory because the Kaiser Aluminum Company’s special training program was intended to rectify years of past employment discrimination at Kaiser (*United Steelworkers of America, AFL-CIO v. Weber*, 1979).
- C. In other cases, the Court has ruled that public employers may use affirmative action plans to counter underrepresentation of women and minorities, but the Court has also ruled that affirmative action does not exempt recently hired minorities from traditional work rules specifying the “last hired, first fired” order of layoffs.
- D. Opposition to affirmative action policies.

1. Surveys find that most Americans oppose affirmative action programs, even though Americans in general support nondiscrimination in employment and education.
2. Opposition is especially strong when people view affirmative action as reverse discrimination where less qualified individuals get hired or admitted to educational or training programs.
3. In 1996, California voters passed Proposition 209, which banned state affirmative action programs based on race, ethnicity, or gender in public hiring, contracting, and educational admissions. Ultimately the U.S. Supreme Court will decide the issue.
4. A federal court of appeals placed a similar ban on universities in Texas, Oklahoma, and Mississippi, while another court upheld racial preferences at the University of Michigan in 2002, affirming that there was a compelling interest in promoting racial diversity on campus.
5. In ***Gratz v. Bollinger*** (2003), however, the Court struck down the University of Michigan's system of undergraduate admissions in which every applicant from an underrepresented racial or ethnic minority group was automatically awarded 20 points of the 100 needed to guarantee admission.
6. In ***Parents Involved in Community Schools v. Seattle School District No. 1*** (2007) the Supreme Court held that the school districts' use of race in their voluntary integration plans violated the 14th Amendment.

VI. UNDERSTANDING CIVIL RIGHTS AND THE CONSTITUTION

A. Civil rights and democracy.

1. Democracy is often in conflict with itself: both *equality* and *individual liberty* are important democratic principles, but they *may conflict with each other*.
 - a. Equality tends to favor *majority rule*, but *equality threatens individual liberty* in situations where the majority wants to deprive the minority of its rights.
 - b. Majority rule is not the only threat to liberty: *minorities* have suppressed majorities as well as other minorities.
2. Even when they lacked the power of the vote, both African Americans and women made many gains by using other rights (such as the First Amendment freedoms) to fight for equality.

B. Civil rights and the scope of government.

1. Civil rights laws increase the *scope and power of government*.
 - a. These laws place both restrictions and obligations on individuals and institutions—they tell individuals and institutions that there are things they must do and other things they cannot do.
 - b. Libertarians and those conservatives who want to reduce the size of government are uneasy with these laws (and sometimes hostile to them).
2. Civil rights is an area in which *increased government activity in protecting basic rights* can lead to *greater checks on the government* by those who benefit from such protections.

KEY TERMS AND CONCEPTS

Affirmative action: a policy designed to give special consideration to those previously discriminated against.

Americans with Disabilities Act of 1990: strengthened protections of individuals with disabilities by requiring employers and public facilities to make “reasonable accommodations” and prohibiting employment discrimination against people with disabilities.

Civil rights: extending citizenship rights to participate to those previously denied them.

Civil Rights Act of 1964: forbids discrimination in public accommodations and facilities.

Comparable worth: equal pay for equal worth.

Equal protection of the laws: provided by the Fourteenth Amendment mandating that all people be protected by the law.

Equal Rights Amendment: proposal that equality of rights under the law not be denied on the account of sex.

Fifteenth Amendment: provides the right to vote for Blacks.

Fourteenth Amendment: prohibits states from denying equal protection of the laws.

Nineteenth Amendment: provides women with the right to vote.

Poll Taxes: taxes levied on the right to vote designed to hurt poor Blacks.

Suffrage: the legal right to vote.

Thirteenth Amendment: abolished slavery and involuntary servitude.

Twenty-fourth Amendment: prohibited poll taxes in federal elections.

Voting Rights Act of 1965: a policy designed to reduce the barriers to voting for those suffering discrimination.

White Primary: practice allowing only Whites to vote in primaries.

KEY CASES

Adarand Constructors v. Pena (1995)

Brown v. Board of Education (1954)

Craig v. Boren (1976)

Dred Scott v. Sandford (1857)

Hernandez v. Texas (1954)

Korematsu v. United States (1944)

Plessy v. Ferguson (1896)

Reed v. Reed (1971)

Regents of the University of California v. Bakke (1978)

Scott v. Sandford (1857)

TEACHING IDEAS: CLASS DISCUSSION AND STUDENT PROJECTS

- Have your students select a court case that is currently in the news or being discussed on the Internet that has implications for civil rights. The class should follow the case as it develops and try to evaluate how well it fits within the framework of what they have been reading in the textbook.
- During World War II, Americans of Japanese descent were sent to “relocation centers.” Ask your students to discuss whether the alleged threat of espionage and a Japanese invasion of the Pacific Coast justified this action. Ask students to review the Court decision (and public reaction) in *Korematsu v. United States*, as well as the recent decision to pay families sent to relocation centers for damages incurred. Finally, are there any parallels regarding the detainment and questioning of large numbers of Arab Americans and U.S. residents of Muslim descent?
- Suggest that your students compare the Equal Rights Amendment with the Fourteenth Amendment. Did the ERA cover some of the same ground as the Fourteenth Amendment, or did they deal with completely separate concepts?
- Divide your class into panels to discuss the role that women and homosexuals should play in the military. One team should be assigned to examine the congressional hearings that were conducted after the Persian Gulf War and which led to a congressional decision to permit women to serve as combat pilots; another team should be assigned to look at coverage in the media of public reaction to the 1993 compromise concerning gays in the military (“Don’t ask, don’t tell, don’t pursue”).
- Ask students to write brief essays assessing the formal role of women in combat and how the media covered the role of the women in the military during the Persian Gulf War of the early 1990s with that of the U.S.’s invasion of Iraq. How similar or different was the coverage? Why?
- Surveys show that most Americans oppose affirmative action programs, even though Americans in general support nondiscrimination in employment and education. Ask students to research the legal rationale behind affirmative action policies, and how the courts have evaluated various affirmative action programs. Have several members of your class debate the concepts of affirmative action and reverse discrimination. Can one group be protected without discriminating against another? Where would your students place their priorities?
- It can be instructive to show a segment of *Eyes on the Prize* in a classroom setting. The civil rights era is recreated through newsreel footage and interviews, and the era is “brought to life” for students who otherwise view the 1950s and 1960s only as “history.” This award-winning series is available on videocassette.
- Engage the students in a discussion of the recent Michigan Supreme Court case on affirmative action. What will it mean, if anything, for minority attendance levels in undergraduate and professional schools?
- Ask students to document historical and contemporary civil rights issues in South Africa to assess whether there is anything familiar about the problems of citizenship and discrimination. In general, the discussion should focus on disenfranchisement and

- dual citizenship problems, which Blacks and women have especially suffered both there and in the United States.
- Have students do a clipping file of current or recent events involving violations of civil rights and the expansion of government. Ask them to write an essay identifying the violations and to describe how government has expanded as a result of efforts to provide protections.
 - For a reading and writing connection, have students choose one of the key conflicts of the 1960s civil rights movements (e.g., Selma, Montgomery). Ask students to write a brief description of the events, explaining why Blacks and Whites engaged in the behaviors they did. Who won? Who lost? Why?

BACKGROUND READING

Anderson, Terry H. *The Pursuit of Fairness*. New York: Oxford University Press, 2005.

Chong, Dennis. *Collective Action and the Civil Rights Movement*. Chicago: University of Chicago Press, 1991.

Cohen, Carl. *Affirmative Action and Racial Preference : A Debate*. New York: Oxford University Press, 2003.

Hampton, Henry, and Steve Fayer. *Voices of Freedom*. New York: Bantam, 1990.

Klein, Ethel. *Gender Politics*. Cambridge, MA: Harvard University Press, 1974.

McAdam, Doug. *Freedom Summer*. New York: Oxford University Press, 1988.

McClain, Paula D. and Joseph Stewart. *"Can't We All Get Along?"* 5th ed. Boulder, CO: Westview, 2009.

McGlen, Nancy E., and Karen O'Conner. *Women, Politics, and American Society*, 2nd ed. Englewood Cliffs, NJ: Prentice Hall, 1998.

Perry, Barbara A. *The Michigan Affirmative Action Cases*. Lawrence, KS: University of Kansas Press, 2007.

Rimmerman, Craig A. *The Lesbian and Gay Movements*. Boulder, CO: Westview, 2008.

Steele, Shelby. *The Content of Our Character: A New Vision of Race in America*. New York: St. Martin's Press, 1990.

MEDIA SUGGESTIONS

Affirmative Action: The History of an Idea. Films for the Humanities and Sciences, 1996. This program considers the historical development of affirmative action policies and highlights current debates over its usefulness.

Eyes on the Prize. Dir. Henry Hampton. Blackside Productions, 1987.

This award-winning Public Broadcasting Service series chronicles the civil rights movement in America. Excerpts are especially useful for visual effect.

Gay Marriage and the Constitution. Films for the Humanities and Sciences, 2004.
Ted Koppel of ABC News moderates the a debate about gay marriage and its legal ramifications.

A Question of Fairness: The Affirmative Action Debate. Films for the Humanities and Sciences, 2006.

This film explores the debate over affirmative action and examines the Supreme Court case of *Grutter v. Bollinger* (2003) and other cases.

Religion and Race in America: Martin Luther King's Lament. Films for the Humanities and Sciences, 1994.

This film provides an analysis of the different roles churches play in shaping a nation's political culture.

With All Deliberate Speed. Films for the Humanities and Sciences, 2004.

This film examines the implementation of *Brown v. Board of Education* (1954) and includes both archival footage and contemporary interviews.

CHAPTER SIX: PUBLIC OPINION AND POLITICAL ACTION

PEDAGOGICAL FEATURES

- p. 205 ***My State:*** *Immigrants as a Percentage of State Populations*
- p. 206 ***Figure 6.1:*** *The Coming Minority Majority*
- p. 208 ***You Are the Policymaker:*** *Do We Need to Get Tougher with Illegal Immigrants?*
- p. 210 ***Figure 6.2:*** *Shifting Population*
- p. 212 ***Table 6.1:*** *The Role of Genetics in Transmitting Political Attitudes*
- p. 220 ***Table 6.2:*** *How to Tell a Liberal from a Conservative*
- p. 221 ***Young People and Politics:*** *How Younger and Older Americans Compare on the Issues*
- p. 224 ***A Generation of Change:*** *Attitudes Toward Gays and Lesbians*
- p. 228 ***Figure 6.5:*** *Political Participation by Family Income*
- p. 231 ***Chapter Test***
- p. 233 ***Internet Resources***
- p. 233 ***Get Connected:*** *Public Opinion and SLOPs*
- p. 234 ***For Further Reading***

LEARNING OBJECTIVES

After studying this chapter, students should be able to:

- Contrast the relative positions of African Americans, Hispanic Americans, Asian Americans, and Native Americans in the American political and economic spheres.
- Identify the political implications of an increasingly elderly population.
- Describe the process of political socialization and identify the primary agents of socialization.
- Outline the components that are essential to obtain accuracy in public opinion polling.
- Evaluate the role of polls in American democracy.
- Identify the political beliefs that are likely to be preferred by liberals and conservatives.
- Identify the activities that encompass political participation in the United States.
- Distinguish between conventional and unconventional types of political participation.
- Show how nonviolent civil disobedience was one of the most effective techniques of the civil rights movement in the American South.
- Explain what political scientists mean when they conclude that Americans are ideological conservatives but operational liberals.

CHAPTER OVERVIEW

INTRODUCTION

In a representative democracy, citizens' preferences are supposed to guide policymakers. Yet the American people are amazingly diverse, which means that there are many groups with many different opinions rather than a single public opinion. And most citizens know very little about politics. This chapter focuses on the nature of **public opinion**, how citizens learn about politics, and the extent to which these opinions are conveyed to government officials through various types of political participation.

THE AMERICAN PEOPLE

One way of looking at the American public is through **demography**: the science of human populations. The most valuable tool for understanding demographic changes in America is the **census**.

With its long history of immigration, the United States has often been called a **melting pot**, but policymakers now speak of a new **minority majority** because it is estimated that all the minority groups combined should pass the 50 percent mark by the middle of the twenty-first century. The largest component of the minority used to be the *African-American population*. A legacy of racism and discrimination has left the African-American population economically and politically disadvantaged, but African Americans have recently been exercising a good deal of political power. The *Hispanic population* now outnumbers the Black population. Hispanics are rapidly gaining power in the Southwest. What to do about the problem of *illegal immigration* is of particular concern to the Hispanic community. The recent influx of *Asians* has been headed by a new class of professional workers. Asian Americans are the most highly skilled immigrant group in American history, and they are the best off of America's minority groups. *Native Americans* are by far the worst off of America's minority groups. Statistics show that they are the least healthy, the poorest, and the least educated group. Most remain economically and politically disadvantaged.

Over the last 60 years, much of America's population growth has been centered in the West and South, particularly with movement to the states of Florida, California, and Texas from states like Pennsylvania, Ohio, and Michigan. This demographic change is associated with political change, as the process of **reapportionment** brings with it gains or losses of congressional representation as the states' population balance changes. The *fastest growing age group* in America is composed of citizens over age 65. The survival of Social Security is one of the most important issues affecting the elderly.

HOW AMERICANS LEARN ABOUT POLITICS: POLITICAL SOCIALIZATION

Richard Dawson notes that **political socialization** is "the process through which an individual acquires his or her own political orientations." Only a small portion of Americans' political learning is formal; *informal learning* is much more important.

Politics is a lifelong activity, and political behavior is to some degree *learned behavior*. The family's role is central because of its monopoly on time and emotional commitment in the early years. Although most students like to think of themselves as independent thinkers, one can accurately predict how the majority of young people will vote simply by knowing the political leanings of their parents. In fact, research with identical twins indicates that genetics plays a substantial part in the political attitudes people possess.

The mass media has been referred to as "the new parent." Television now displaces parents as the chief source of information as children get older.

MEASURING PUBLIC OPINION AND POLITICAL INFORMATION

Public opinion is the distribution of people's beliefs about politics and policy issues. There is *rarely a single public opinion*: with so many people and such diversity of populations, there are also many opinions. Public opinion is one of the products of political learning.

Public opinion **polling** was first developed by George Gallup in 1932. Polls rely on a **sample** of the population (a relatively small proportion of people who are chosen as *representative* of the whole) to measure public opinion. The key to the accuracy of opinion polls is **random sampling**, which operates on the principle that everyone should have an equal probability of being selected. However, there is always a certain amount of risk of inaccuracy involved, known as the **sampling error**.

Sophisticated technology is now available for measuring public opinion. Most polling is now done on the telephone with samples selected through **random digit dialing**, in which calls are placed to telephone numbers within randomly chosen exchanges. Supporters of polling consider that it is a *tool for democracy* by which policymakers can keep in touch with changing opinions on issues. Critics of polling think polls can weaken democracy by *distorting the election process*. Polls are often accused of creating a "**bandwagon effect**," in which voters may support a candidate only because they see that others are doing so. Moreover, emphasis on poll results sometimes has drowned out the *issues* of recent presidential campaigns. The election day **exit poll** is probably the most criticized type of poll. In the 1980, 1984, 1988, and 1996 presidential elections, the networks declared a winner while millions on the west coast still had hours to vote (but analysis of survey data shows that few voters have actually been influenced by exit poll results). In 2000, the exit polls received much of the blame for the media's inaccurate calls of the Florida result on election night. Perhaps the most pervasive criticism of polling is that by altering the *wording* of questions, pollsters can get pretty much the results they want.

Polls have revealed again and again that the average American has a low level of political knowledge. While people around the globe are less informed than they should be, Americans know even less. Increased levels of education over the last four decades and our information-rich modern society have scarcely raised public knowledge about politics. Part of the reason the American political system works as well as it does is that people do know what *basic values* they want upheld, even when they do not have information on policy questions or decision makers.

WHAT AMERICANS VALUE: POLITICAL IDEOLOGIES

Generally, Americans tend to identify themselves as conservatives more than moderates or liberals—which help to account for the relatively limited scope of government in the United States. But who identifies as a liberal or conservative often varies according to age, gender, race and socioeconomic status. Groups with political clout tend to be more conservative than groups whose members have often been shut out from the halls of political power.

Women are not a minority group, making up about 54 percent of the population, but they have nevertheless been politically and economically disadvantaged. Compared to men, women are more likely to support spending on social services and to oppose the higher levels of military spending, which conservatives typically advocate. This ideological difference between men and women has led to the **gender gap**, which refers to the regular pattern by which women are more likely to support Democratic candidates.

Ideological thinking is not widespread in the American public, nor are people necessarily consistent in their attitudes. For most people, the terms *liberal* and *conservative* are not as important as they are for political elites. Thus, the authors of the classic study *The American Voter* (Angus Campbell, et al.) concluded that to speak of election results as indicating a movement of the public to either the “left” or “right” is a misnomer because most voters do not think in such terms. Some polling data disputes media claims of a polarizing “culture war.” For example, long-term tracking polls indicate a gradually increasing acceptance of gays and lesbians among liberals, moderates, and conservatives alike.

Furthermore, those who do think in ideological terms are actually the least likely to shift from one election to the next. The relatively small percentage of voters who made up their minds in the last couple of days of the Bush-Gore campaign in 2000 were far more concerned with integrity and competence than ideology.

HOW AMERICANS PARTICIPATE IN POLITICS

Political participation encompasses the many activities used by citizens to influence the selection of political leaders or the policies they pursue. Paradoxically, the United States has a *participatory political culture*, but only 60 percent of Americans voted in the 2004 presidential election, and only 40 percent voted in the 2006 mid-term elections. Turnout in local elections is even lower.

Political scientists generally distinguish between two broad types of participation: conventional and unconventional. **Conventional participation** includes many widely accepted modes of influencing government, such as voting, trying to persuade others, ringing doorbells for a petition, and running for office. Although the decline of voter turnout is a development Americans should rightly be concerned about, a broader look at political participation reveals some positive developments for participatory democracy.

Unconventional participation includes activities that are often dramatic, such as protesting, civil disobedience, and even violence.

Protest is a form of political participation designed to achieve policy change through dramatic and unconventional tactics, and protests today are often orchestrated to provide

television cameras with vivid images. Throughout American history, individuals and groups have sometimes used **civil disobedience**, in which they consciously break laws that they think are unjust. Nonviolent civil disobedience was one of the most effective techniques of the civil rights movement in the American South. Although political participation can also be violent (as in some of the Vietnam War protests of the 1960s), perhaps the best indicator of *how well socialized Americans are to democracy* is that protest typically is aimed at *getting the attention of government* rather than at overthrowing it.

In the United States, participation is a *class-biased activity*, with citizens of higher socioeconomic status participating more than others. Minority groups like Hispanics and African Americans are below average in terms of political participation. However, the participation differences between these groups and the national average have been declining. When Blacks, Hispanics, and Whites of *equal incomes and educations* are compared, it is the *minorities who participate more* in politics.

UNDERSTANDING PUBLIC OPINION AND POLITICAL ACTION

While more people today think the government is too big rather than too small, a plurality has consistently called for spending on programs like education, healthcare, aid to big cities, protecting the environment, and fighting crime. Many political scientists have looked at these contradictory findings and concluded that Americans are *ideological conservatives* but *operational liberals*.

Americans often take for granted the opportunity to replace our leaders at the next election. Even if they are only voting according to the nature of the times, voters are being heard—which holds elected officials accountable for their actions.

CHAPTER OUTLINE

I. THE AMERICAN PEOPLE

A. Public opinion

1. The United States remains *one of the most diverse countries* in the world today.
2. The study of American **public opinion** aims to understand the distribution of the population's belief about politics and policy issues.
3. Such diversity *makes the study of American public opinion especially complex*, for there are many groups with a great variety of opinions.
4. The task is further complicated by the fact that people are often not well informed about the issues, and they may have contradictory attitudes.
5. There are also *consequences for democracy*: the least informed are also the least likely to participate in the political process, thereby leading to inequalities in who takes part in political action.

B. One way of looking at the American public is through **demography** (the science of population changes).

1. The most valuable tool for understanding demographic changes in America is the **census**, which was first conducted in 1790 to comply with the

- constitutional requirement that the government conduct an “actual enumeration” of the population every ten years.
2. Once a group can establish its numbers, it can then ask for federal aid in proportion to its size.
- C. The United States has always been a nation of immigrants.
1. Americans live in a *multicultural and multilingual society* that is becoming more diverse all the time.
 2. Despite this diversity, minority groups have *assimilated many basic American values*, such as the principle of equality.
- D. The American melting pot
1. The phrase “**melting pot**” refers to a mixture of cultures, ideas, and people.
 2. The United States will soon become a **minority majority** society where minority groups will outnumber the present White, Anglo-Saxon majority.
 3. Until recently, the largest minority group in the country has been the African-American population.
 4. The 2000 Census reported that for the first time the Hispanic population outnumbered the African-American population.
 5. Unlike Hispanics, who have come to America to escape poverty, the recent influx of Asians has been driven by a new class of professional workers looking for greater opportunity.
- E. Over the last fifty years, much of America’s population growth has been centered in the West and South, particularly with *movement to* the “sunbelt” states of Florida, California, and Texas *from* “rust belt” states like Pennsylvania, Ohio, and Michigan.
1. The process of **reapportionment** occurs every ten years following the census, and brings with it gains or losses of congressional representation as the states’ population balance changes. (New York has lost about one-third of its delegation over the last fifty years.)
- F. The *fastest growing age group* in America is composed of citizens *over age 65*: people are living longer as a result of medical advances, and the birth rate has dropped.
1. The *Social Security system* is second only to national defense as America’s most costly public policy; the growing demands to care for the elderly will almost certainly become more acute in the decades ahead.

II. HOW AMERICANS LEARN ABOUT POLITICS: POLITICAL SOCIALIZATION

- A. How Americans learn: the process of political socialization.
1. **Political socialization** is “the process through which an individual acquires his or her own political orientations.”
 2. Only a small portion of Americans’ political learning is formal; *informal learning* is much more important.
 3. **Agents of socialization** are numerous; they include family, the media, and schools.

- a. *The family's* role is central because of its monopoly on two crucial resources in the early years—time and emotional commitment. There may even be genetic predispositions towards attitudes.
 - b. The *mass media* has been referred to as “the new parent.”
- B. Politics is a lifelong activity.
 1. Aging increases one's *political participation* and the strength of one's *party attachment*.
 2. Political behavior is to some degree a *learned behavior*.

III. MEASURING PUBLIC OPINION AND POLITICAL INFORMATION

- A. Measuring public opinion.
 1. Public opinion **polling** was first developed by George Gallup in 1932.
 2. Polls rely on a **sample** of the population (a relatively small proportion of people who are chosen as *representative* of the whole) to measure public opinion.
 - a. A sample of about 1,000 to 1,500 people can be representative of the “**universe**” (the larger group whose opinion is being measured) of potential voters.
 - b. The key to the accuracy of opinion polls is **random sampling**, which operates on the principle that everyone should have *an equal probability of being selected*.
 - c. There is always a certain amount of risk of inaccuracy involved, known as the **sampling error**.
 3. Sophisticated technology is now available for measuring public opinion.
 - a. Computer and telephone technology have made surveying less expensive and more commonplace.
 - b. Most polling is now done on the telephone with samples selected through **random digit dialing**, in which calls are placed to telephone numbers within randomly chosen exchanges.
 - c. In this era of cell phones, many pollsters are starting to worry whether this methodology will continue to work much longer.
- B. The role of polls in American democracy.
 1. *Supporters* of polling believe it is a *tool for democracy* by which policymakers can keep in touch with changing opinions on issues.
 2. *Critics* of polling think it makes politicians *more concerned with following than leading* and may thus discourage bold leadership. Recent research by Jacobs and Shapiro argues that the common perception of politicians pandering to the results of public opinion polls may be mistaken. Rather than using polls to identify centrist approaches that will have the broadest appeal, Jacobs and Shapiro argue that elites use them to formulate strategies that enable them to avoid compromising on what they want to do.
 3. Polls can weaken democracy by *distorting the election process*; polls are often accused of creating a “**bandwagon effect**” in which voters may support a candidate only because they see that others are doing so.
 4. Emphasis on poll results sometimes has drowned out the *issues* of recent presidential campaigns.

5. The Election Day **exit poll** is probably the most criticized type of poll.
 6. Perhaps the most pervasive criticism of polling is that pollsters can get pretty much the results they want by altering the *wording* of questions. Although the *bias* in such questions may be easy to detect, the ethical problem is that *an organization may not report how the survey questions were worded*.
- C. What polls reveal about Americans' political information.
1. Polls reveal that the average American has a lower level of political knowledge than citizens of other countries at similar levels of development.
 2. Part of the reason the American political system works as well as it does is that people do know what *basic values* they want upheld, even when they do not have information on policy questions or decision makers.
 3. Increased levels of education and the increased availability of information over the last five decades have scarcely raised public knowledge about politics.

IV. WHAT AMERICANS VALUE: POLITICAL IDEOLOGIES

- A. Who are the liberals and conservatives?
1. A **political ideology** is a *coherent set of values and beliefs about public policy*.
 2. Overall, more Americans consistently choose the ideological label of conservative over liberal.
 3. Some groups are more liberal than others, and want to see government do more; this includes people under the age of 30, minorities, and women.
 4. Groups with political clout tend to be more conservative than groups whose members have often been shut out from the halls of political power.
 5. Women are not a minority group, making up about 54 percent of the population, but they have nevertheless been politically and economically disadvantaged. Compared to men, women are more likely to support spending on social services and to oppose the higher levels of military spending, which conservatives typically advocate. This ideological difference between men and women has led to the **gender gap**, which refers to the regular pattern by which women are more likely to support Democratic candidates.
- B. Do people think in ideological terms?
1. Ideological thinking is not widespread in the American public, nor are people necessarily consistent in their attitudes.
 2. The authors of the classic study *The American Voter* (Angus Campbell, et al.) first looked carefully at the ideological sophistication of the American electorate in the 1950s. They divided the public into four groups, according to ideological sophistication.
 - a. **Ideologues:** Only 12 percent could connect their opinions and beliefs with broad policy positions taken by parties or candidates.
 - b. **Group benefits voters:** Forty-two percent of Americans thought of politics mainly by the groups they liked or disliked.
 - c. **Nature of the times voters:** The "handle on politics" of 24 percent of the population was limited to whether the times seemed good or bad to them.
 - d. **No issue content voters:** Twenty-two percent of the voters were devoid of any ideological or issue content in their political evaluations;

most simply voted routinely for a party or judged the candidates by their personalities.

3. When *The American Voter* was updated in 2000, one finds some increase in the proportion of ideologues, but the overall picture looks much the same.
4. For most people, the terms “liberal” and “conservative” are just not as important as they are for the political elite such as politicians, activists, journalists, and the like.
5. Although some point to gay rights as an example of an issue that polarizes the country into a “culture war,” polling data indicates a gradually increasing acceptance of gays and lesbians among liberals, moderates, and conservatives alike.

V. HOW AMERICANS PARTICIPATE IN POLITICS

- A. **Political participation** encompasses the many activities used by citizens to influence the selection of political leaders or the policies they pursue.
 1. Americans have many avenues of political participation open to them.
 2. The United State has a *participatory political culture*, but only 60 percent of Americans voted in the 2004 presidential election, 40 percent turned out for the 2006 mid-term elections, and the numbers get even smaller for state and local elections.
- B. Political scientists generally distinguish between two broad types of participation: *conventional* and *unconventional*.
 1. **Conventional participation** includes many widely accepted modes of influencing government, such as voting, trying to persuade others, ringing doorbells for a petition, and running for office.
 2. **Unconventional participation** includes activities that are often dramatic, such as protesting, civil disobedience, and even violence.
 - a. **Protest** is a form of political participation designed to achieve policy change through dramatic and unconventional tactics, and protests today are often orchestrated to provide television cameras with vivid images.
 - b. Throughout American history, individuals and groups have sometimes used **civil disobedience** (consciously breaking a law that they think is unjust), illustrated in different eras by people like Henry David Thoreau in the 1840s and the Rev. Martin Luther King, Jr., in the 1950s and 1960s.
 - c. Nonviolent civil disobedience was one of the most effective techniques of the civil rights movement in the American South. Rev. King’s *Letter from a Birmingham Jail* is a classic defense of civil disobedience.
 - d. Political participation can also be violent (as in some of the Vietnam War protests of the 1960s).
- C. Class, inequality, and participation.
 1. In the United States, participation is a *class-biased activity*, with citizens of higher socioeconomic status participating more than others.
 2. *Minority groups* such as Hispanics and African Americans are *below average* in terms of political participation.

- a. The participation differences between these groups and the national average have been declining.
- b. When Blacks, Hispanics, and Whites of *equal incomes and educations* are compared, it is *minorities who participate more* in politics.

VI. UNDERSTANDING PUBLIC OPINION AND POLITICAL ACTION

- A. Public attitudes toward the scope of government.
 1. The question of government power is a complex one, but it is one of the key controversies in American politics today.
 - a. Public opinions on different aspects of the same issue do not always hold together well: while more people today think the government is too big rather than too small, a plurality has consistently called for spending on programs like education, healthcare, aid to big cities, protecting the environment, and fighting crime.
 - b. Many political scientists have looked at these contradictory findings and concluded that Americans are *ideological conservatives* but *operational liberals*.
- B. Democracy, public opinion, and political action.
 1. Americans often take for granted the opportunity to replace our leaders at the next election.
 2. Perhaps the best indicator of *how well socialized Americans are to democracy* is that protest typically is aimed at *getting the attention of government*, not at overthrowing it.
 3. Even if they are only voting according to the nature of the times, voters are clearly being heard, which holds elected officials accountable for their actions.

KEY TERMS AND CONCEPTS

Census: a count of the American population conducted every ten years.

Civil disobedience: a form of unconventional participation designed to consciously break a law thought to be unjust.

Demography: the science of human populations.

Exit poll: a poll taken at randomly selected polling places after the citizens have placed their votes.

Gender gap: a consistent attitudinal pattern where women are more likely than men to express liberal attitudes and to support Democratic candidates.

Melting pot: the mixture of cultures, ideas, and peoples in the United States.

Minority majority: a reference to the impending status of White, Anglo-Saxon Americans, currently holding majority status.

Political ideology: a coherent set of values and beliefs about public policy.

Political participation: the activities used by citizens to influence political outcomes.

Political socialization: the process by which citizens acquire their knowledge, feelings, and evaluations of the political world.

Protest: a form of political participation designed to change policy through unconventional tactics.

Public opinion: the distribution of the population's beliefs about politics and issues.

Random digit dialing: phone numbers are dialed at random around the country.

Random sampling: a polling technique which is based on the principle that everyone has an equal probability of being selected as part of the sample.

Reapportionment: the reallocation of 435 seats in the House of Representatives based on changes in residency and population found in the census.

Sample: a small proportion of the population chosen as representative of the whole population.

Sampling error: the level of confidence involved in a sample result—the level is dependent on the size of the sample.

TEACHING IDEAS: CLASS DISCUSSION AND STUDENT PROJECTS

- Public opinion surveys consistently reveal an astounding lack of public knowledge about politics. Give students a pop quiz on several major political issues and have them grade their own quizzes. Alternatively, administer to them a subset of questions from the exam that the U.S. Citizenship and Immigration Services administers to immigrants applying for citizenship. Briefly discuss their performance, and possible reasons for it. Then ask your students to discuss whether the American political system is affected by such a low level of public information.
- The textbook points out that the diversity of the American public and its opinions must be faithfully channeled through the political process in order for the American government to work efficiently and effectively. At the same time, the least informed among the public are also the least likely to participate in the political process. Ask your class to evaluate the effect that this inequality of participation has on the democratic process.
- Select a controversial topic such as flag burning, partial birth abortion, affirmative action, etc. Call for each student to devise a survey to measure attitudes on this issue and administer it to a group of friends. Their surveys will not be representative, so they should obtain very different results. Use the results to discuss the problems that may arise with improperly administered surveys, particularly if the public relies on the results.
- The authors of the textbook point out that more people today think the government is too big rather than too small, yet a plurality has consistently called for increased spending on domestic programs. Many political scientists have looked at these contradictory findings and concluded that Americans are ideological conservatives but operational liberals. Ask your class to examine this theory with reference to public debate over the latest presidential budget proposals.

- Have students visit the Internet site operated by Gallup, the National Election Study, or the General Social Survey to find public opinion data on a question of interest. Have each student write up, or present orally in class, what the question wording was, the response distribution, and how to interpret the data.
- The concept of political socialization is difficult for students to grasp without examples and discussion. Ask students to think about the role of political symbols in society. In particular, ask students to list these symbols and where they are most often seen. For example, the flag, the constitution, Uncle Sam, etc. Discuss the Pledge of Allegiance as a socializing agent for young children as well as activities during Fourth of July celebrations, which are often used to reinforce public values of nationalism, patriotism, and reverence for the Constitution. Once they have listed a variety of these, ask them to explain why the national anthem is sung at baseball games. Ask how many know all of the words, how many have stood but did not sing, and how many did not sing or stand while the national anthem was being sung at a baseball game. This exercise provides an unthreatening yet thoughtful way of emphasizing just how pervasive political socialization has been used to instill principles, values, and beliefs in citizens. A follow-up exercise may include a short essay debating whether the reciting of the Pledge of Allegiance or the singing of the national anthem is more appropriate for baseball games, given that most people can say the pledge without hesitation, but have trouble singing the national anthem.
- Ask students to watch criminal justice entertainment shows from the 1970s compared to those in the 2000s. Then have students write brief essays on the political value or information conveyed in these shows, and the implications of these for individuals' political beliefs.
- In the 2004 election, many of the exit polls showed John Kerry winning several states that George W. Bush actually won once the votes were counted. Discuss with the students some of the potential causes of this disparity in polling results and the actual vote count.
- Have the students watch a couple of episodes of *The Daily Show with Jon Stewart*. Have each student write an essay debating the legitimacy of this show as a positive tool for shaping public opinion. Point out to them that recent polls suggest that many 18–30-year-olds claim that this is their only source of world events.

BACKGROUND READING

Althaus, Scott L. *Collective Preferences in Democratic Politics*. New York: Cambridge University Press, 2003.

Alvarez, R. Michael, and John Brehm. *Hard Choices, Easy Answers*. Princeton, NJ: Princeton University Press, 2002.

Asher, Herbert. *Polling and the Public: What Every Citizen Should Know*. Washington, D.C.: Congressional Quarterly Press, 1998.

- Campbell, Angus, et. al. *The American Voter*. New York: John Wiley, 1960.
- Delli Carpini, Michael X., and Scott Keeter. *What Americans Know about Politics and Why It Matters*. New Haven: Yale University Press, 1996.
- Fiorina, Morris P. *Culture War? The Myth of a Polarized America*. 2nd ed. New York: Longman, 2006.
- Geer, John G. *Public Opinion and Polling Around the World*. Santa Barbara, CA: ABC-CLO, 2004.
- Key, V. O. *Public Opinion and American Democracy*. New York: Alfred A. Knopf, 1964.
- Kellstedt, Paul M. *The Mass Media and the Dynamics of American Racial Attitudes*. New York: Cambridge University Press, 2003.
- Lewis-Beck, Michael S., et al. *The American Voter Revisited*. Ann Arbor, MI: University of Michigan Press, 2008.
- Page, Benjamin I, and Robert Y. Shapiro. *The Rational Public*. Chicago: University of Chicago Press, 1992.
- Verba, Sidney, Kay Lehman Schlozman, and Henry E. Brady. *Voice and Equality*. Cambridge, MA: Harvard University Press, 1995.
- Zaller, John R. *The Nature and Origins of Mass Opinion*. Cambridge: University of Cambridge Press, 1992.

MEDIA SUGGESTIONS

Constructing Public Opinion: How Politicians and the Media Misrepresent the Public. Media Education Foundation, 2001.

An examination of how polling data is used by the media to construct as well as report public opinion.

Leading Questions. Films for the Humanities and Sciences, 1989.

Part of the Public Mind series distributed by Films for the Humanities and Sciences. This program examines public opinion polling and marketing techniques used in campaigns.

Magic Town. Dir. William Wellman. Robert Risken Productions, 1947.

An amusing movie starring James Stewart about a pollster who finds a town that perfectly mirrors the entire nation. A good illustration of the Hawthorne Effect.

CHAPTER SEVEN: THE MASS MEDIA AND THE POLITICAL AGENDA

PEDAGOGICAL FEATURES

- p. 241 **Figure 7.1:** *The Importance Journalists Assign to Various Roles of the Mass Media*
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- p. 247 **Young People and Politics:** *How the Under-30 Crowd Learns from Different Media Sources Compared to Older Americans*
- p. 249 **Table 7.1:** *The Top 25 Lycos Searches for the Week Before the 2004 Presidential Election*
- p. 253 **Figure 7.2:** *The Incredible Shrinking Sound Bite*
- p. 255 **You Are the Policymaker:** *Should the Networks Have to Provide Free Air Time to Presidential Candidates?*
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- p. 265 **For Further Reading**

LEARNING OBJECTIVES

After studying this chapter, students should be able to:

- Trace the development of the mass media and the ways in which presidents have used the media in different periods of our history.
- Describe the major sources that people rely on for their information about politics, and how technologies—especially the Internet—are changing this.
- Determine how journalists define what is newsworthy, where they get their information, and how they present it.
- Explain the role that the profit motive plays in decisions by the mass media on how to report the news.
- Examine and analyze the charge that the media have a liberal bias.
- Identify factors that would explain why the news is typically characterized by political *neutrality*.
- Determine methods used by political activists to get their ideas placed high on the governmental agenda.
- Clarify how the media act as *key linkage institutions* between the people and the policymakers.
- Explain how functions of the media may help to keep government small and how other functions may encourage the growth of government.

- Describe how the rise of television broadcasting has encouraged individualism in the American political system.
- Explain why the rise of the “information society” has not brought about a corresponding rise of an “informed society.”
- Summarize how the news and its presentation are important influences in shaping public opinion on political issues.

CHAPTER OVERVIEW

INTRODUCTION

The American political system has entered a new period of **high-tech politics** in which the behavior of citizens and policymakers, as well as the political agenda itself, is increasingly shaped by technology. The **mass media** are a key part of that technology. Television, radio, newspapers, magazines, and other means of popular communication are called mass media because they reach out and profoundly influence not only the elites but the masses. This chapter describes the historical development of the mass media as it relates to news coverage of government and politics. Questions regarding how news is defined, how it is presented, and what impact it has in politics are also addressed.

THE MASS MEDIA TODAY

Modern political success depends upon control of the mass media. Image making does not stop with the campaign. It is also a critical element in day-to-day governing since politicians’ images in the press are seen as good indicators of their clout. Politicians have learned that one way to guide the media’s focus successfully is to limit what they can report on to carefully scripted events. A **media event** is staged primarily for the purpose of being covered. A large part of today’s so-called *30-second presidency* is the slickly produced TV commercial. Few, if any, administrations devoted so much effort and energy to the president’s media appearance as did Ronald Reagan’s.

The Reagan White House operated on the following seven principles:

- 1) Plan ahead.
- 2) Stay on the offensive.
- 3) Control the flow of information.
- 4) Limit reporters’ access to the president.
- 5) Talk about the issues you want to talk about.
- 6) Speak in one voice.
- 7) Repeat the same message many times.

THE DEVELOPMENT OF MEDIA POLITICS

The daily newspaper is largely a product of the late nineteenth century, while radio and television have been around only since the first half of the twentieth century. As recently as the presidency of Herbert Hoover (1929–1933), reporters submitted their questions to

the president in writing, and he responded in writing (if at all). Franklin D. Roosevelt (1933–1945) was the first president to use the media effectively. Roosevelt held about *one thousand press conferences* in his 12 years in the White House and broadcast a series of “*fireside chats*” over the radio to reassure the nation during the Great Depression.

At the time of Roosevelt’s administration, the press had not yet started to report on a political leader’s public life. The events of the Vietnam War and the Watergate scandal soured the press on government. Today’s newspeople work in an environment of cynicism; the press sees ferreting out the truth as their job since they believe that politicians rarely tell the whole story. **Investigative journalism**—the use of detective-like reporting methods to unearth scandals—pits reporters against political leaders. There is evidence that TV’s fondness for investigative journalism has contributed to greater public cynicism and negativism about politics.

Scholars distinguish between two kinds of media: the **print media**, which include newspapers and magazines, and the **broadcast media**, which consist of television, radio, and the Internet. Each has reshaped political communication at different points in American history.

The first American daily newspaper was printed in Philadelphia in 1783, but daily newspapers did not become common until the technological advances of the mid-nineteenth century. Ever since the rise of TV news, however, newspaper circulation rates have been declining.

The broadcast media have gradually displaced the print media as Americans’ principal source of news and information. As a form of technology, television is almost as old as radio; the first television station appeared in 1931. Nevertheless, the 1950s and 1960s were the developmental years for American television. The first televised presidential debates were the 1960 Kennedy–Nixon debates. The poll results from this debate illustrate the visual power of television in American politics: whereas people listening to the radio gave the edge to Nixon, those who saw it on television thought Kennedy won.

Television took the nation to the war in Vietnam during the 1960s, and TV exposed governmental naïveté (some said it was outright lying) about the progress of the war. With the growth of *cable TV*, particularly the Cable News Network (CNN), television has entered a new era of bringing news to people (and to political leaders) *as it happens*. Since 1963, surveys have consistently shown that more people rely on TV for the news than on any other medium. And by a regular two-to-one margin, people think television reports are more believable than newspaper stories. Young people are particularly likely to rely on television, as opposed to newspapers, for news.

In 1934, Congress created the Federal Communications Commission (FCC) to regulate the use of airwaves. Today, the FCC regulates communications via radio, television, telephone, cable, and satellite. The FCC is an independent regulatory body, but in practice it is subject to many political pressures. The FCC has regulated the airwaves in three important ways. First, to prevent near-monopolies of control over a broadcast market, it has instituted rules to limit the number of stations owned or controlled by one company. Second, the FCC conducts periodic examinations of the goals and performance

of stations as part of its licensing authority. Third, the FCC has issued a number of fair treatment rules concerning access to the airwaves for political candidates and officeholders.

With the increase in cable channels and Internet usage, a recent trend has been the increase in “broadcast” channels that are oriented toward particularly narrow audiences, often referred to as **narrowcasting**. Traditional broadcast news is being partially replaced by political Web sites, bloggers, and even Jon Stewart’s *The Daily Show*. With so many readily available sources of information (cable, satellite, Internet, etc.) for so many specific interests, it will also be extremely easy for those who are not very interested in politics to completely avoid news and public affairs. Further, scholars are not impressed with the news value of most of what is broadcast on cable news networks. At the same time, those who *are* interested can now access far more information than before due to the limitless possibilities of the Internet and the democratization of the news through blogging and other trends. The result could well be an increasing inequality of political information, with the politically interested becoming even more knowledgeable while the rest of the public slips further into political apathy.

Only a relatively small number of TV stations are publicly owned in America, and these PBS stations play a minimal role in the news business, attracting low ratings. In contrast, in many other countries major TV networks are owned by the government.

REPORTING THE NEWS

Although the American media is free and independent when it comes to journalistic content, they are totally dependent on advertising revenues to keep their businesses going. That is, news reporting is a *business* in America in which *profits shape how journalists define what is newsworthy, where they get their information, and how they present it*. To a large extent, TV networks define *news* as what is entertaining to the average viewer.

A surprising amount of news comes from *well-established sources*. Most news organizations assign their best reporters to particular **beats**—specific locations from which news frequently emanates, such as Congress. Very little of the news is generated by spontaneous events or a reporter’s own analysis. Most stories are drawn from situations over which *newsmakers have substantial control*. For example, those who make the news depend on the media to spread certain information and ideas to the general public. Sometimes they feed stories to reporters in the form of **trial balloons**: information leaked to see what the political reaction will be.

TV news is little more than a headline service. With exceptions like the *NewsHour* (PBS) and *Nightline* (ABC), analysis of news events rarely lasts more than a minute. At the same time, complex issues—like nuclear power, the nation’s money supply, and pollution—are difficult to treat in a short news clip.

Strangely enough, as technology has enabled the media to pass along information with greater speed, news coverage has become less thorough. Newspapers once routinely reprinted the entire text of important political speeches; now the *New York Times* is virtually the only paper that does so—and even the *Times* has cut back sharply on this

practice. In place of speeches, Americans now hear sound bites of less than ten seconds on TV.

The charge that the media have a *liberal bias* has become a familiar one in American politics, and there is some limited evidence to support it. National reporters are more likely to call themselves liberal than the general public, and more journalists identify themselves as Democrats than Republicans.

A conclusion that news reporting contains little explicit *partisan or ideological* bias is *not* to argue that it does not *distort reality* in its coverage. Ideally, the news should mirror reality. In practice, there are too many potential stories for this to be the case. Journalists must select which stories to cover and to what degree. Due to economic pressures, the media are biased in favor of stories with high drama that will attract people's interest (rather than extended analyses of complex issues). Television is particularly biased toward stories that generate good pictures. Seeing a talking head (a shot of a person's face talking directly to the camera) is boring; viewers will switch channels in search of more interesting visual stimulation.

THE NEWS AND PUBLIC OPINION

For many years, students of the subject tended to doubt that the media had more than a marginal effect on public opinion. The “minimal effects hypothesis” stemmed from the fact that early scholars were looking for direct impacts—for example, whether the media affected how people voted. When the focus turned to how the media affect *what Americans think about*, more positive results were uncovered. The decision to cover or to ignore certain issues can affect public opinion. By focusing public attention on specific problems, the media influence the criteria by which the public evaluates political leaders.

THE MEDIA'S AGENDA-SETTING FUNCTION

As was explained in Chapter 1, people are trying to influence the government's **policy agenda** when they confront government officials with problems they expect them to solve. Interest groups, political parties, politicians, public relations firms, and bureaucratic agencies are all pushing for their priorities to take precedence over others. *Political activists* (often called **policy entrepreneurs**—people who invest their political “capital” in an issue) depend heavily upon the *media* to get their ideas placed high on the governmental agenda.

The *staging of political events to attract media attention* is a political art form. Important political events are orchestrated minute by minute with an eye on American TV audiences. Moreover, it is not only the elites who have successfully used the media. Civil rights groups in the 1960s relied heavily on the media to tell their stories of unjust treatment. Many believe that the introduction of television helped to accelerate the movement by graphically showing Americans (in both the North and South) what the situation was.

UNDERSTANDING THE MASS MEDIA

The media act as *key linkage institutions* between the people and the policymakers and have a profound impact on the political policy agenda.

The watchdog function of the media *helps to keep government small*. Many observers feel that the press is *biased against whoever holds office*, and that reporters want to expose those office-holders in the media. With every new proposal being met with skepticism, regular constraints are placed on the growth of government. Conversely, when they focus on injustice in society, the media inevitably *encourage the growth of government*. The media *portray government as responsible for handling* almost every major problem.

The rise of television has furthered individualism in the American political process. Candidates are now much more capable of running for office on their own by appealing to people directly through television. Television finds it easier to focus on individuals than on groups. As a result, parties have declined, and candidate personality is more important than ever.

The rise of the “information society” has not brought about a corresponding rise of an “informed society.” With the media’s superficial treatment of important policy issues, it is not surprising that the incredible amount of information available to Americans today has not visibly increased their political awareness or participation. The media’s defense is to say that this is what the people want. Since they are in business to make a profit, they have to appeal to the maximum number of people.

CHAPTER OUTLINE

I. THE MASS MEDIA TODAY

- A. The American political system has entered a new period of **high-tech politics** in which the behavior of citizens and policymakers, as well as the political agenda itself, is increasingly shaped by technology.
- B. The **mass media** are a key part of that technology. Television, radio, newspapers, magazines, and other means of popular communication are called mass media because they reach out and profoundly influence not only the elites but the masses.
- C. Modern political success depends upon control of the mass media.
 1. Candidates have learned that one way to *guide the media’s focus* is to limit what they report on to carefully *scripted events*. These events are known as **media events**—events that are staged primarily for the purpose of being covered.
 2. Image making does not stop with the campaign. It is also a critical element in day-to-day governing since politicians’ images in the press are seen as good indicators of their clout. For example, the Reagan administration was particularly effective in controlling the president’s image as presented by the media. A large part of today’s so-called *30-second presidency* (a reference to 30-second sound bites on TV) is the slickly produced TV commercial.

II. THE DEVELOPMENT OF THE MASS MEDIA

- A. The daily newspaper is largely a product of the late nineteenth century, while radio and television have been around only since the first half of the twentieth.
- B. As recently as the presidency of Herbert Hoover (1929–1933), reporters submitted their questions to the president in writing, and he responded in writing (if at all).
- C. Franklin D. Roosevelt (1933–1945) was the first president to use the media effectively. To Roosevelt, the media were a potential ally, and he promised reporters two **press conferences** (presidential meetings with reporters) a week.
- D. At the time of Roosevelt’s administration, the press had not yet started to report on a political leader’s private life: the press *never even reported to the American public that the president was confined to a wheelchair*.
 - 1. The events of the Vietnam War and the Watergate scandal soured the press on government. Today’s newspeople work in an environment of cynicism; the press sees *ferreting out the truth* as their job since they believe that politicians rarely tell the whole story.
 - 2. **Investigative journalism**—the use of detective-like reporting methods to unearth scandals—pits reporters against political leaders. There is evidence that TV’s fondness for investigative journalism has contributed to greater public cynicism and negativism about politics.
- E. The **print media**.
 - 1. Newspapers.
 - a. The first American daily newspaper was printed in Philadelphia in 1783, but daily newspapers did not become common until the technological advances of the mid-nineteenth century. Rapid printing and cheap paper made the “*penny press*” possible—a paper that could be bought for a penny and read at home.
 - b. Among the most influential newspapers today are the *New York Times* (a cut above most newspapers in its influence and impact almost from the beginning), the *Washington Post* (perhaps the best coverage inside Washington), and papers from a few major cities (the *Chicago Tribune*, the *Los Angeles Times*, and others). For most newspapers in medium-sized and small towns, the main source of national and world news is the Associated Press wire service.
 - c. Ever since the rise of TV news, newspaper circulation rates have been declining.
 - 2. Magazines.
 - a. The political content of leading magazines is pretty slim. Newsweeklies such as *Time*, *Newsweek*, and *U.S. News and World Report* rank well behind popular favorites such as *Reader’s Digest*, *TV Guide*, and *National Geographic*.
 - b. Serious magazines of political news and opinion (such as the *New Republic*, the *National Review*, and *Commentary*) are primarily read by the educated elite.
- F. The **broadcast media**.

1. The broadcast media have gradually displaced the print media as Americans' principal source of news and information. As a form of technology, television is almost as old as radio; the first television station appeared in 1931.
 2. The 1950s and 1960s were the adolescent years for American television.
 - a. The first televised presidential debate was the 1960 Kennedy–Nixon debate. The poll results from this debate illustrate the visual power of television in American politics: whereas people listening to the radio gave the edge to Nixon, those who saw it on television thought Kennedy won.
 - b. Television took the nation to the war in Vietnam during the 1960s, and TV exposed governmental naïveté (some said it was outright lying) about the progress of the war. President Johnson soon had two wars on his hands: one in Vietnam and the other at home with antiwar protesters—both covered in detail by the media.
- G. Government regulation of the broadcast media.
1. Congress created the Federal Communications Commission (FCC) in 1934 to regulate the use of airwaves.
 2. The FCC instituted rules to limit the number of stations owned by one company.
 3. The FCC conducts periodic examinations of the goals and performance of stations.
 4. The FCC has issued a number of fair treatment rules concerning access to the airwaves for political candidates and officeholders.
- H. From broadcasting to narrowcasting: the rise of cable news channels.
1. With the growth of *cable TV*, and a variety of cable news networks such as the Cable News Network (CNN), television has entered a new era of bringing news to people (and to political leaders) *as it happens*. However, scholars criticize cable news for its lack of deep news value and in-depth reporting.
 2. Broadcast news viewership continues to decline due to competition with cable news, the Internet, and other new technologies. Increasingly, **narrowcasting** has replaced broadcasting, meaning stations target particularly narrow audiences.
- I. The impact of the Internet.
1. Simply because so much political information is at one's fingertips via the Internet doesn't necessarily mean that many people will take advantage of these unprecedented opportunities to become well informed.
 2. The impact of the Internet on politics has thus far been more subtle than revolutionary.
 3. For campaigns, the ability to post more information and communicate with supporters via the Internet has helped somewhat in terms of political mobilization.
- J. Private control of the media.
1. Journalism has long been big business in the United States.
 2. Although the American media is independent when it comes to journalistic content, they are totally dependent on advertising revenues to keep their businesses going.
 3. Major metropolitan newspapers are owned mostly by chains.

III. REPORTING THE NEWS

A. Defining news.

1. In America, news reporting is a *business* in which *profits shape how journalists define what is newsworthy, where they get their information, and how they present it.*
2. Edward J. Epstein found that to a large extent, TV networks define *news* as what is entertaining to the average viewer.

B. Finding the news.

1. A surprising amount of news comes from *well-established sources*. Most news organizations assign their best reporters to particular **beats**—specific locations from which news frequently emanates, such as Congress.
 - a. Numerous studies of both the electronic and print media have found that journalists rely almost exclusively on such established sources to get their information.
 - b. Those who make the news depend on the media to spread certain information and ideas to the general public (sometimes via stories fed to reporters in the form of **trial balloons**—information leaked to see what the political reaction will be).
 - c. In turn, reporters rely on public officials to keep them informed. Official sources who have the information (such as knowledge about movements during the Gulf War) usually have the upper hand over those who merely report it.
 - d. Very little of the news is generated by spontaneous events or a reporter's own analysis. Most stories are drawn from situations over which *newsmakers have substantial control.*

C. Presenting the news.

1. Once the news has been “found,” it has to be compressed into a 30-second news segment or fit in among the advertisements in a newspaper.
2. TV news is little more than a headline service. With exceptions such as the *Newshour* (PBS) and *Nightline* (ABC), analysis of news events rarely lasts more than a minute. At the same time, complex issues—like nuclear power, the nation's money supply, and pollution—are difficult to treat in a short news clip.
3. Paradoxically, as technology has enabled the media to pass along information with greater speed, news coverage has become less complete. Americans now hear **sound bites** of ten seconds or less on TV.
4. Over the past decade, politicians have found it increasingly difficult to get their message covered on the major networks, leaving the field to the much less watched channels like CNN and MSNBC.

D. Bias in the news.

1. The charge that the media have a *liberal bias* has become a familiar one in American politics, and there is some limited evidence to support it.
 - a. National reporters are more likely to call themselves liberal than the general public, and a 2002 survey of journalists found that 40 percent leaned to the left, compared to 25 percent who leaned to the right.

2. A conclusion that news reporting contains little explicit *partisan or ideological* bias is *not* to argue that it does not *distort reality* in its coverage.
 - a. Ideally, the news should mirror reality. In practice, there are too many potential stories for this to be the case.
 - b. Journalists must select which stories to cover and to what degree. Due to economic pressures, the media are biased in favor of stories with high drama that will attract people's interest (rather than extended analyses of complex issues).
 - c. Television is particularly biased toward stories that generate good pictures; seeing a **talking head** (a shot of a person's face talking directly to the camera) is boring, and viewers will switch channels in search of more interesting visual stimulation.

IV. THE NEWS AND PUBLIC OPINION

- A. It is difficult to study the effects of the news media on people's opinions and behavior. One reason is that it is hard to separate the media from other influences. In addition, the effect of one news story on public opinion may be negligible, while the cumulative effect of dozens of news stories may be quite important.
- B. There is evidence that the news and its presentation are important in shaping public opinion about political issues.
 1. The decision to cover or to ignore certain issues can affect public opinion.
 2. By focusing public attention on specific problems, the media influence the criteria by which the public evaluates political leaders.
 3. There is also some evidence that people's opinions shift with the tone of the news coverage. Popular presidents prompt the public to support policies, but the most powerful influence is that of news commentators on public opinion change.
- C. Much remains unknown about the effects of the media and the news on American political behavior. Enough is known, however, to conclude that the media are a *key political institution*.

V. THE MEDIA'S AGENDA-SETTING FUNCTION

- A. As was explained in Chapter 1, people are trying to influence the government's **policy agenda** when they confront government officials with problems they expect them to solve.
 1. Interest groups, political parties, politicians (including the president and Congress), public relations firms, and bureaucratic agencies are all pushing for their priorities to take precedence over others.
 2. *Political activists* (often called **policy entrepreneurs**—people who invest their political “capital” in an issue) depend heavily upon the *media* to get their ideas placed high on the governmental agenda.
 - a. Policy entrepreneurs' weapons include press releases, press conferences, letter writing, convincing reporters and columnists to tell their side, trading on personal contacts, and resorting to staging dramatic events.

- b. It is not only the elites who have successfully used the media. Civil rights groups in the 1960s relied heavily on the media to tell their stories of unjust treatment. Many believe that the introduction of television helped to accelerate the movement by graphically showing Americans (in both the North and South) what the situation was.
- c. Conveying a *long-term, positive image* via the media is *more important than a few dramatic events*. Policy entrepreneurs depend on goodwill and good images. Public relations firms may be hired to improve a group's (or individual's) image and its ability to sell its policy positions.

VI. UNDERSTANDING THE MASS MEDIA

- A. The media act as *key linkage institutions* between the people and the policymakers and have a profound impact on the political policy agenda.
- B. The media and the scope of government.
 - 1. The **watchdog function** of the media *helps to keep government small*.
 - a. Many observers feel that the press is *biased against whomever holds office*, and that reporters want to expose office-holders in the media.
 - b. With every new proposal being met with skepticism, regular constraints are placed on the growth of government.
- C. Individualism and the media.
 - 1. The rise of television has furthered individualism in the American political process.
 - a. Candidates are now much more capable of running for office on their own by appealing to people directly through television.
 - b. Congress is difficult to cover on television because there are 535 members, but there is only one president, so the presidency has increasingly received more exposure vis-à-vis the Congress.
- D. Democracy and the media.
 - 1. The rise of the “information society” has not brought about the rise of the “informed society.”
 - a. The media do a much better job of covering the “horse race” aspects of politics than of covering substantive issues.
 - b. With the media's superficial treatment of important policy issues, it is not surprising that the incredible amount of information available to Americans today has not visibly increased their political awareness or participation.
 - 2. The media's defense is to say that this is what the people want. Network executives claim that they are in business to make a profit, and to do so they have to appeal to the maximum number of people.

KEY TERMS AND CONCEPTS

Beats: specific locations where news frequently occurs.

Broadcast media: one of two kinds of media, includes television and radio.

Chains: media conglomerates that control a large percentage of daily newspaper circulation and some television and radio stations as well.

High-tech politics: politics where technology has shaped political behavior and the political agenda.

Investigative journalism: the use of detective-like reporting methods to unearth scandals.

Mass media: media which reaches and influences both elites and the masses.

Media event: an event staged primarily for the purpose of being covered.

Narrowcasting: strategy of some broadcast channels that appeal to a narrow, rather than a broad, audience.

Policy agenda: the list of subjects or problems to which government officials and people outside of government closely associated with those officials are paying some serious attention at any given time.

Policy entrepreneurs: political activists who invest their political capital in an issue.

Press conferences: presidential meetings with the press.

Print media: one of two kinds of media, includes newspapers and magazines.

Sound bites: a portion of a speech aired on TV of fifteen seconds or less.

Talking head: a shot of a person's face talking directly into the camera.

Trial balloons: information leaked to the media to see what the political reaction will be.

TEACHING IDEAS: CLASS DISCUSSION AND STUDENT PROJECTS

- We frequently complain about media bias in reporting the policies and activities of the president and Congress, but officeholders also manipulate the media. In fact, modern political success depends upon control of the mass media. Have your class try to determine how each manipulates the other.
- Assign students to debate the question as to whether—or in what ways—the mass media are biased. Require that they develop working definitions of bias and gather evidence regarding characteristics of reporters and editors, chain ownership and advertising, and actual media content.
- Ask your students to discuss the role that the *profit motive* plays in how journalists report the news. What would be their reactions to proposals to have a *publicly funded* information service?
- If there is a local newspaper in your town, contact the editor and ask if one of the reporters would be willing to speak to your class. This is often seen as good public relations for the newspaper, and can enliven a class by bringing in the “real world” of reporting.
- For class discussion, ask students to evaluate whether American mass media has become too powerful. In particular, ask students to debate whether mass media's impact on public opinion and political outcomes is consistent with the concepts of limited government and balanced power. Is there any democratic way to hold mass media organizations accountable for their behavior?

- For class discussion, ask students to discuss the ways in which mass media influences the political thought and behavior of citizens. In particular, have students evaluate the media's role in creating an informed citizenry, which is vital to the successful functioning of democratic government.
- For a reading and writing connection, have students prepare a content analysis of the following news media including a local newspaper, the *New York Times*, the local television news, a national television news, the *NewsHour* on PBS television, a local radio station's news, and the local NPR radio station's news. Using a coding sheet, have them code the content of the headline news reports for one week. The coding sheet should include the date/time of the media presentations, the subject, the length of time the item was discussed, and an evaluation of the amount of detail provided for each news story. Then have students write an essay comparing and contrasting the differences in information acquired from each medium in terms of quality, depth, breadth, originality, and timeliness.
- Divide your class into five groups: network television, daily local newspapers, daily national newspapers, cable news, and radio. Ask that they watch, read, or listen to the news only from their arranged source for one or two weeks, and then quiz them on their knowledge of current events. Do students relying on one source know more than those relying on other sources?
- In recent years, the Fox News Network has become the most popular cable news network, almost doubling the audience of CNN and MSNBC. Have the students write an opinion essay as to why this is the case.

BACKGROUND READING

Bennett, W. Lance. *News: The Politics of Illusion*. 5th ed. New York: Longman, 2002.

Bimber, Bruce. *Information and American Democracy*. New York: Cambridge University Press, 2003.

Cook, Timothy E. *Governing with the News: The News Media as a Political Institution*. Chicago: University of Chicago Press, 1998.

Graber, Doris A. *Mass Media and American Politics*. 7th ed. Washington, D.C.: Congressional Quarterly Press, 2006.

Graber, Doris A., Denis McQuail, and Pippa Norris, eds. *The Politics of News, The News of Politics*. Washington, D.C.: Congressional Quarterly Press, 1998.

Iyengar, Shanto, and Donald R. Kinder. *News That Matters*. Chicago: University of Chicago Press, 1987.

Leighley, Jan E. *Mass Media and Politics: A Social Science Perspective*. Boston: Houghton Mifflin Company, 2004.

Neuman, W. Russell, Marion R. Just, and Ann N. Crigler. *Common Knowledge: News and the Construction of Political Meaning*. Chicago: University of Chicago Press, 1992.

Patterson, Thomas E. *Out of Order*. New York: Alfred A. Knopf, 1993.

Prior, Markus. *Post-Broadcast Democracy: How Media Choice Increases Inequality in Political Involvement and Polarizes Elections*. New York: Cambridge University Press, 2007.

Weaver, David H. et al. *The American Journalist in the 21st Century*. Mahwah, NJ: Lawrence Erlbaum, 2007.

West, Darrell M. *Air Wars: Television Advertising in Election Campaigns, 1952–2004*. Washington, D.C.: Congressional Quarterly Press, 2005.

MEDIA SUGGESTIONS

All the President's Men. Dir. Alan Pakula. Warner Bros. Pictures, 1976.

This dramatization of Woodward and Bernstein's investigation of the Watergate scandal stars Dustin Hoffman and Robert Redford.

Bill Moyers Journal: Buying the War. Films for the Humanities and Science, 2007.

This program examines how the Bush administration marketed and sold the war in Iraq and the role of the media in the process.

Disconnected: Politics, the Press and the Public. Films for the Humanities and Sciences, 2000.

This program focuses on the extent to which the media, with their emphasis on profit, deadlines, and entertainment, compromise media coverage of elections and disconnect the public from the political system.

Free Speech for Sale: A Bill Moyers Special. Films for the Humanities and Science, 1999.

Moyers and various public advocates discuss the ability of well-funded interests to dominate public debate, largely due to their access to the mass media.

On Air: America's Alternative Media. Films for the Humanities and Science, 2006.

This program takes a look at alternative forms of media including Internet blogs, satellite broadcasts, and documentaries.

Outfoxed: Rupert Murdoch's War on Journalism. Dir. Robert Greenwald. Carolina Productions, 2004.

This film alleges that Fox News is little more than an unprofessional and propagandistic corporate mouthpiece for Murdoch and his right-wing political beliefs. Greenwald bases much of his evidence on interviews with Fox employees themselves. Distributed by Moveon.org.

CHAPTER EIGHT: POLITICAL PARTIES

PEDAGOGICAL FEATURES

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LEARNING OBJECTIVES

After studying this chapter, students should be able to:

- Understand the roles of the party-in-the-electorate, the party as an organization, and the party-in-government.
- Examine how political parties in a democracy serve as key linkage institutions to translate inputs from the public into outputs from the policymakers.
- Describe Anthony Downs' *rational-choice theory* as a working model of the relationship among citizens, parties, and policy.
- Trace the historical development of the American two-party system.
- Describe what is meant by *party eras*, *critical elections*, and *party realignment*.
- Examine the significance of *divided government* and explain how the recent pattern of divided government may explain party *dealignment*.
- Differentiate between the ideology or party philosophy of the Democratic and Republican parties.
- Explain how electoral rules such as the "winner-take-all" plurality system have helped to maintain a two-party system in the United States.
- Evaluate the impact of third parties on American politics and the American party system.
- Describe the consequences or effects of the American two-party system as contrasted with a multiparty system.
- Understand the significance of the weak and decentralized character of the American party system.

CHAPTER OVERVIEW

INTRODUCTION

Although political parties may not be highly regarded by all, many observers of politics agree that political parties are central to representative government because they provide meaning to citizens' choices between competing candidates in elections. The alternating of power and influence between the two major parties is one of the most important elements in American politics. **Party competition** is the battle between Democrats and Republicans for the control of public offices. Historically, changes in party control of government have been associated with substantial changes in the nature and scope of government. The recent trend toward divided government—where Congress is controlled by one party and the president represents the other—seems to have blocked any major changes in the scope of government.

THE MEANING OF PARTY

As linkage institutions, **political parties** nominate candidates for office, coordinate campaigns, provide cues for voters, articulate policies, and coordinate policy-making. It is not always easy to distinguish between the parties since each rationally chooses to stay near the center of public opinion.

Political scientists often view parties as “*three-headed political giants*”—the party-in-the-electorate, the party as an organization, and the party-in-government. The **party-in-the-electorate** are voters who identify with a political party. Unlike many European political parties, American parties do not require dues or membership cards to distinguish members from nonmembers. One needs only to *claim to be a member* to be a member of a party in the United States. The **party as an organization** has a national office, a full-time staff, rules and bylaws, and budgets. These are the people who keep the party running between elections and make its rules. The **party-in-government** consists of elected officials who call themselves members of the party, such as the president and Congress. These leaders are the main spokespersons of the party.

In a large democracy, **linkage institutions** *translate inputs from the public into outputs from the policymakers*. Linkage institutions help ensure that public preferences are heard. The *four main linkage institutions* in the United States are *parties, elections, interest groups, and the media*. Parties perform five main functions. They pick candidates, run campaigns, give cues to voters, articulate policies, and coordinate policymaking.

Economist Anthony Downs has provided a working model of *the relationship among citizens, parties, and policy*, employing a rational-choice perspective. **Rational choice theory** assumes that parties and political actors have pragmatic goals (such as winning elections) that are more important to the party than ideology. A party that wants to win office will pursue policies that have broad public appeal.

THE PARTY-IN-THE-ELECTORATE

The *party-in-the-electorate* consists largely of symbolic images. There is no formal “membership” in American parties, and the party is a psychological label for most people. Party images help shape people’s **party identification**—the *self-proclaimed preference* for one of the parties. The clearest trend in party identification over the last five decades has been *the decline of both parties* and the resultant *upsurge of Independents* (mostly at the expense of the Democrats). Party identification still remains strongly linked to the voter’s choice, but **ticket-splitting** is near an all-time high, with many people voting with one party for one office and another for other offices. *Divided government* has often been the result (frequently with Republican control of the White House and Democratic control of Congress).

THE PARTY ORGANIZATIONS: FROM THE GRASS ROOTS TO WASHINGTON

American political parties are *decentralized and fragmented*. Unlike many European parties, formal party organizations in America have little power to enforce their decisions by offering rewards to officeholders who follow the party line and punishing those who do not. American national parties are a loose aggregation of state parties, which in turn are a fluid association of individuals, groups, and local organizations. There are fifty state party systems, no two exactly alike.

At one time, the urban political party was the basis of political party organization in America, but urban party organizations are no longer very active. From the late nineteenth century through the New Deal of the 1930s, scores of cities were dominated by **party machines** (party organizations that depend on material inducements such as **patronage**, in which jobs are awarded for political reasons rather than for merit or competence). Urban party organizations are also no longer very active as a rule. Progressive reforms that placed jobs under the merit system rather than at the machine’s discretion weakened the machine’s power. Filling in the void created by the decline of the inner-city machines has been a revitalization of party organization at the county level—particularly in affluent suburbs.

Some states give parties greater power than others to limit who can participate in their nomination contests. In **closed primaries**, only people who have registered in advance with the party can vote in its primary, thus encouraging greater party loyalty. In contrast, **open primaries** allow voters to decide on election day whether they want to participate in the Democratic or Republican contests. And most antiparty of all are **blanket primaries**, which present voters with a list of candidates from all the parties and allow them to pick some Democrats and some Republicans if they like. Organizationally, state parties are on the upswing throughout the country. Though no study of state parties has been conducted recently, it is almost certain that their financial resources have increased.

The **national convention** of each party meets every four years to write the party’s platform and nominate its candidates for president and vice president. The **national committee**, composed of representatives from the states and territories, keeps the party operating between conventions. Day-to-day activities of the national party are the

responsibility of the **national chairperson**, who hires the staff, raises the money, pays the bills, and attends to the daily duties of the party.

THE PARTY-IN-GOVERNMENT: PROMISES AND POLICY

Party control *does matter* because each party and the elected officials who represent it generally try to turn campaign promises into action. Voters and **coalitions** of voters are attracted to different parties largely (though not entirely) by their performance and policies. The parties have done a fairly good job over the years of *translating their platform promises into public policy*; the impression that politicians and parties never live up to their policy promises is largely erroneous.

PARTY ERAS IN AMERICAN HISTORY

America has always had two parties, in contrast to most democratic nations. Throughout American history, one party has been the dominant majority party for long periods of time (referred to as **party eras**). Party eras were punctuated by **critical elections**—in which new issues appeared that divided the electorate—and *party coalitions underwent realignment*. A **party realignment** (a rare event) is typically associated with a major crisis or trauma in the nation's history, such as the Civil War and the Great Depression, both of which led to realignments. A new coalition is formed for each party, and the coalition endures for many years.

Alexander Hamilton was probably the person most instrumental in establishing the first party system. The foundation of the **Federalist Party** developed from his politicking and coalition building while he tried to get congressional support for policies he favored (particularly a national bank). The **Democratic-Republicans** (also known as *Jeffersonians*), which replaced the Federalists, were based on a coalition derived from agrarian interests. This made the party popular in the rural South, but the coalition was torn apart by *factionalism*.

General Andrew Jackson founded the modern American political party when he forged a new coalition in 1828. Jackson was originally a Democratic-Republican, but soon after his election his party became known simply as the **Democratic Party** (which continues to this day). Jackson's successor, Martin Van Buren, was a realist who argued that a governing party needed a loyal opposition to represent other parts of society. This opposition was provided by the **Whigs**, but the Whig Party was only able to win the presidency when it nominated popular military heroes such as William Henry Harrison (1840) and Zachary Taylor (1848).

The **Republican Party** rose in the late 1850s as the antislavery party. The Republicans forged a coalition out of the remnants of several minor parties and elected Abraham Lincoln as president in 1860. The Civil War brought a *party realignment*, and the Republican Party was in ascendancy for more than sixty years (though the Democrats controlled the South). The election of 1896 was a watershed event during this era—a period when party coalitions shifted and the Republicans were entrenched for another generation.

The Republicans continued as the nation's majority party until the stock market crash of 1929 and the ensuing Great Depression. President Herbert Hoover's handling of the Great Depression was disastrous for the Republican Party. Franklin D. Roosevelt promised a *New Deal* and easily defeated Hoover in 1932. Congress passed scores of Roosevelt's anti-Depression measures during his *first 100 days* in office. Party realignment began in earnest after the Roosevelt administration got the country moving again, and Roosevelt forged the **New Deal coalition** from such diverse groups as union members, southerners, intellectuals, liberals, the poor, and African Americans.

Roosevelt's New Deal coalition made Democrats the majority party, although this power steadily weakened, particularly beginning in the mid-1960s. Much of the loss was due to the erosion of the former "Solid [Democratic] South," as conservative Democrats became increasingly unsatisfied with their national party over issues such as the Vietnam War, civil rights for women and minorities, and social welfare programs. Today the south is now strongly Republican, whereas there are fewer Republicans in the northeast and Pacific coast.

An unprecedented period of **divided government** (when the executive and legislative branches are controlled by different parties) has existed frequently since the mid-1960s. Many political scientists believe that this means that the party system has **dealigned**, with people gradually moving away from *both* political parties. Many scholars fear that the parties are becoming useless and ineffective through the pattern of divided government and dealignment.

THIRD PARTIES: THEIR IMPACT ON AMERICAN POLITICS

Although the United States has a two-party system, **third parties** have controlled enough votes in one-third of the last 36 presidential elections to have decisively tipped the electoral college vote. Third parties have brought new groups into the electorate, have served as "safety valves" for popular discontent, and have brought new issues to the political agenda.

The *most obvious consequence of two-party governance* is the *moderation of political conflict*. With just two parties, both will cling to a centrist position to maximize their appeal to voters. The result is often political ambiguity—parties will not want to risk taking a strong stand on a controversial policy if doing so will only antagonize many voters.

Election rules in the United States tend to favor a two-party system. For example, the **winner-take-all system** has meant that the party that receives a plurality is declared the winner and the other parties get nothing. By contrast, in a system that uses **proportional representation** (used in most European countries), legislative seats are allocated according to each party's percentage of the nationwide vote. A small party may use its seats to combine with one of the larger parties to form a coalition government.

UNDERSTANDING POLITICAL PARTIES

Political parties are essential components of democratic government. Ideally, candidates in a democracy should say what they mean to do if elected and be able to carry out what they promised once they are elected. Critics of the American party system complain that this is

all too often not the case, and have called for a more **responsible party** system. The responsible party model calls for each party to present distinct, comprehensive programs; carry out its program if elected; implement its programs if it is the majority party or state what it would do if it were in power; and accept responsibility for the performance of the government. American parties do not meet the criteria of the responsible party model. They are too *decentralized* to take a single national position and then enforce it; parties *do not have control* over those who run under their labels; and there is no mechanism for a party to discipline officeholders and ensure cohesion in policymaking.

There are also supporters of America's two-party system who criticize the responsible party model. They argue that the complexity and diversity of American society needs a different form of representation, and that local differences need an outlet for expression. Advocates of America's decentralized parties consider them appropriate for the type of *limited government* the founders sought to create and most Americans wish to maintain.

Because no single party in the United States can ever be said to have firm control over the government, the hard choices necessary to limit the growth of government are rarely addressed. Divided government has meant that neither party is really in charge, and each tries to blame the other for failures and limitations of government.

Parties are no longer the main source of political information. More and more political communication is through the mass media rather than face-to-face. However, there are indications that the parties are beginning to adapt to the high-tech age. State and national party organizations have become more visible and active. Although more people than ever before call themselves independent and split their tickets, the majority still identify with a party (and this percentage seems to have stabilized).

CHAPTER OUTLINE

I. INTRODUCTION

- A. **Party competition** is the battle between Democrats and Republicans for control of public office.
- B. Without this competition there would be no choice, and without choice there would be no democracy.

II. THE MEANING OF PARTY

- A. **Political parties** endorse candidates for public office and *try to win elections*.
- B. Party leaders often disagree about policy, and between elections the parties are nearly invisible.
- C. Political scientists often view parties as “*three-headed political giants*”—the *party-in-the-electorate*, the *party as an organization*, and the *party-in-government*.
 - 1. The **party-in-the-electorate** are individuals who perceive themselves as party members; many voters have a party identification that guides and influences their votes. Unlike many European political parties, American parties do not require dues or membership cards to distinguish members from

- nonmembers. To be a *member of a party*, one needs only to claim to be a member.
2. The **party as an organization** has a national office, a full-time staff, rules and bylaws, and budgets. Party activists *keep the party running* between elections and *make its rules*. Although American parties are loosely organized at the national, state, and local levels, the party organization *pursues electoral victory*.
 3. The **party-in-government** consists of *elected officials* who call themselves members of the party (such as president and Congress). These leaders *do not always agree on policy*, but they are the main spokespersons of the party.
- D. Tasks of the parties.
1. In a large democracy, **linkage institutions** *translate inputs from the public into outputs from the policymakers*.
 2. Tasks performed by parties as linkage institutions:
 - a. Parties pick policymakers; a **nomination** is the party's endorsement of a candidate.
 - b. Parties run campaigns; although parties *coordinate the campaigns*, recent technology has made it easier for candidates to campaign on their own.
 - c. Parties give **cues** to voters; even though party ties have weakened, most voters have a **party image** of each party; and many voters still rely on a party to give them cues for voting.
 - d. Parties *articulate policies*; within the electorate and in the government, each political party advocates specific policy alternatives.
 - e. Parties *coordinate policymaking*; each officeholder is also a member of a party, and the first place they look for support is to their fellow partisans.
- E. Parties, voters, and policy: The **Downs model**.
1. Anthony Downs has provided a working model of *the relationship among citizens, parties, and policy*, employing a *rational-choice perspective*.
 2. **Rational-choice theory** assumes that parties and political actors have goals (such as winning elections) that are more important to the party than ideology.
 - a. If both parties and voters are rational, both will try to select the best way to achieve their goals.
 - b. In order to win an office, the wise party pursues policies that have broad public appeal.
 - c. The majority of the American electorate are in the middle, and successful parties in the U.S. rarely stray far from the midpoint of public opinion.
 - d. Although we frequently hear criticism that there is not much difference between the Democrats and Republicans, the two parties have little choice (given the nature of the American political market).
 - e. From a rational-choice perspective, one should expect the parties to *differentiate* themselves to some extent. The two parties have to forge different identities in order to build voter loyalty.

III. THE PARTY-IN-THE-ELECTORATE

- A. The *party-in-the-electorate* consists largely of symbolic images.
 - 1. There is no formal “membership” in American parties.
 - 2. For most people, the party is a psychological label.
- B. Party images help shape people’s **party identification**—the *self-proclaimed preference* for one of the parties.
 - 1. The clearest trend in party identification over the last four decades has been *the decline of both parties* and the resultant *upsurge of Independents* (mostly at the expense of the Democrats).
 - 2. Virtually every major social group (except African-American voters) has moved toward a position of increased independence.
 - 3. By contrast, African Americans have moved even more solidly into the Democratic Party (currently only five percent of African Americans identify themselves as Republicans).
- C. Party identification remains strongly linked to the voter’s choice, but **ticket-splitting** (voting with one party for one office and another for other offices) is near an all-time high.
 - 1. Not only are there more Independents now, but those who still identify with a party are no longer as loyal in the voting booth as they once were.
 - 2. *Divided government* has frequently been the result (often with Republican control of the White House and Democratic control of Congress).

IV. THE PARTY ORGANIZATIONS: FROM THE GRASS ROOTS TO WASHINGTON

- A. American political parties are *decentralized and fragmented*.
 - 1. Unlike many European parties, formal party organizations in America have little power to enforce their decisions by offering rewards (like campaign funds and appointments) to officeholders who follow the party line and punishing those who do not.
 - 2. Candidates in the United States can get elected on their own, and the party organization is relegated to a relatively limited role.
- B. Local parties: the dying urban machines.
 - 1. Urban party organizations are no longer very active.
 - 2. At one time, the urban political party was the basis of political party organization in America.
 - a. From the late nineteenth century through the New Deal of the 1930s, scores of cities were dominated by **party machines** (a party organization that depends on material inducements such as **patronage**, in which jobs were awarded for political reasons rather than for merit or competence).
- C. The 50 state party systems.
 - 1. American national parties are a loose aggregation of state parties, which in turn are a fluid association of individuals, groups, and local organizations.
 - 2. There are 50 state party systems, no two exactly alike. Parties in some states (such as Pennsylvania) are well organized, have sizable staffs, and spend a lot of money, while parties in other states (such as California) are very weak.

3. The states are allowed great discretion in the regulation of party activities, and how they choose to organize elections influences the strength of the parties profoundly. States determine how easy it is to participate in nomination contests by their adoption of **closed primaries, open primaries, or blanket primaries.**
- D. The national party organizations.
1. The **national convention** of each party meets every four years to *write the party's platform* and *nominate its candidates for president and vice president.*
 2. The **national committee**, composed of representatives from the states and territories, keeps the party operating between conventions.
 3. Day-to-day activities of the national party are the responsibility of the **national chairperson.**
- V. **THE PARTY-IN-GOVERNMENT: PROMISES AND POLICY**
- A. Party control *does matter* because each party and the elected officials who represent it generally try to turn campaign promises into action.
 - B. Since candidates are now much less dependent upon parties to get nominated and elected, party control has weakened. In addition, presidents are now less likely to play the role of party leader, and members of Congress are less amenable to being led.
 - C. Voters and coalitions of voters are attracted to different parties largely (though not entirely) by their performance and policies.
 - D. The parties have done a fairly good job over the years of *translating their platform promises into public policy*—the impression that politicians and parties never produce policy out of promises is largely erroneous.

VI. PARTY ERAS IN AMERICAN HISTORY

- A. In contrast to the United States, most democratic nations have more than two parties represented in their national legislature.
- B. Throughout American history, one party has been the dominant majority party for long periods of time (referred to as **party eras**).
 1. Party eras were punctuated by **critical elections**, in which new issues appeared that divided the electorate and *party coalitions underwent realignment.*
 2. A **party realignment** (a rare event) is typically associated with a major crisis or trauma in the nation's history (such as the Civil War and the Great Depression, both of which led to realignments).
 3. A new **coalition** (a set of individuals or groups supporting the party) is formed for each party, and the coalition endures for many years.
 4. A critical election period may require more than one election before change is apparent, but the party system will be transformed in such a period.
- C. 1796–1824: The first party system.
 1. Alexander Hamilton was probably the person most instrumental in establishing the first party system.
 2. Hamilton needed congressional support for policies he favored (particularly a national bank), and the foundation of the **Federalist Party** came from his politicking and coalition building.

3. The Federalists were America's shortest-lived major party: they were poorly organized, they faded after John Adams was defeated in his reelection bid of 1800, and they no longer even had a candidate for president after 1820.
 4. The **Democratic-Republicans** (also known as *Jeffersonians*) replaced the Federalists. The Democratic-Republican coalition was derived from agrarian interests—which made the party popular in the rural South—but the coalition was torn apart by *factionalism*.
- D. 1828–1856: Jackson and the Democrats versus the Whigs.
1. General Andrew Jackson founded the modern American political party when he forged a new coalition in 1828.
 2. Jackson was originally a Democratic-Republican, but soon after his election his party became known simply as the **Democratic Party** (which continues to this day).
 3. Jackson's successor, Martin Van Buren, was a realist who argued that a governing party needed a loyal opposition to represent other parts of society. This opposition was provided by the **Whigs**, but the Whig Party was only able to win the presidency when it nominated popular military heroes such as William Henry Harrison (1840) and Zachary Taylor (1848).
 4. The Whigs had two distinct wings—northern industrialists and southern planters—who were brought together more by the Democratic policies they opposed than by issues on which they agreed.
- E. 1860–1928: The Republican Era.
1. The issue of slavery dominated American politics and split both the Whigs and the Democrats in the 1850s.
 2. The **Republican Party** rose in the late 1850s as the antislavery party.
 3. The Republicans forged a coalition out of the remnants of several minor parties and elected Abraham Lincoln as president in 1860.
 4. The Civil War brought a *party realignment*, and the Republican Party was in ascendancy for more than 60 years (though the Democrats controlled the South).
 5. The election of 1896 was a watershed during this era—a period when party coalitions shifted and the Republicans were entrenched for another generation.
 6. The Republicans continued as the nation's majority party until the *stock market crash of 1929* and the ensuing *Great Depression*.
- F. 1932–1964: The New Deal coalition.
1. President Herbert Hoover's handling of the Great Depression was disastrous for the Republicans. He took the position that "economic depression cannot be cured by legislative action."
 2. Franklin D. Roosevelt promised a *New Deal* and easily defeated Hoover in 1932.
 3. Congress passed scores of Roosevelt's anti-Depression measures during his *first 100 days* in office.
 4. Party realignment began in earnest after the Roosevelt administration got the country moving again, and Roosevelt forged the **New Deal coalition** from such diverse groups as union members, southerners, intellectuals, liberals, the poor, and African Americans.

- G. 1968–present: The era of divided government.
 - 1. The New Deal coalition has weakened, especially due to the erosion of the former “Solid [Democratic] South,” as conservative Democrats became increasingly unsatisfied with their national party. Today the south is now strongly Republican, whereas there are fewer Republicans in the northeast and Pacific coast.
 - 2. An unprecedented period of **divided government** (when the executive and legislative branches are controlled by different parties) has existed since 1968.
 - 3. It is likely that divided party government will be a regular phenomenon at both the federal and state levels.
- H. **Party dealignment** means that people are gradually moving away from *both* political parties.
 - 1. Many political scientists believe that the recent pattern of *divided government* means that the party system has dealigned rather than realigned.
 - 2. Many scholars fear that the parties are becoming useless and ineffective through the pattern of divided government and dealignment.
 - 3. Conversely, there are also some signs of party renewal, such as the increase in the regular Washington staff of the national party organizations.

VII. THIRD PARTIES: THEIR IMPACT ON AMERICAN POLITICS

- A. There are three basic varieties of **third parties**.
 - 1. Parties that promote certain causes—either a controversial single issue such as prohibition of alcoholic beverages or an extreme ideological position such as socialism or libertarianism.
 - 2. *Splinter parties* that are offshoots of a major party—such as Teddy Roosevelt’s Progressives (1912), Strom Thurmond’s States’ Righters (1948), and George Wallace’s American Independents (1968).
 - 3. Parties that are an extension of a popular individual with presidential aspirations—including John Anderson (1980) and Ross Perot (1992 and 1996).
- B. Importance of third parties.
 - 1. Third parties have controlled enough votes in one-third of the last 36 presidential elections to have decisively tipped the electoral college vote. For example, if Ralph Nader had not run in 2000, exit polls show quite conclusively that Al Gore would have been elected.
 - 2. They have brought new groups into the electorate and have served as “safety valves” for popular discontent.
 - 3. They have brought new issues to the political agenda.
- C. Consequences of the two-party system.
 - 1. The most obvious consequence of two-party governance is the *moderation of political conflict*.
 - a. With just two parties, both will cling to a centrist position to maximize their appeal to voters.
 - b. The result is often political ambiguity—parties will not want to risk taking a strong stand on a controversial policy if doing so will only antagonize many voters (as with Goldwater in 1964 and McGovern in 1972).

2. One of the major reasons the United States has only two parties represented in government is structural—America has a **winner-take-all system**.
 - a. In this system, the party that receives a plurality (more votes than anyone else, even though it may be less than a majority) is declared the winner; the other parties get nothing.
 - b. This system discourages small parties, because they never get a foothold in government upon which to build for the future.
3. In a system that uses **proportional representation** (used in most European countries), legislative seats are allocated roughly according to each party's percentage of the nationwide vote.
 - a. In most countries, parties must achieve a certain small percentage of votes to be awarded any seats in the legislature; this generally excludes extremist parties.
 - b. A **coalition government** is created when two or more parties combine their numbers to form a majority of seats in a national legislature. This form of government is quite common in the multiparty systems of Europe.

VIII. UNDERSTANDING POLITICAL PARTIES

- A. Political parties are considered *essential elements of democratic government*.
- B. Democracy and responsible party government.
 1. Ideally, in a democracy candidates should say what they mean to do if elected and be able to do what they promised once they are elected.
 2. Critics of the American party system complain that this is all too often not the case, and have called for a more disciplined, **responsible party** system.
 - a. The responsible party model calls for each party to present distinct, comprehensive programs; carry out its program if elected; implement its programs if it is the majority party or state what it would do if it were in power; and accept responsibility for the performance of the government.
 - b. Under this model, a party's officeholders would have firm control of the government, and they would be *collectively* (rather than individually) *responsible* for their actions.
 3. American parties do not meet the criteria of the responsible party model.
 - a. They are too *decentralized* to take a single national position and then enforce it.
 - b. Because virtually anyone can vote in party primaries, parties *do not have control* over those who run under their labels.
 - c. In America's loosely organized party system, there is no mechanism for a party to discipline officeholders and ensure cohesion in policymaking.
 4. There are supporters of America's two-party system who criticize the responsible party model.
 - a. They argue that the complexity and diversity of American society needs a different form of representation; local differences need an outlet for expression.

- b. America's decentralized parties are appropriate for the type of *limited government* the founders sought to create and most Americans wish to maintain.
- C. Individualism and gridlock.
 - 1. The Founding Fathers wanted to preserve individual freedom of action by elected officials.
 - a. With America's weak party system, this is certainly the case.
 - 2. Weak parties make it easier for politicians to avoid tough decisions; this creates *gridlock*.
- D. American political parties and the scope of government.
 - 1. Weak parties limit the scope of government in America because the president cannot command party discipline to pass important legislation, such as healthcare.
 - 2. Because no single party can ever be said to have firm control over government, the hard choices necessary to cut back on existing government spending are rarely addressed.
 - 3. *Divided government* has meant that neither party is really in charge, and each points the finger at the other.
- E. Is the party over?
 - 1. Parties are no longer the main source of political information.
 - a. More and more political communication is not face-to-face but rather through the mass media.
 - b. The technology of campaigning—television, polls, computers, political consultants, media specialists, and the like—can be bought by candidates for themselves, and they therefore do not need to be dependent on the party.
 - c. With the advent of television, *voters* no longer need the party to find out what the candidates are like and what they stand for.
 - d. The power of *interest groups* has grown enormously in recent years; they pioneered much of the technology of modern politics, including mass mailings and sophisticated fund-raising.
 - 2. There are indications that the parties are beginning to adapt to the high-tech age.
 - a. State and national party organizations have become more visible and active.
 - b. Although more people than ever before call themselves Independent and split their tickets, the majority still identify with a party (and this percentage seems to have stabilized).

KEY TERMS AND CONCEPTS

Blanket primaries: nomination contests where voters are presented with a list of the candidates from all the parties and allows them to pick candidates from all parties.

Coalition: a set of individuals and groups supporting a political party.

Coalition governments: governments where smaller parties combine with larger parties to control half of the seats in the legislature.

Closed primaries: nomination contests where only people who have registered in advance with the party can vote.

Critical election: an election where each party's coalition of support begins to break up and a new coalition of forces is formed for each party.

Linkage institutions: institutions such as parties, elections, interest groups, and the media translate inputs from the public into outputs from policymakers.

National chairperson: the person responsible for taking care of the day-to-day activities and daily duties of the party.

National committee: a coalition of representatives from the states and territories charged with maintaining the party between elections.

National convention: the supreme power within each party, which meets every four years, writes the party platform, and nominates candidates for president and vice president.

New Deal coalition: the new coalition of forces (urban, unions, Catholics, Jews, the poor, southerners, African Americans, and intellectuals) in the Democratic party that was forged as a result of national economic crisis associated with the Great Depression.

Open primaries: nomination contests where voters can decide on election day whether they want to participate in the Democratic or Republican contest.

Party competition: the battle between the two dominant parties in the American system.

Party dealignment: when voters move away from both parties.

Party eras: periods during which there has been a dominant majority party for long periods of time.

Party identification: the self-proclaimed preference for one or the other party.

Party image: what voters know or think they know about what each party stands for.

Party machine: a particular kind of party organization that depends on both specific and material inducements for rewarding loyal party members.

Party realignment: process whereby the major political parties form new support coalitions that endure for a long period.

Patronage: one of the key inducements used by machines whereby jobs are given for political reasons rather than for merit or competence alone.

Political party: a team of men and women seeking to control the governing apparatus by gaining office in a duly constituted election.

Proportional representation: an electoral system where legislative seats are allocated on the basis of each party's percentage of the national vote.

Rational-choice theory: a theory that seeks to explain political processes and outcomes as consequences of purposive behavior, where political actors are assumed to have goals and who pursue those goals rationally.

Responsible party model: an ideal model of party organization recommending that parties provide distinct programs, encourage candidates to be committed to the party platform,

intend to implement their programs, and accept responsibility for the performance of government.

Third parties: minor parties which either promote narrow ideological issues or are splinter groups from the major parties.

Ticket-splitting: voting with one party for one office and another for other offices.

Winner-take-all system: an electoral system where whoever gets the most votes wins the election.

TEACHING IDEAS: CLASS DISCUSSION AND STUDENT PROJECTS

- As a library project, ask students to read editorials for a period of several days following Ronald Reagan's 1980 and 1984 elections. They should have no difficulty in finding a number of articles that speculated on whether or not each was a *realigning* election. Ask them to write "follow-up" essays reflecting on Bill Clinton's victories in 1992 and 1996, on Bush's elections in 2000 and 2004, and Obama's election in 2008. Were the journalists correct in describing the early 1980s as a realigning period? Why or why not?
- For an interesting class discussion, first ask students whether there is any difference between Republicans and Democrats. Then repeat the question, focusing on specific political issues (e.g., abortion, obscenity, environment, tax policy) and which social groups identify with each party.
- To reinforce the lecture material, have students debate the reasons why parties have declined in popularity. In particular, have them draw comparisons between the benefits of membership in an interest group versus the benefits of membership in a political party.
- For a reading and writing connection, give students a research assignment where they compare and contrast the role of the parties and their platforms in the 2004 and 2008 elections and in the 1948 election of Harry S Truman. In particular, ask students to pay special attention to how media, especially television, were used to promote party goals. Because television was still very new in 1948 and was used strategically in 2004 and 2008, the comparisons should result in starkly different images of parties. In addition, students should see the difference between party-centered and candidate-centered campaigns.
- Have the students write an essay on the role of the increasing Latino population in America and the response by the political parties. In the 2004 and 2008 elections both parties targeted this large segment of the American population. Some argue that the Republicans are slowly winning the support of Latinos. Others argue Latinos will remain a strong voting block in the Democratic Party. Which is more likely to be the case in future elections, and why? Which issue positions is each party likely to promote in order to appeal to Latinos?

BACKGROUND READING

Aldrich, John H. *Why Parties? The Origin and Transformation of Political Parties in America*. Chicago: University of Chicago Press, 1995.

Diamond, Larry, and Richard Gunther, eds. *Political Parties and Democracy*. Baltimore: Johns Hopkins University Press, 2001.

Green, John C. and Daniel M. Shea. *The State of the Parties*. 5th ed. Lanham, MD: Rowman & Littlefield, 2007.

Hershey, Marjorie Randon. *Party Politics in America*. 13th ed. New York: Longman, 2009.

Maisel, L. Sandy, ed. *The Parties Respond*. Boulder, CO: Westview Press, 1990.

Rosenstone, Steven J., Roy L. Behr, and Edward H. Lazarus. *Third Parties in America*. 2nd ed. Princeton, NJ: Princeton University Press, 1996.

Sabato, Larry. *The Party's Just Begun: Shaping Political Parties for America's Future*. Glenview, IL: Scott, Foresman/Little Brown, 1988.

Sundquist, James L. *Dynamics of the Party System*. Rev. ed. Washington, D.C.: Brookings Institution, 1983.

Wattenberg, Martin P. *The Decline of American Political Parties, 1952-1996*. Cambridge, MA: Harvard University Press.

MEDIA SUGGESTIONS

A Third Choice. Films for the Humanities and Sciences, 1996.

This program examines third parties in the U.S., including interviews with academic experts, campaign memorabilia, and rare archival footage.

The Candidate. Dir. Michael Ritchie. Warner Brothers Pictures, 1972.

This film is about packaging a political candidate. In an exposé style, this movie provides a dramatic portrayal of high-tech political campaigning and public manipulation. In particular, it shows how a party-centered campaign can easily turn into a candidate-centered campaign with the help of professional campaign consultants.

Third Parties in American Politics. Films for the Humanities and Sciences, 1996.

This film examines the impact of third parties on presidential elections.

Election. Dir. Alexander Payne. Bonafide Productions and Paramount Pictures, 1999.

An insidiously funny black comedy starring Matthew Broderick, far superior to the book from which it was adapted. The battle lines are thus drawn, teacher against student, and it's anybody's guess who will emerge victorious. Director Alexander Payne, who co-wrote the script based on Tom Perotta's novel, recreates with amazing fidelity the countless little cruelties, minor disappointments, and petty grievances that often make high school such an interminable ordeal.

CHAPTER NINE: CAMPAIGNS AND VOTING BEHAVIOR

PEDAGOGICAL FEATURES

- p. 309 ***My State:*** *How Obama and Clinton Visited some States far more than Others During the 2008 Nomination Campaign*
- p. 311 ***You Are the Policymaker:*** *National and Regional Presidential Primary Proposals*
- p. 313 ***Young People and Politics:*** *Declining Interest in Working in Campaigns*
- p. 315 ***A Generation of Change:*** *The Incredible Increase in Fund-Raising for Presidential Nomination Campaigns*
- p. 319 ***Table 9.1:*** *The Big-Spending Political Action Committees (PACs)*
- p. 322 ***Figure 9.1:*** *Horse-Race Versus Policy Coverage on the Network News, 1988–2004*
- p. 326 ***Table 9.2:*** *Reported Turnout Rate in 2004 by Social Groups*
- p. 329 ***Table 9.3:*** *Changing Patterns in Voting Behavior: 1960 and 2008 Compared*
- p. 334 ***Figure 9.2:*** *The Electoral College Results for 2004 and 2008*
- p. 340 ***Chapter Test***
- p. 343 ***Internet Resources***
- p. 343 ***Get Connected:*** *The Delegate Selection Process and Presidential Nominations*
- p. 344 ***For Further Reading***

LEARNING OBJECTIVES

After studying this chapter, students should be able to:

- Describe the role of *campaign strategy* in winning a nomination to elective office.
- Describe and evaluate the *caucus* and *primary* methods of delegate selection.
- Contrast the American primary system of nomination with those of other countries such as those in Europe.
- Trace the historical evolution of national party conventions as nominating vehicles for presidential candidates.
- Consider the ways that high-tech campaigning has changed the nature of American politics.
- Examine the growth of PACs and their impact on modern campaigning.
- Assess the crucial (and increasing) role of money and technology in American campaign organizations.
- Analyze the role the media play in influencing the style and substance of presidential campaigns.
- Evaluate whether the “openness” of the American style of campaigning leads to a more democratic system or a less democratic system of government.
- Assess whether or not American presidential elections lead to an increased scope of government.

CHAPTER OVERVIEW

INTRODUCTION

The long and arduous campaign required of political hopefuls is unique to the United States. While some argue that this extended period is a useful testing ground, others question its effectiveness in helping citizens choose the best candidate. This chapter gives a better understanding of the pros and cons of having a nomination and campaign process that is so open and democratic.

THE NOMINATION GAME

There are two types of campaigns in American politics: campaigns for party nominations and campaigns between the nominees. A **nomination** is a party's official endorsement of a candidate for office. Success in the nomination game generally requires money, media attention, and momentum. Candidates attempt to manipulate each of these elements through **campaign strategy**. The goal of the nomination game is to win the majority of delegates' support at the **national party convention**.

From February through June of election year, the individual *state parties* choose their delegates to the national convention through caucuses or primaries. At one time, all states selected their delegates to the national convention in a meeting of state party leaders, called a **caucus**. Today, caucuses are open to all voters who are registered with the party. The Democrats also require strict adherence to complex rules of representation. Only a minority of states hold caucuses today, with the earliest caucus traditionally held in Iowa.

Today, most of the delegates to the national conventions are selected in **presidential primaries**, in which voters in a state go to the polls and vote for a candidate or for delegates pledged to a candidate.

The most recent restructuring of Democratic Party primaries began in 1968. Riots at the Democratic National Convention that year led to the creation of the **McGovern-Fraser Commission**, which established open procedures and quota requirements for delegate selection. The party has since replaced most of its quota requirements with affirmative action guidelines, with the exception that each delegation must be half male and half female. Many believe that the divisiveness of the Democrats' open procedures has hurt their ability to unite for the fall campaign, and the party has tried to restore a role for its party leaders by setting aside a portion of delegate slots for party leaders and elected officials (known as **superdelegates**).

The primary season begins in the winter in New Hampshire. At this early stage, the campaign is not for delegates but for *images*. **Frontloading** refers to the recent tendency of states to hold primaries early in the calendar in order to capitalize on media attention. A wide variety of different procedures are used because *state laws* (not federal) determine when primaries are held, and each state party sets up its own rules for how delegates are allocated.

There are a number of criticisms of the primary system, including the disproportionate amount of attention that is given to the early caucuses and primaries. Running for the presidency has become a full-time job, and prominent politicians find it difficult to take time out from their duties to run. Money plays too big a role in the caucuses and primaries. Participation is low and is not representative of the voting population. There are also numerous defenders of the system, including most of the candidates—many of whom feel that the primary contest keeps candidates in touch with the public.

The idea of holding a **national primary** to select party nominees has been discussed virtually ever since state primaries were introduced. According to its proponents, a national primary would bring directness and simplicity to the process for the voters as well as the candidates. The length of the campaign would be shortened, and no longer would votes in one state have more political impact than votes in another. Critics claim that because Americans would not want a candidate nominated with 25 percent of the vote from among a field of six candidates, in most primaries a runoff election between the top two finishers in each party would have to be held. Another common criticism of a national primary is that only well-established politicians would have a shot at breaking through in such a system.

Perhaps more feasible than a national primary is holding a series of **regional primaries** in which, say, states in the eastern time zone would vote one week, those in the central time zone the next, and so on. Recently, the National Association of Secretaries of State (the organization of the leading election officials of the states) endorsed a plan to establish regional primaries for the 2004 campaign. The major problem with the regional primary proposal, however, is the advantage gained by whichever region goes first.

The winners of presidential nominations are usually a foregone conclusion by the time of the national party conventions. The preferences of delegates selected in primaries and open caucuses are known before the conventions begin. Nevertheless, conventions are *a significant rallying point* for the parties and they are important in *developing the party's policy positions* as expressed in the **party platforms** and in *promoting political representation*.

THE CAMPAIGN GAME

Once nominated, candidates concentrate on **campaigning** for the **general election** in November. Three ingredients are needed to project the right image to the voters: a campaign organization, money, and media attention. To effectively organize their campaigns candidates must get a campaign manager, get a research staff and policy advisers, hire a pollster, get a good press secretary, and establish a Web site.

MONEY, ORGANIZATION, AND CAMPAIGNING

In the early 1970s, momentum developed for *campaign financing reform*. Several public interest lobbies led the drive for reform. Congress subsequently passed the **Federal Election Campaign Act (FECA)** in 1974 with the goals of *tightening reporting requirements for contributions* and *limiting overall expenditures*. A bipartisan **Federal Election Commission (FEC)** was created to administer campaign finance laws and enforce

compliance with their requirements. Among other provisions, the act provided public financing for presidential primaries and general elections, and limits were established for presidential campaign spending. The FEC and its subsequent amendments:

- . Created the Federal Election Commission (FEC).
- . Created the Presidential Election Campaign Fund.
- . Provided public financing for presidential primaries and general elections.
- . Limited presidential campaign spending.
- . Required disclosures.
- . Limited contributions.

Another amendment to the FECA made it easier for political parties to raise money for voter registration drives and the distribution of campaign material at the grass roots level or for generic party advertising. Money raised for such purposes was known as **soft money** and was not subject to any contribution limits. However, the soft money loophole was closed in 2002, only to prompt the rise of “**527 groups**” who are unlimited because they do not *directly* endorse candidates.

Campaign spending reforms have made campaigns more open and honest. All contribution and expenditure records are open, and FEC auditors try to make sure that the regulations are enforced. However, campaign reforms also encouraged the spread of **Political Action Committees (PACs)**. A PAC is formed when a business association, or some other interest group, decides to contribute to candidates whom it believes will be favorable toward its goals. Any interest group can now form its own PAC to directly channel contributions of up to \$5,000 per candidate.

PACs have proliferated in recent years and play a major role in paying for expensive campaigns. Critics of the PAC system believe that this has led to a system of open graft. They fear that the large amount of money controlled by PACs leads to PAC control over what the winners do once they are in office. On the other hand, this chapter notes that the perception that PACs control officeholders may be misleading since *most PACs give money to candidates who already agree with them*. The impact of PAC money on presidents is even more doubtful since presidential campaigns are partly subsidized by the public and presidents have well-articulated positions on most important issues.

Money is critical to electoral victory. Perhaps the most basic complaint about money and politics is that there may be a direct *link between dollars spent and votes received*. More important than having “more” money is having “enough” money.

Media coverage is determined by two factors: (1) how candidates use their advertising budget and (2) the “free” attention they get as news makers. Political consultants can turn a disorganized campaign into a well-run, high-tech operation. Candidates have little control over the news coverage they receive. Studies show that the media tend to focus most on the horse race aspects of the campaign.

THE IMPACT OF CAMPAIGNS

Political scientists have found that campaigns have three major *effects on voters*: reinforcement, activation, and conversion. Campaigns can reinforce voters' preferences for candidates; they can activate voters, getting them to contribute money or become active in campaigns; and they can convert by changing voters' minds. However, campaigns rarely convert; they *primarily reinforce and activate*. Political scientists' emphasis on reinforcement and activation reflects the fact that most people pay relatively little attention to campaigns in the first place. People have a remarkable capacity for **selective perception**, paying most attention to things they already agree with and interpreting events according to their own predispositions.

WHETHER TO VOTE: A CITIZEN'S FIRST CHOICE

Nearly two centuries of American electoral history include greatly expanded **suffrage** (the right to vote). Ironically, *proportionately fewer of those eligible* have chosen to exercise that right. The highest turnout of the past 120 years was the 80 percent turnout in 1896; in 2008, 61 percent of the adult population voted for president.

Individuals with high levels of political efficacy and civic duty are more likely to vote, as are individuals who see policy differences between the two parties. **Political efficacy** is the belief that ordinary people can influence the government. Some people will vote simply to support democratic government, that is, to make a long-term contribution toward preserving democracy. This is called doing one's **civic duty**.

Before voting, citizens in most states must register to vote, often a cumbersome procedure. Largely to prevent corruption associated with stuffing ballot boxes, states adopted **voter registration** laws around the turn of the century, which require individuals to first place their name on an electoral roll in order to be allowed to vote. Although these laws have made it more difficult to vote more than once, they have also discouraged some people from voting at all. The **Motor Voter Act**—which allows individuals to register to vote when they receive or renew their drivers' license—has made registration a little easier since 1993.

There are several distinguishing demographic *characteristics of voters and nonvoters*: education, age, race, gender, marital status, mobility, and government employment. Research suggests that some political outcomes would change if this class bias in turnout did not exist. Politicians listen far more carefully to groups with high turnout rates, as they know their fate may well be in their hands. Who votes does matter.

HOW AMERICANS VOTE: EXPLAINING CITIZENS' DECISIONS

Many journalists and politicians believe the winner of an election has a **mandate** from the people to carry out the policies he or she promised during the campaign. Conversely, political scientists know that different kinds of people vote a certain way for different reasons. Political scientists focus instead on *three major elements of voters' decisions*: voters' party identification, voters' evaluations of the candidates, and the match between voters' policy positions and those of the candidates and parties (known as policy voting).

Because of the importance of **party identification** in deciding how to vote, the parties tended to rely on groups that lean heavily in their favor to form their basic coalition. Scholars singled out party affiliation as the *single best predictor of a voter's decision* in the 1950s. With the emergence of television and candidate-centered politics, the hold of the party on the voter eroded substantially during the 1960s and 1970s, and then *stabilized at a new and lower level* during the 1980s.

Political psychologists Shawn Rosenberg and Patrick McCafferty show that it is possible to manipulate a candidate's appearance in a way that affects voters' choices. Other research has shown that the three most *important components of candidate image are integrity, reliability, and competence*.

Policy voting occurs when people base their choices in an election on *their own issue preferences*. True policy voting can take place only when several conditions are met: voters must have a clear view of their own policy positions; voters must know where the candidates stand on policy issues; voters must see a difference between candidates on these issues; and voters must actually cast a vote for the candidate whose policy positions coincide with their own. Research based on the 2000 election suggests that about 50 percent of survey respondents met the first three criteria.

One recurrent problem is that candidates often decide that the best way to handle a controversial issue is to cloud their positions in rhetoric; *both* candidates may be deliberately ambiguous. However, since the demise of party-boss "brokered" conventions in the 1960s, candidates of both major parties tend to stray from the ambiguous center in order to appeal to their parties' activists who vote in the primary season. That is, Democrats must appeal to liberals and Republicans must appeal to conservatives. The presidency of George W. Bush has prompted an unusually great polarization of voters because of his strong and controversial stands.

Barack Obama catapulted to national prominence as the result of a debut speech that electrified the Democratic Convention in 2004. Obama's message was one of unity and multi-culturalism. Obama became the primary alternative to Hillary Clinton for the Democratic nomination in 2008. His call for change resonated slightly more effectively than Clinton's experience. His strong support from young people, the highly educated, and African-Americans helped him win the nomination. John McCain had an easier time winning the Republican nomination. His reputation as a maverick had special appeal.

The campaign began as a close race. Obama's perceived advantages were on economic issues and personal intelligence. McCain's perceived advantages centered on his foreign policy issues and political experience. The credit crisis in late September proved a turning point in the campaign. The intense focus on the economy from the rest of the campaign provided Obama with opportunities to emphasize his popular plans. Furthermore, McCain's choice for vice president, Sarah Palin failed to appeal to the larger electorate in spite of her effectiveness as a campaigner. Obama was also able to effectively link McCain to the widely unpopular President George W. Bush. Final results gave Obama 53 percent of the vote and McCain 46 percent. The people's verdict in 2008, just as in 1800 and 1896, was that it was time for a change in Washington.

UNDERSTANDING CAMPAIGNS AND VOTING BEHAVIOR

Elections socialize and institutionalize political activity. They provide regular access to political power. America has an entrepreneurial system in which the people play a crucial role at every stage, from nomination to election. The price of this openness is that the process is a long and convoluted one that has little downtime before it revs up all over again. Today's campaigns clearly promote individualism in American politics.

Whether elections make the government pay attention to what the people think is a matter of debate. The clearest conclusion is that the *greater the policy differences between the candidates, the more likely voters will be able to steer government policies by their choices*. Candidates do not always do their best to clarify the issues. They are often ambiguous.

Because states are the key battlegrounds of presidential campaigns, candidates must tailor their appeals to the particular interests of each major state. During the campaign promises mount which may contribute to the growth of government. Elections also help to increase generalized support for government and its powers. Citizens in a democracy often seek to benefit from the state.

CHAPTER OUTLINE

I. THE NOMINATION GAME

- A. A **nomination** is a party's official endorsement of a candidate for office.
- B. Success in the nomination game generally requires money, media attention, and momentum. Candidates attempt to manipulate each of these elements through **campaign strategy**.
- C. Competing for delegates.
 - 1. The goal of the nomination game is to win the majority of delegates' support at the **national party convention**.
 - 2. From February through June of election year, the individual *state parties* choose their delegates to the national convention through *caucuses* or *primaries*.
 - 3. Party caucuses.
 - a. At one time, all states selected their delegates to the national convention in a meeting of state party leaders, called a **caucus**.
 - b. Today, caucuses are open to all voters who are registered with the party. The Democrats also require strict adherence to complex rules of representation.
 - c. Only a minority of states hold caucuses today, and the earliest caucus is traditionally held in Iowa.
 - d. Caucuses are usually *organized like a pyramid*.
 - 4. Presidential primaries.
 - a. Today, most of the delegates to the national conventions are selected in **presidential primaries**, in which voters in a state go to the polls and vote for a candidate or for delegates pledged to a candidate.

- b. The primary season begins in the winter in New Hampshire. At this early stage, the campaign is not for delegates but for *images*.
 - c. The Democratic Party began to reform its delegate selection procedures after a highly conflicted national convention in 1968; these reforms were proposed by the **McGovern-Fraser Commission**.
 - d. This reform created **superdelegates**, representing state and national party leaders.
 - e. The importance of early primaries has led to the practice of **frontloading**, as states try to move their primaries up in the calendar.
5. Political scientists and commentators have a number of *criticisms* of the primary and caucus system:
- a. A disproportionate amount of attention goes to the early caucuses and primaries. Critics think America's media-dominated campaigns are distorted by early primaries and caucuses.
 - b. Running for the presidency has become a full-time job, and prominent politicians find it difficult to take time out from their duties to run.
 - c. Money plays too big a role in the caucuses and primaries.
 - d. Participation is low and is not representative of the voting population. Although about 60 percent of the population votes in the November presidential election, only about 20 percent casts ballots in presidential primaries. Voters in primaries and caucuses also tend to be better educated and more affluent than voters in general.
 - e. The system gives too much power to the media.
6. Proposals for national and regional presidential primaries.
- a. Proponents of a **national primary** to select party nominees believe that this would bring directness and simplicity to the process for both the voters and the candidates. The length and cost of the campaign would be reduced, and concentration of media coverage on this one event would increase political interest and public understanding of the issues involved.
 - b. Critics of a national primary respond that a national primary would almost inevitably require a runoff election between the top two finishers to avoid having a candidate win with only a plurality of the vote. Big money and intense attention from the national media would become more crucial than ever, and obscure candidates would never have a chance.
 - c. There have also been proposals for **regional primaries** in which groups of states (such as those in a particular time zone) would vote one week, then another the following week, and so on. The major problem with the regional primary proposal is the advantage gained by whichever region goes first.
7. The convention send-off.
- a. The "drama" has now been largely drained from conventions, as the winner is usually a foregone conclusion. The preferences of delegates selected in primaries and open caucuses are known before the conventions begin.

- b. The last time there was any doubt as to who would win at the convention was in 1976, when Gerald Ford barely defeated Ronald Reagan for the Republican nomination.
- c. Today's conventions are carefully scripted to present the party in its best light.
- d. Conventions are *a significant rallying point* for the parties and are important in *developing the party's policy positions*.

II. THE CAMPAIGN GAME

- A. Once nominated, candidates concentrate on **campaigning** for the **general election** in November.
- B. Three ingredients are needed to project the right *image* to the voters: a campaign organization, money, and media attention.
- C. To effectively *organize* their campaigns, candidates must succeed in numerous key areas:
 - 1. Get a campaign manager.
 - 2. Get a research staff and policy advisers.
 - 3. Hire a pollster.
 - 4. Get a good press secretary.
 - 5. Establish a Web site.

III. MONEY AND CAMPAIGNING

- A. Campaigns are *expensive*, and they are growing more so in America's high-tech political arena.
 - 1. Candidates need money to build a campaign organization and to get the message out.
 - 2. There is a common *perception that money buys votes* and influence. This chapter examines the *role of money in campaigns*.
- B. Congress passed the **Federal Election Campaign Act** in 1974 with the goals of *tightening reporting requirements for contributions* and *limiting overall expenditures*. Provisions of the act (with subsequent amendments) included the following:
 - 1. A bipartisan **Federal Election Commission** was created to administer campaign finance laws and enforce compliance with their requirements.
 - 2. It created the **Presidential Election Campaign Fund**.
 - 3. It provided partial public financing for presidential primaries through **matching funds**.
 - 4. It provided full public financing for major party candidates in the general election.
 - 5. All candidates must file periodic financial disclosure reports with the FEC, listing who contributed funds and how the money was spent.
 - 6. It limited contributions, with individual contributions restricted to \$1,000; the McCain-Feingold Act raised this limit to \$2,000 as of 2004. PACs can give up to \$5,000 per federal candidate per election.

- C. Limiting the impact of money is a difficult task—loopholes are hard to close.
 - 1. A 1979 amendment to the original FECA made it easier for political parties to raise money for voter registration drives and the distribution of campaign material at the grass roots level. Money used for these purposes was referred to as **soft money**, because it was a loophole that had few limitations. The 2002 McCain-Feingold Act finally banned soft money after years of complaints by public-minded observers.
 - 2. Supposedly independent “**527 groups**” (named after a federal tax code section) are now the loophole of choice. They do not *directly* endorse candidates, but make strong and obvious attacks on their opponents.
- D. Campaign reforms also encouraged the spread of **Political Action Committees (PACs)**.
 - 1. The 1974 reforms created a new way for interest groups like business and labor to contribute to campaigns. Any interest group can now form its own PAC to directly channel contributions of up to \$5,000 per candidate.
 - 2. A PAC is formed when a business association—or some other interest group—decides to contribute to candidates it believes will be favorable toward its goals. After the group registers with the FEC as a PAC, the PAC can collect money from interested parties and contribute money to candidates. (All expenditures must be accounted for to the FEC.)
 - 3. PACs have proliferated in recent years and play a major role in paying for expensive campaigns. PACs contributed \$258 million to congressional candidates for the 2002 campaign.
 - 4. Critics of the PAC system believe that this has led to a system of open graft. They fear that the large amount of money controlled by PACs leads to PAC control over what the winners do once they are in office.
 - 5. However, the perception that PACs control officeholders may be misleading since *most PACs give money to candidates who already agree with them*. The impact of PAC money on presidents is even more doubtful since presidential campaigns are partly subsidized by the public and presidents have well-articulated positions on most important issues.
- E. Does money buy victory?
 - 1. Money is crucial to electoral victory. In this era of *high-tech politics*, pollsters, public relations people, direct-mail consultants, and many other specialists are crucial to a campaign.
 - 2. Perhaps the most basic complaint about money and politics is that there may be a direct *link between dollars spent and votes received*.
- F. The media and the campaign
 - 1. Media coverage is determined by how candidates use their advertising budget and the “free” attention they get as news makers.
 - 2. Political consultants can turn a disorganized campaign into a well-run, high-tech operation.
 - 3. Viewers can learn more from watching candidate ads than from watching TV news shows.
 - 4. News coverage tends to focus on the horse race aspects of the campaign.

IV. THE IMPACT OF CAMPAIGNS

- A. Politicians tend to overestimate the impact of campaigns. Political scientists have found that campaigns have three major *effects on voters*: **reinforcement**, **activation**, and **conversion**. Campaigns can *reinforce* voters' preferences for candidates; they can *activate* voters, getting them to contribute money or become active in campaigns; and they can *convert* by changing voters' minds.
- B. Campaigns *primarily reinforce and activate*. Only rarely do campaigns convert because several factors tend to weaken campaigns' impact on voters:
 - 1. People have a remarkable capacity for **selective perception**—paying most attention to positions they already agree with and interpreting events according to their own predispositions.
 - 2. Although party identification is not as important as it once was, such factors still influence voting behavior.
 - 3. Incumbents start with a substantial advantage in terms of name recognition and an established record.

V. WHETHER TO VOTE: A CITIZEN'S FIRST CHOICE

- A. Who votes and who stays home?
 - 1. Nearly two centuries of American electoral history include greatly expanded **suffrage** (the right to vote).
 - a. As the right to vote has been extended, *proportionately fewer of those eligible* have chosen to exercise that right.
 - b. The highest turnout of the past 100 years was the 80 percent turnout in 1896; in 2008, 61 percent of the adult population voted for president.
 - 2. One reason why many people vote is that they have a high sense of **political efficacy**—the belief that ordinary people can influence the government.
 - 3. Those who vote out of a sense of **civic duty** are people who vote simply to support democratic government (even if they are indifferent about the outcome).
- B. Registering to vote.
 - 1. States adopted **voter registration** around the turn of the century, largely to prevent corruption associated with stuffing the ballot boxes.
 - 2. Registration procedures differ greatly from one state to another.
 - a. States in the upper Great Plains and the Northwest make it easiest to register: there is no registration at all in North Dakota, and four states permit registration on election day.
 - b. States in the South still face the most difficult forms of registration (and they also record lower voter turnout rates).
 - c. This changed somewhat when the 1993 **Motor Voter Act** went into effect in 1996. The act requires states to permit people to register to vote at the same time citizens apply for driver's licenses. The Motor Voter Act *makes voter registration much easier* by allowing eligible voters to simply check a box on their driver's license application or renewal form.

- C. Social science research points to several characteristics of voters and nonvoters:
1. Voting is a class-biased activity. People with higher than average education and income levels have a higher rate of voting. This is *the most important factor affecting turnout*.
 2. Young people have the lowest turnout rate.
 3. Whites vote with greater frequency than members of minority groups (but Blacks and other minority groups with high levels of income and education have a higher turnout rate than Whites with comparable socioeconomic status).
 4. Women are slightly more likely than men to vote.
 5. Married people are more likely to vote than unmarried people.
 6. Government employees have higher than average turnout levels.

VI. HOW AMERICANS VOTE: EXPLAINING CITIZENS' DECISIONS

- A. Mandate theory of elections.
1. Many journalists and politicians believe the winner of an election has a **mandate** from the people to carry out the policies he or she promised during the campaign.
 2. Conversely, political scientists know that people rarely vote a certain way for the same reasons. Political scientists focus instead on *three major elements of voters' decisions*: voters' party identification, voters' evaluations of the candidates, and the match between voters' policy positions and those of the candidates and parties (known as policy voting).
- B. Party identification.
1. Because of the importance of **party identification** in deciding how to vote, the parties tended to rely on groups that lean heavily in their favor to form their basic coalition.
 2. With the emergence of television and candidate-centered politics, the *hold of the party on the voter* eroded substantially during the 1960s and 1970s, and then *stabilized at a new and lower level* during the 1980s.
 3. Scholars singled out *party affiliation* as the *single best predictor of a voter's decision* in the 1950s. Voting along party lines is less common today, particularly in elections for the House of Representatives, where *incumbency* is now of paramount importance.
- C. Candidate evaluations.
1. Political psychologists Shawn Rosenberg and Patrick McCafferty show that it is possible to manipulate a candidate's appearance in a way that affects voters' choices (even by substituting a good picture for a bad one).
 2. Research by Miller, Wattenberg, and Malanchuk shows that the three most important components of candidate image are integrity, reliability, and competence.
 - a. In 2000, George W. Bush scored higher than Al Gore in the dimension of integrity.
 - b. *Integrity* is not enough; a candidate must also be seen as being *reliable*, i.e., dependable and decisive. George H. W. Bush's image of *reliability* suffered when he broke the "no new taxes" pledge made during his 1992 campaign.

- c. The personal traits most often mentioned by voters involve *competence*, i.e., experience, which is one of the reasons it is hard to beat an incumbent president.
- D. Policy voting.
 1. **Policy voting** occurs when people base their choices in an election on *their own issue preferences*.
 2. True policy voting can take place only when several conditions are met.
 - a. Voters must have a clear view of their own policy positions.
 - b. Voters must know where the candidates stand on policy issues.
 - c. Voters must see a difference between candidates on these issues.
 - d. Voters must actually cast a vote for the candidate whose policy positions coincide with their own.
 3. One recurrent problem is that *candidates* often decide that the best way to handle a controversial issue is to cloud their positions in rhetoric; *both* candidates may be deliberately ambiguous.
 4. The *media* also may not be helpful, as they typically focus more on the “horse race” aspects of the campaign than on the policy stands of the candidates.
 5. Although it is questionable whether voters are really much more sophisticated now about issues, policy voting has become somewhat easier than in the past. Today’s candidates are compelled to take clear stands to appeal to their own party’s *primary* voters. The presidency of George W. Bush was marked by clear, strong positions, which have increased voter polarization. Thus, it is the *electoral process* that has changed rather than the voters.
- E. 2008: An Election about Change
 1. In 2004, Barack Obama catapulted to national prominence as the result of a debut speech that electrified the Democratic Convention.
 - a. Obama’s message emphasized unity and multi-culturalism.
 - b. Obama was viewed as a rising star and potential presidential candidate.
 2. Obama declared his presidential candidacy in February 2007.
 - a. Obama became the primary alternative to the front-runner Hillary Clinton.
 - b. Obama’s call for change resonated more effectively than Clinton’s emphasis on experience.
 3. The Republican nomination was wrapped up faster and more decisively by John McCain.
 - a. McCain’s reputation as a maverick had special appeal.
 4. The campaign seemed to be shaping up as a close battle between Obama’s perceived advantages on economic issues and personal intelligence versus McCain’s perceived advantages on foreign policy issues and political experience.
 5. The campaign took a turn in late September when the credit crisis rocked the financial markets.
 6. The intense focus on the economy for the rest of the campaign provided Obama with opportunities to emphasize his popular plans for middle-class tax cut, extension of health care coverage, and programs to support education.
 7. McCain’s choice of vice president, Sarah Palin did not resonate with the electorate even though she was an effective campaigner.

8. Obama was able to successfully link McCain to the unpopular President George W. Bush.
9. The final result of the election gave Obama 53 percent of the vote to McCain's 46 percent.
10. The people's verdict in 2008, just as in 1800 and 1896, was that it was time for a change in Washington.

VII. THE LAST BATTLE: THE ELECTORAL COLLEGE

- A. It is the **electoral vote** rather than the popular vote that actually determines the outcome of the presidential election.
 1. Because the founders wanted the president to be selected by the nation's elite—and not directly by the people—they created the electoral college.
 2. *Political practice* since 1828 has been for electors to vote for *the candidate who won their state's popular vote*.
- B. Mechanics of the electoral college system.
 1. Each state has as many electoral votes as it has U.S. senators and representatives. Today, state parties nominate slates of electors.
 2. All states except Maine and Nebraska have a **winner-take-all** system in which electors vote as a bloc for the candidate who received the most popular votes in the states.
 3. Electors meet in their respective states in December and mail their votes to the president of the Senate (vice president of the U.S.). The vote is counted when the new congressional session opens in January, and the result is reported by the president of the Senate.
 4. If no candidate receives an electoral college majority, the election is thrown into the House of Representatives, which must choose from among the top three electoral vote winners. The *unit rule* is used, which means that each state delegation has one vote (not each member).
 5. The electoral college system disproportionately favors less populated states because of the formula, heavily populated states because of the winner-take-all rules, and especially the swing states where it is not clear which party has the edge—that is where the bulk of the attention will go during the general election.

VIII. UNDERSTANDING NOMINATIONS AND CAMPAIGNS

- A. Are nominations and campaigns too democratic?
 1. The American political system *allows citizens a voice at almost every point* of the election process, unlike many countries where a political elite controls nominations and elections. As a result, party outsiders can get elected in a way that is virtually unknown outside the United States.
 2. The process has also led to what some call “the permanent campaign.” Some analysts believe the process of openness places numerous demands on citizens; many are overwhelmed by the process and do not participate.
 3. The burdens of the modern campaign can also discourage good candidates from entering the fray.

4. The current system of running for office has been labeled by Wattenberg as the “candidate-centered age.” It allows for politicians to decide on their own to run, to raise their own campaign funds, to build their own personal organizations, and to make promises as to how they specifically will act in office.
- B. Do elections affect public policy?
1. Elections, to some degree, affect public policy, and public policy decisions affect electoral outcomes.
 2. The greater the policy differences between the candidates, the more likely voters will be able to steer government policies by their choices.
 3. When individual candidates do offer a plan choice to the voters, voters are more able to guide the government’s policy direction.
- C. Do big campaigns lead to an increase in the scope of government?
1. Because states are the key battlegrounds of presidential campaigns, candidates must tailor their appeals to the particular interests of each major state.
 2. Candidates end up supporting a variety of local interests in order to secure votes from each region of the country.
 3. The way modern campaigns are conducted is thus one of the many reasons why politicians always find it easier to *expand the scope of American government* than to limit it.

KEY TERMS AND CONCEPTS

527 groups: independent groups that seek to influence the political process but are not subject to contribution restrictions because they do not directly advocate the election of a particular candidate.

Campaign strategy: the way candidates use scarce resources to achieve the nomination or win office.

Caucus: a meeting to determine which candidate delegates from a state party will support.

Civic duty: a belief in the obligation to vote.

Electoral college: the institution designated in the Constitution whereby a body of electors selects the president and vice president.

Federal Election Campaign Act: 1974 legislation designed to regulate campaign contributions and limit campaign expenditures.

Federal Election Commission (FEC): A bipartisan body charged with administering campaign finance laws.

Frontloading: states’ decisions to move their presidential primaries and caucuses to earlier in the nomination season in order to capitalize on media attention.

Mandate theory of elections: the belief that the election winner has a mandate to implement policy promises.

Matching funds: money provided to qualifying presidential candidates from the Presidential Election Campaign Fund, the amount of which is determined by the amount of contributions raised by the candidate.

McGovern-Fraser Commission: a committee in the Democratic Party charged with recommending changes in party rules to promote more representation of women and minorities in the delegate selection process.

Motor Voter Act: this legislation requires states to let people register to vote at the same time they apply for a driver's license.

National party convention: a meeting of the delegates from each state to determine the party's nominee for president.

National primary: a proposal by critics of the caucuses and presidential primaries systems who would replace these electoral methods with a nationwide primary held early in the election year.

Nomination: a party's official endorsement of a candidate for office.

Policy voting: occurs when people base their choices on how close a candidate's issues positions are to their own issue preferences.

Political Action Committee (PAC): a legal entity formed expressly for the purpose of contributing money to candidates and influencing electoral outcomes.

Political efficacy: the belief that ordinary people can influence government.

Presidential Election Campaign Fund: money from the \$3 federal income tax check-off goes into this fund, which is then distributed to qualified candidates to subsidize their presidential campaigns.

Presidential primaries: a state-level election to determine which candidate the state's delegates will support.

Regional primaries: a proposal by critics of the caucuses and presidential primaries to replace these electoral methods with a series of primaries held in each geographic region.

Selective perception: the act of paying the most attention to things that one already agrees with or has a predisposition towards.

Soft money: money raised by political parties for voter registration drives and the distribution of campaign material at the grass roots level, now banned at the national level.

Suffrage: the legal right to vote.

Superdelegates: delegates to the Democratic Party's national convention who obtain their seats on the basis of their positions within the party structure.

Voter registration: a requirement that citizens register to vote before the election is held.

TEACHING IDEAS: CLASS DISCUSSION AND STUDENT PROJECTS

- The great length and cost of American campaigns is unusual when compared to the systems used in other nations. Refer to the systems used in other Western democracies for comparison and contrast. Ask students to reflect on what changes (for example, changes to the types of candidates) might occur if the United States adopted a shorter campaign period. Preface the assignment with a reminder that reforms often are accompanied by unintended (and unforeseen) consequences, and ask your class to consider the implications of this possibility. Brief reading selections could be placed on reserve in the library to supplement this section.
- If student body officer elections attract a lot of attention on your campus (and are currently being held), have your students interview the various candidates regarding their campaign strategies. Have students write brief essays about how “their” candidate could improve his/her campaign.
- As a class project, have each student interview a recent candidate for a local office to get the candidate’s reaction to questions of ethics in campaigning. (If your class is large, consider dividing the class into teams to avoid overwhelming local candidates with requests for interviews!) What are the candidate’s views on the nature of the campaign process? Are there any concerns with possible invasion of privacy? Is “mud-slinging” becoming more of a problem? Is there a link between campaign expenditures and the number of votes received?
- If this is an election year, have students gather campaign material from both the Democratic and Republican local headquarters. Compare both the style and content of the literature. Suggest that students volunteer to work for a few hours for one of the parties, then compare notes in class about their experiences.
- According to the textbook: *“Reformers in the nineteenth and twentieth centuries held that the solution to democratic problems was more democracy.... In principle, more democracy always sounds better than less, but it is not such a simple issue in practice.”* This statement could be the basis for a provocative class discussion and analysis.
- Review and discuss debates regarding passage of the McCain–Feingold Campaign Finance Act of 2002. What did its sponsors initially include in the bill? How and why did the final version differ? Did it influence the 2008 election?
- For a reading and writing connection (and if the course is being taught in an election year), have students keep a clipping file on candidates for an office of their choice. Using broadcast and print media sources and descriptive journal entries for each item, have students identify the policy positions of the candidate from these sources. In a short analytical essay, have them compare the information they obtained through news coverage of their candidates with information they obtained in campaign advertisements about the candidates’ issue positions. Alternatively, students could compare media images between competing candidates using the same format.

- It is common to hear people in public life say, “Vote any way you want, but VOTE.” Have your class consider the following question: Do people in an election campaign organization really want to increase voter turnout, or are they interested in types of people who they think will vote for their party or candidate? Small groups of students could interview local officeholders and ask for their “realistic” opinions. Are “get out the vote” campaigns geared primarily to a party’s (or candidate’s) supporters? Compare their responses to similar questions asked of campus student leaders.
- Divide your class into two sections and ask them to take opposing positions on the following question: *Is it reasonable for a voter to look at personality and “character” traits as a basis for judging candidates for public office?* Class discussion on this topic is often animated and responsive.
- Ask students to research the legislative history of the Motor Voter Act. Who supported the act? Who opposed it? Why? Most political scholars have found that the Motor Voter Act has failed. Why?
- Bring information to class on procedures for voter registration. Consider using your class as the basis for a voter registration drive on campus. Information, publicity, and transportation are often problems for students who would like to vote.
- Ask students to debate the relative value of voter registration. Although voter registration is designed to minimize corruption or cheating in the election, what other possible reasons could be underlying the voter registration system? How do other democratic countries control corruption without voter registration? What other possible mechanisms exist that could control corruption and cheating equally well or better? What issues are raised by current proposals for on-line voting?
- For a reading and writing connection (and if the course is being taught in an election year), have students keep a clipping file on candidates for an office of their choice. Using broadcast and print media sources and descriptive journal entries for each item, have students identify the policy positions of the candidate from these sources. In a short analytical essay, have them compare the information they obtained through news coverage of their candidates with information they obtained in campaign advertisements about the candidates’ issue positions. Alternatively, students could compare media images between competing candidates using the same format.
- Ask students to debate (or write an analytical essay) on the desirability of having a tax on non-voting. What would be the benefits? What would be the costs? Does the Constitution protect citizens’ right to abstain from voting?
- Ask the students to estimate what the electoral vote would have been in 2000 had Ralph Nader not been on the ballot. (According to the text on page 261, Nader voters favored Gore over Bush by a 5-2 margin.)
- Assign an essay in which the students discuss their opinion of the 2000 election. Also have them discuss the changes states made for the 2004 and 2008 elections. Have states done a better job of making sure all votes are counted?

BACKGROUND READING

Aldrich, John H., David W. Rohde, and Paul R. Abramson. *Change and Continuity in the 2004 Elections*. Washington, D.C.: Congressional Quarterly Press, 2006.

Asher, Herbert B. *Presidential Elections and American Politics*. 5th ed. Pacific Grove, CA: Brooks/Cole, 1992.

Alvarez, R. Michael. *Information and Elections*. Ann Arbor, MI: University of Michigan Press, 1999.

Bartels, Larry M. *Presidential Primaries and the Dynamics of Public Choice*. Princeton, NJ: Princeton University Press, 1988.

Corrado, Anthony. *Campaign Finance Reform: Beyond the Basics*. Washington, D.C.: Brookings Institution, 2000.

Corrado, Anthony, Thomas Mann, Daniel Ortiz, and Trevor Potter. *The New Campaign Finance Sourcebook*. Washington, D.C.: Brookings Institution, 2000.

Edwards, George C. *Why the Electoral College Is Bad for America*. New Haven, Yale University Press, 2004.

Franz, Michael M., et al. *Campaign Advertising and American Democracy*. Philadelphia: Temple University Press, 2008.

Hart, Roderick P. *Campaign Talk: Why Elections Are Good For Us*. Princeton, NJ: Princeton University Press, 2000.

Institute of Politics, ed. *Campaign for President: The Managers Look at 2004*. Lanham, MD: Rowman & Littlefield, 2006.

Lavrakas, Paul J., and Michael W. Traugott. *Election Polls, the News Media and Democracy*. New York: Chatham House Publishers, 2000.

Leighley, Jan E. *Strength in Numbers? : The Political Mobilization of Racial and Ethnic Minorities*. Princeton, N.J.: Princeton University Press, 2001.

Longley, Lawrence D., and Neal R. Peirce. *The Electoral College Primer 2000*. New Haven: Yale University Press, 1999.

Malbin, Michael J., ed. *The Election After Reform: Money, Politics, and the Bipartisan Campaign Reform Act*. Lanham, MD: Rowman & Littlefield, 2006.

- Mayer, William G., ed. *The Making of the Presidential Candidates 2004*. Lanham, MD: Rowman & Littlefield, 2004.
- Miller, Warren, and J. Merrill Shanks. *The New American Voter*. Cambridge, MA: Harvard University Press, 1996.
- Orren, Gary R., and Nelson W. Polsby. *Media and Momentum: The New Hampshire Primary and Nomination Politics*. Chatham, NJ: Chatham House Publishers, 1987.
- Polsby, Richard G. and Aaron Wildavsky. *Presidential Elections*. 11th ed. Lanham, MD: Rowman & Littlefield, 2004.
- Rosenstone, Steven J., and John Mark Hansen. *Mobilization, Participation and Democracy in America*. New York: MacMillan, 1993.
- Simon, Adam F. *The Winning Message*. New York: Cambridge University Press, 2002.
- Wayne, Stephen H. *The Road to the White House 1996: The Politics of Presidential Elections*. New York: St. Martin's Press, 1997.

MEDIA SUGGESTIONS

American Presidents: The Most Powerful Man on Earth. Prod. Richard Smigielski. Mentorom Multimedia, 1998.

In this film, host Walter Cronkite presents a history of the highest office in the nation. Illustrated with newsreel footage and historic material from the National Archives, Cronkite guides the viewer through a look at past presidents from the Depression years through the cold war. Several scholars, including Alan Brinkley, Martin Walker, Ben Wattenberg, and Kenneth C. Davis, lend their commentary to the program. The office of the presidency has changed dramatically since the days of George Washington, and those developments, influenced by factors both at home and abroad, are outlined here.

Campaign Finance: Abuses and Reforms. Films for the Humanities and Sciences, 1997. This show provides an overview of campaign finance reform, including interviews with Senator John McCain, Bill Bradley, and Jack Kemp. The broad political issues are discussed, as are several case studies of campaign finance in Florida and Maine.

Debating Our Destiny: 40 Years of Presidential Debates. MacNeil/Lehrer Productions, 2000.

Clips of some of the most compelling debate exchanges over the past 10 years.

The Decline of Politics: The Superficial Democracy. Films for the Humanities and Sciences, 1992.

This program analyzes the influence of modern campaigns, which are characterized by form over substance in American democracy.

Primaries: Defining the Battle in New Hampshire. Films for the Humanities and Sciences, 2004.

This program explains the primary process and looks at the 2004 New Hampshire primary.

...So Goes the Nation. Dirs. Adam Del Deo and James Stern. Endgame Entertainment, 2006. This film examines the role of Ohio in the 2004 presidential election.

Unprecedented: The 2000 Presidential Election. Dirs. Richard Ray Pérez and Joan Sekler. Alternavision Films, 2002.

Narrated by Peter Coyote, this 50-minute film examines the controversial occurrences in Florida during the 2000 presidential election, leading up to the eventual administration of George W. Bush. The filmmakers examine what went wrong before, during, and after the disputed election decision. It explores the topic of voter rolls, ballot design, vote recounting, and actions of the Supreme Court.

Voting: A Right and a Responsibility. Films for the Humanities and Sciences, 1996.

This program addresses the importance of voting by looking at the history and issues of voting.

The War Room. Dir. D.A. Pennebaker and Chris Hedgus. Cyclone Films, 1993.

A look inside the 1992 presidential race, *The War Room*, explores the backstage side of national politics by examining the day-to-day operations of Bill Clinton's campaign staff.

CHAPTER TEN: INTEREST GROUPS

PEDAGOGICAL FEATURES

- p. 351 **Figure 10.1:** *Perceptions of the Dominance of Big Interests*
- p. 354 **Table 10.1:** *The Power 25*
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- p. 357 **Young People and Politics:** *The Virginia 21 Coalition*
- p. 360 **Figure 10.3:** *The Big Spenders on Lobbying, 1998–2007*
- p. 363 **You Are the Policymaker:** *Should PACs Be Eliminated?*
- p. 368 **My State:** *Labor Union Membership as a Percentage of State Workforce*
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- p. 376 **Chapter Test**
- p. 377 **Internet Resources**
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- p. 378 **For Further Reading**

LEARNING OBJECTIVES

After studying this chapter, students should be able to:

- Distinguish the essential differences between *interest groups* and *political parties*.
- Understand three basic theories of interest group politics: *pluralist* theory, *elite* theory, and *hyperpluralist* theory.
- Determine the factors that tend to make an interest group successful.
- Differentiate between a *potential group* and an *actual group*, and determine how the *free-rider problem* applies.
- Explain how interest groups try to shape public policy and how lobbyists represent interest groups in influencing the legislative agenda.
- Describe various types of interest groups.
- Explain why the authors of the textbook say that the problems of honest lobbying now appear to outweigh the traditional problems of dishonest lobbying.
- Summarize the implications for the size of government that are generated by the power of PACs and special interest groups.
- Analyze the appropriate role of interest groups within a democratic environment.

CHAPTER OVERVIEW

INTRODUCTION

Although voter turnout has declined substantially in the U.S. since the 1960s, the number of interest groups active in lobbying the government has increased dramatically. This chapter examines this growth and the activities of interest groups, why individuals join groups, and what groups get for their efforts.

DEFINING INTEREST GROUPS

An **interest group** is *an organization of people with similar policy goals* that tries to influence the political process to try to achieve those goals. In so doing, interest groups try to influence every branch and every level of government. This *multiplicity of policy arenas* helps distinguish interest groups from political parties. Interest groups may also support candidates for office, but American interest groups *do not run their own slate of candidates*. Interest groups are often *policy specialists*, whereas parties are policy generalists. Thus, interest groups do not face the constraint imposed by trying to appeal to everyone (unlike political parties).

THEORIES OF INTEREST GROUP POLITICS

Understanding the debate over whether honest lobbying creates problems requires an examination of three important theories: (1) **pluralist theory** argues that interest group activity brings representation to all as groups *compete and counterbalance one another*; (2) **elite theory** argues that *a few groups (mostly the wealthy) have most of the power*; (3) **hyperpluralist theory** asserts that *too many groups are getting too much of what they want*, resulting in a government policy that is often contradictory and lacking in direction.

According to pluralist theory, groups win some and lose some, but *no group wins or loses all the time*. Pluralists do not deny that some groups are stronger than others or that competing interests do not always get an equal hearing, but they argue that *lobbying is open to all* and should not be regarded as a problem. No one group is likely to become too dominant, and *all legitimate groups are able to affect public policy*.

Elite theorists maintain that *real power is held by relatively few people, key groups, and institutions*. Government is run by *a few big interests* looking out for themselves. Interest groups are extremely unequal in power; thus the preponderance of power held by elites means that *pluralist theory does not accurately describe the reality of American politics*.

This chapter also explores *hyperpluralism and interest group liberalism*. Theodore Lowi coined the phrase **interest group liberalism** to refer to the government's *excessive deference to groups*. Interest group liberalism holds that virtually all pressure group demands are legitimate and that the job of the government is to advance them all. In an effort to appease every interest, government agencies proliferate, conflicting regulations expand, programs multiply, and the budget skyrockets.

Interest group liberalism is promoted by the network of **subgovernments** (also known as **iron triangles**). These subgovernments are composed of key interest groups interested in a particular policy, the government agency in charge of administering the policy, and the members of congressional committees and subcommittees handling the policy. Relations between groups and the government become too cozy. Hard choices about national policy rarely get made as the government tries to favor all groups, leading to *policy paralysis*. Hyperpluralist theorists often point to the government's contradictory tobacco-related policies as an example of interest group liberalism.

WHAT MAKES AN INTEREST GROUP SUCCESSFUL?

Many factors affect the success of an interest group, including the *size of the group*, the *intensity*, and its *financial resources*. Small groups actually have *organizational advantages over large groups*. A **potential group** is composed of all people who might be group members because they share some common interest. An **actual group** is composed of those in the potential group who choose to join. Groups vary enormously in the degree to which they enroll their potential membership.

A **collective good** is something of value (such as clean air or a higher minimum wage) that cannot be withheld from a potential group member. Members of the potential group share in benefits that members of the actual group work to secure. The **free-rider problem** occurs when potential members decide not to join but to sit back and let other people do the work (from which they will nevertheless benefit). According to **Olson's law of large groups**, *the bigger the group, the more serious the free-rider problem*.

The primary way for large potential groups to overcome Olson's law is to provide attractive benefits for only those who join the organization. **Selective benefits** are goods that a group can restrict to those who pay their yearly dues, such as information publications, travel discounts, and group insurance rates.

One way a large potential group may be mobilized is through an issue about which *people feel intensely*, such as abortion. Both small and large groups enjoy a psychological advantage when intensity is involved. Politicians are more likely to listen when a group shows that it cares deeply about an issue, and many votes may be won or lost on a single issue. One of the biggest indictments of the interest group system is that it is biased toward the wealthy.

HOW GROUPS TRY TO SHAPE POLICY

The three *traditional strategies* of interest groups are *lobbying*, *electioneering*, and *litigation*. In addition, groups have recently developed *a variety of sophisticated techniques* to appeal to the public for widespread support.

Lobbyists are political persuaders who are the representatives of organized groups. They normally work in Washington, handling groups' legislative business. Although lobbyists primarily try to *influence* members of Congress, they can also be of *help* to them. For example, lobbyists are an important source of specialized information.

Political scientists are *not in agreement* about the *effectiveness of lobbying*. Much evidence suggests that lobbyists' power over policy is often exaggerated, but plenty of evidence to the contrary suggests that lobbying can sometimes persuade legislators to support a certain policy. It is difficult to evaluate the specific effects of lobbying because it is hard to isolate its effects from other influences. Like campaigning, lobbying is directed primarily toward *activating and reinforcing* one's supporters.

Getting the right people into office or keeping them there is another key strategy of interest groups. Many groups therefore get involved in **electioneering**—aiding candidates financially and getting their members to support them. **Political Action Committees (PACs)** have provided a means for groups to participate in electioneering more than ever before. PACs tend to contribute the most to incumbents, and to the party that holds the majority in Congress. Some PACs are particularly influential—in 2004, one quarter of all PAC money came from about one percent of the largest PACs.

Today, **litigation** is often used if an interest group fails in Congress or gets only a vague piece of legislation. Environmental legislation, such as the Clean Air Act, typically includes written provisions allowing ordinary citizens to sue for enforcement. Possibly the most famous interest group victories in court were by civil rights groups in the 1950s. These groups won major victories in court cases concerning school desegregation, equal housing, and labor market equality. Consumer groups have also used suits against businesses and federal agencies as a means of enforcing consumer regulations.

One tactic that lawyers employ to make the views of interest groups heard by the judiciary is the filing of *amicus curiae* (“friend of the court”) briefs. A more direct judicial strategy employed by interest groups is the filing of class action lawsuits, which enable a group of people in a similar situation to combine their common grievances into a single suit.

The practice of interest groups *appealing to the public for support* has a long tradition in American politics. Public opinion ultimately makes its way to policymakers, so interest groups carefully cultivate their public image.

TYPES OF INTEREST GROUPS

Political scientists loosely *categorize interest groups* into four main policy areas: some deal primarily with *economic issues*, others with issues of *the environment*, others with *equality* issues, and still others with the interests of all consumers. **Business groups** are ultimately concerned with wages, prices, and profits. In the American economy, government does not directly determine these factors. More commonly, public policy in America has *economic effects* through regulations, tax advantages, subsidies and contracts, and international trade policy. Business, labor, and farmers all worry about government regulations. Every economic group wants to get its share of direct aid and government contracts.

Environmental interests have exerted a great deal of influence on Congress and state legislatures. These groups have promoted pollution-control policies, wilderness protection, animal rights, and population control.

Equality interests are those groups representing minorities and women who make *equal rights* their main policy goal. Equality at the polls, in housing, on the job, in education, and in all other facets of American life has long been the dominant goal of African-American groups, the oldest of which is the National Association for the Advancement of Colored People (NAACP). The Nineteenth Amendment (1920) guaranteed women the right to vote, but other guarantees of equal protection for women remain absent from the Constitution. More recently, women's rights groups, such as the National Organization for Women (NOW), have lobbied for an end to sexual discrimination.

Consumers and public interest lobbies (representing groups that champion causes or ideas "in the public interest") are organizations that seek a "collective good," by which everyone should be better off—regardless of whether they joined in the lobbying. Consumer groups have won many legislative victories in recent years, including the creation in 1973 of the Consumer Product Safety Commission (authorized to regulate all consumer products and to ban particularly dangerous ones). Other public interest groups include groups that speak for those who cannot speak for themselves, such as children, animals, and the mentally ill; good-government groups such as Common Cause; religious groups; and environmental groups.

UNDERSTANDING INTEREST GROUPS

The problem of interest groups in America today remains much the same as James Madison defined it over 200 years ago. A free society must allow for the representation of all groups, yet groups are usually more concerned with their own self-interest than with the needs of society as a whole. For democracy to work well, it is important that self-interested groups not be allowed to assume a dominant position.

Madison's solution was to create an open system in which many groups would be able to participate. Groups with opposing interests would *counterbalance* each other. *Pluralist theorists* believe that a rough approximation of the public interest emerges from this competition. *Elite theorists* point to the proliferation of business PACs as evidence of more interest group corruption in American politics than ever. They particularly note that wealthier interests are greatly advantaged by the PAC system. *Hyperpluralist theorists* feel that government attempts to accommodate all major interest groups led to policy gridlock and the inability for government to initiate major policies.

The power of special interest groups through PACs and other means has implications for the *scope of government*. Most special interest groups strive to maintain established programs that benefit them—and thus promote larger government. Conversely, one can make the argument that the growth of the scope of government in recent decades accounts for a good portion of the proliferation of interest groups. As the federal government has become involved in more areas, more interest groups have risen to influence policy.

C CHAPTER OUTLINE

I. DEFINING INTEREST GROUPS

- A. Although turnout in elections has declined since 1960, participation in interest groups has mushroomed.
- B. Distinguishing interest groups from political parties.
 - 1. An **interest group** is an organization of people with similar policy goals that tries to influence the political process to try to achieve those goals. In so doing, interest groups try to influence every branch and every level of government.
 - 2. This *multiplicity of policy arenas* helps *distinguish interest groups from political parties*.
 - 3. Interest groups may support candidates for office, but American interest groups *do not run their own slate of candidates*. By contrast, interest groups in many countries with *multiparty systems* often form their own political parties to push for their demands.
 - 4. Interest groups are often *policy specialists*, whereas *parties are policy generalists*.
 - 5. Unlike political parties, interest groups do not face the constraint imposed by trying to appeal to everyone.

II. THEORIES OF INTEREST GROUP POLITICS

- A. Understanding the debate over whether honest lobbying creates problems requires an examination of three important theories.
 - 1. **Pluralist theory** argues that interest group activity brings representation to all; groups *compete and counterbalance one another*.
 - 2. **Elite theory** argues that *a few groups (mostly the wealthy) have most of the power*.
 - 3. **Hyperpluralist theory** asserts that *too many groups are getting too much of what they want, resulting in a government policy that is often contradictory and lacking in direction*.
- B. Pluralism and group theory.
 - 1. In pluralist theory, the extensive organization of competing groups is seen as evidence that influence is widely dispersed among them. *Groups win some and lose some, but no group wins or loses all the time*.
 - 2. A *group theory of politics* contains several essential arguments.
 - a. Groups provide a key link between people and government whereby all legitimate interests in the political system can get a hearing from government.
 - b. Groups compete, and interests constantly make claims on one another.
 - c. No one group is likely to become too dominant. When one group grows too powerful, its opponents are likely to intensify their organization and thus restore balance to the system.
 - d. Groups usually play by the “rules of the game,” with few groups lying, cheating, stealing, or engaging in violence.
 - e. Groups weak in one resource can use another. All legitimate groups are able to affect public policy.

3. Pluralists do not deny that some groups are stronger than others or that competing interests do not always get an equal hearing, but they argue that *lobbying is open to all and should not be regarded as a problem.*
- C. Elites and the denial of pluralism.
1. Elite theorists maintain that *real power is held by relatively few people, key groups, and institutions.* Government is run by a few big interests looking out for themselves.
 2. Elitists point to *interlocking and concentrated power centers.* About one-third of top institutional positions are occupied by people who hold more than one such position.
 3. The fact that there are numerous groups proves nothing because *groups are extremely unequal in power.* When confronted with the power of multinational corporations, consumer interests are easily pushed aside.
 4. Honest lobbying is a problem because it benefits the few at the expense of the many.
- D. Hyperpluralism and interest group liberalism.
1. Hyperpluralists argue that *the pluralist system is out of control.*
 2. Theodore Lowi coined the phrase **interest group liberalism** to refer to the government's *excessive deference to groups.*
 3. Interest group liberalism holds that virtually all pressure group demands are legitimate and that the job of the government is to advance them all. In an effort to appease every interest, government agencies proliferate, conflicting regulations expand, programs multiply, and the budget skyrockets.
 4. Interest group liberalism is promoted by the network of **subgovernments** (also known as **iron triangles**). These subgovernments are composed of key interest groups interested in a particular policy, the government agency in charge of administering the policy, and the members of congressional committees and subcommittees handling the policy.
 5. Relations between groups and the government become too cozy. Hard choices about national policy rarely get made as the government tries to favor all groups, leading to *policy paralysis.* Hyperpluralist theorists often point to the government's contradictory tobacco-related policies as an example of interest group liberalism.
 6. Ironically, the recent interest group explosion is seen by some as *weakening the power of subgovernments.* With so many more interest groups to satisfy and with many of them competing against one another, a cozy relationship between groups and the government is more difficult to sustain.

III. WHAT MAKES AN INTEREST GROUP SUCCESSFUL?

- A. The surprising ineffectiveness of large groups.
1. Many factors affect the success of an interest group, including the *size of the group*, the *intensity*, and its *financial resources*. Small groups actually have *organizational advantages over large groups.*
 2. A **potential group** is composed of all people who might be group members because they share some common interest.

3. An **actual group** is composed of those in the potential group who choose to join. Groups vary enormously in the degree to which they enroll their potential membership.
4. A **collective good** is something of value (such as clean air or a higher minimum wage) that cannot be withheld from a potential group member. Members of the potential group share in benefits that members of the actual group work to secure.
 - a. Economist Mancur Olson points that all groups—as opposed to individuals—are in the business of providing collective goods. The **free-rider problem** occurs when potential members decide not to join, but rather to sit back and let other people do the work (from which they will nevertheless benefit).
 - b. According to **Olson’s law of large groups**, *the bigger the group, the more serious the free-rider problem*.
 - (1) It is easier to organize a small group with clear economic goals than it is to organize a large group with broader goals.
 - (2) Small groups have an organizational advantage over large ones because a given member’s share of the collective good in a small group may be great enough that he or she will try to secure it; but in the largest groups, each member can only expect to get a tiny share of the policy gains.
 - c. This advantage of small groups helps to explain why public interest groups have a hard time financially. In contrast, the lobbying costs and benefits for business are concentrated. Large corporations also enjoy an inherent size advantage. Small potential groups like businesses have an easier time organizing themselves for political action than large potential groups, such as consumers.
 - d. The primary way for large potential groups to overcome Olson’s law is to provide **selective benefits**. These are goods that a group can restrict to those who pay their yearly dues, such as information publications, travel discounts, and group insurance rates.

B. Intensity.

1. One way a large potential group may be mobilized is through an issue about which *people feel intensely*, such as abortion.
 - a. Both small and large groups enjoy a psychological advantage when intensity is involved. Politicians are more likely to listen when a group shows that it cares deeply about an issue, and many votes may be won or lost on a single issue.
 - b. A **single-issue group**—which has a narrow interest, dislikes compromise, and single-mindedly pursues its goal—characteristically deals with issues that evoke strong emotions (such as nuclear power plants, gun control, and abortion).
2. Perhaps the most emotional issue of all in recent years has been that of abortion. Regardless of which side candidates for political office are on, they will be taking heat on the abortion issue for years to come.

- C. Financial resources.
 - 1. Critics charge that PACs—as the source of so much money in today’s expensive high-tech campaigns—distort the governmental process in favor of those that can raise the most money.
 - 2. Conversely, the big interests do not always win, even on some of the most important issues (such as the Tax Reform Act of 1986).

IV. HOW GROUPS TRY TO SHAPE POLICY

- A. The three *traditional strategies* of interest groups are *lobbying*, *electioneering*, and *litigation*. In addition, groups have recently developed *a variety of sophisticated techniques* to appeal to the public for widespread support.
- B. Lobbying.
 - 1. **Lobbyists** are political persuaders who are the representatives of organized groups. They normally work in Washington, handling groups’ legislative business.
 - 2. Basically, there are two types of lobbyists: regular, paid employees of a corporation, union, or association, and lobbyists for hire on a temporary basis.
 - 3. Although lobbyists primarily try to *influence* members of Congress, they can also be of *help* to them. Ornstein and Elder list four ways lobbyists can help a member of Congress:
 - a. They are an important source of information. Lobbyists can confine themselves to a single policy area, and thus can provide specialized expertise.
 - b. They can help a member with political strategy. In effect, they are free consultants.
 - c. They can help formulate campaign strategy and get the group’s members behind a politician’s reelection campaign.
 - d. They are a source of ideas and innovations.
 - 4. Political scientists are *not in agreement* about the *effectiveness of lobbying*.
 - a. Much evidence suggests that lobbyists’ power over policy is often exaggerated.
 - b. Plenty of evidence to the contrary suggests that lobbying can sometimes persuade legislators to support a certain policy. Examples include opposition to gun control legislation by the National Rifle Association and intensive lobbying against the 1988 Catastrophic Health Care Act conducted by the nation’s most wealthy senior citizens.
 - c. It is difficult to evaluate the specific effects of lobbying because it is hard to isolate its effects from other influences. Like campaigning, lobbying is directed primarily toward *activating and reinforcing* one’s supporters.
- C. Electioneering.
 - 1. Getting the right people into office or keeping them there is a key strategy of interest groups. Many groups therefore get involved in **electioneering**—aiding candidates financially and getting their members to support them.

2. **Political Action Committees (PACs)** have provided a means for groups to participate in electioneering more than ever before.
 - a. In recent years, nearly half of the candidates running for reelection to the House of Representatives have received the majority of their campaign funds from PACs.
 - b. Most funds from PACs go to incumbents (\$279 million to House incumbents during the 2006 election cycle, compared to \$36 million to challengers), because incumbents are the most likely to provide a return to the PACs' investment.
 - c. PACs tend to contribute more to the party that holds the majority in Congress, because the majority party is most influential in law-making.
 - d. Some PACs are particularly influential.
- D. Litigation.
1. Today, **litigation** is often used if an interest group fails in Congress or gets only a vague piece of legislation.
 - a. Environmental legislation, such as the Clean Air Act, typically includes written provisions allowing ordinary citizens to sue for enforcement. The constant threat of a lawsuit increases the likelihood that businesses will consider the environmental impact of what they do.
 - b. Possibly the most famous interest group victories in court were by civil rights groups in the 1950s. These groups won major victories in court cases concerning school desegregation, equal housing, and labor market equality.
 - c. Consumer groups have used suits against businesses and federal agencies as a means of enforcing consumer regulations.
 2. Tactics and strategies.
 - a. One tactic that lawyers employ to make the views of interest groups heard by the judiciary is the filing of *amicus curiae* ("friend of the court") **briefs**, which consist of written arguments submitted to the courts in support of one side of a case.
 - b. A more direct judicial strategy employed by interest groups is the filing of **class action lawsuits**, which enables a group of similarly situated plaintiffs to combine similar grievances into a single suit.
- E. Going public.
1. Many interest groups find it important to shape a good *image*, employing public relations techniques to present themselves in the most favorable manner.
 2. The practice of interest groups appealing to the public for support has a long tradition in American politics.

VI. TYPES OF INTEREST GROUPS

- A. Political scientists loosely *categorize interest groups* into four main policy areas: some deal primarily with *economic issues*, others with issues of *the environment*, others with *equality* issues, and still others with the interests of all consumers.

- B. Economic groups.
1. All economic interests are ultimately concerned with wages, prices, and profits.
 2. In the American economy, government does not directly determine these factors. More commonly, public policy in America has economic *effects* through regulations, tax advantages, subsidies and contracts, and international trade policy.
 - a. Business, labor, and farmers all worry about government regulations. Every economic group wants to get its share of direct aid and government contracts.
 - b. Business executives, factory workers, and farmers seek to influence government because regulations, taxes, subsidies, and international economic policy affect their economic livelihoods.
 3. Labor.
 - a. Labor has more affiliated members than any other interest group except the American Association for Retired Persons (AARP). The AFL-CIO is itself a union of unions.
 - b. Unions have fought hard to establish the **union shop**, which requires new employees to join the union representing them.
 - c. Business groups have supported **right-to-work laws**, which outlaw union membership as a condition of employment. In 1947, Congress passed the **Taft-Hartley Act**, permitting states to adopt right-to-work laws.
 - d. The American labor movement reached its peak in 1956 when 33 percent of the non-agricultural work force belonged to a union; the percentage has declined since then to about 16 percent.
 4. Business.
 - a. Seventy percent of all interest group organizations having a Washington presence represent business, and business PACs have increased more dramatically than any other category of PACs. Most large firms now have offices in Washington that monitor legislative activity.
 - b. Business interests are generally unified when it comes to promoting greater profits, but are often fragmented when policy choices have to be made. Two umbrella organizations—the National Association of Manufacturers (NAM) and the Chamber of Commerce—include most corporations and business and speak for them when general business interests are at stake.
 - c. The hundreds of trade and product associations fight regulations that would reduce their profits. They seek preferential tax treatment as well as government subsidies and contracts.
 - d. It is not only American trade associations that are concerned with policies such as tariffs and preferential tax treatment; foreign corporations and governments are also concerned.
- C. Environmental interests.
1. Environmentalists have exerted a great deal of influence on Congress and state legislatures. A few environmentalist groups—such as the Sierra Club and the

Audubon Society—have been around since the nineteenth century, but many others trace their origins to the first *Earth Day* in 1970, when ecology-minded people marched to symbolize their support for environmental protection.

2. Environmental groups have promoted pollution-control policies, wilderness protection, animal rights, and population control while opposing oil drilling in Alaska's Arctic National Wildlife Refuge, strip mining, supersonic aircraft, and nuclear power plants.

D. Equality interests.

1. Interest groups representing women and minorities have made equal rights their main policy goal.
2. Equality at the polls, in housing, on the job, in education, and in all other facets of American life has long been the dominant goal of African-American groups, the oldest of which is the National Association for the Advancement of Colored People (NAACP). Although they have won many victories in principle, *equality in practice* has been much slower in coming.
 - a. Today, civil rights groups continue to push for more effective affirmative action programs to ensure that minority groups are given educational and employment opportunities. In recent years, the NAACP's main vehicle has been the *Fair Share program*, which negotiates agreements with national and regional businesses to increase minority hiring and the use of minority contractors.
3. The Nineteenth Amendment (1920) guaranteed women the right to vote, but other guarantees of equal protection for women remained absent from the Constitution.
 - a. More recently, women's rights groups such as the National Organization for Women (NOW) have lobbied for an end to sexual discrimination.
 - b. Their primary goal has been the passage of the *Equal Rights Amendment (ERA)*. The ERA was approved by Congress in 1972 but fell three states short of the 38 necessary for ratification. Interest groups such as Phyllis Schlafly's Eagle Forum battled NOW and other women's groups over ratification of the ERA.
 - c. NOW remains committed to enacting the protection the ERA would have constitutionally guaranteed by advocating the *enactment of many individual statutes*.

E. Consumers and public interest lobbies.

1. **Public interest lobbies** (representing groups that champion causes or ideas "in the public interest") are organizations that seek a "collective good," by which everyone should be better off—regardless of whether they joined in the lobbying.
2. Consumer groups.
 - a. The consumer movement was spurred by Ralph Nader, who was propelled to national prominence by his book, *Unsafe at Any Speed*, which attacked the safety of General Motors' Corvair. Nader successfully sued General Motors for invasion of privacy after GM hired a private detective to dig into his background and follow him

- around. He used the proceeds from the damage settlement to launch the first major consumer group in Washington, D.C.
- b. Consumer groups have won many legislative victories in recent years, including the creation in 1973 of the Consumer Product Safety Commission, which is authorized to regulate all consumer products and to ban particularly dangerous ones.
 3. Other public interest groups include groups that speak for those who cannot speak for themselves, such as children, animals, and the mentally ill; good-government groups such as Common Cause; religious groups; and environmental groups.

VII. UNDERSTANDING INTEREST GROUPS

A. Interest groups and democracy.

1. The problem of interest groups in America today remains much the same as James Madison defined it over 200 years ago.
 - a. A free society must allow for the *representation of all groups*, yet groups are usually more concerned with their own *self-interest* than with the needs of society as a whole.
 - b. For democracy to work well, it is important that self-interested groups not be allowed to assume a dominant position.
2. Madison's solution was to create an open system in which *many groups would be able to participate*. Groups with opposing interests would *counterbalance* each other.
 - a. *Pluralist theorists* believe that a rough approximation of the public interest emerges from this competition.
 - b. *Elite theorists* point to the proliferation of business PACs as evidence of more interest group corruption in American politics than ever. They particularly note that wealthier interests are greatly advantaged by the PAC system.
 - c. *Hyperpluralist theorists* maintain that whenever a major interest group objects strongly to proposed legislation, policymakers will bend over backwards to try to accommodate it. They argue that this behavior has made it increasingly difficult to accomplish major policy change and has thus led to policy gridlock.

B. Interest groups and the scope of government.

1. The power of special interest groups through PACs and other means has implications for the *scope of government*.
2. Most special interest groups strive to maintain established programs that benefit them—and thus promote government with a broader scope. Both President Carter and President Reagan remarked at the end of their time in office that their attempts to cut waste in federal spending had been frustrated by interest groups.
3. Conversely, one can make the argument that the growth of the scope of government in recent decades accounts for a good portion of the proliferation of interest groups. As the federal government has become involved in more areas, more interest groups have risen to influence policy.

KEY TERMS AND CONCEPTS

Actual group: a group composed of those in the potential group who are members of the interest group.

***Amicus curiae* briefs:** “friend of the court” briefs filed by interest groups to inform the court of their position and to state how their welfare would be affected by a ruling.

Class action lawsuits: a technique used by interest groups which allows groups of people with similar complaints to combine their grievances into a single suit.

Collective good: something of value which cannot be withheld from individuals in the potential group.

Electioneering: helping sympathetic candidates get into office.

Elite theory: argues that because only a few groups have enough power to influence policy, power is concentrated into a few interlocking power centers.

Free-rider problem: a situation where individuals let others work to secure a collective good and then enjoy the benefit without contributing anything to the group effort.

Hyperpluralist theory: argues that too many groups are getting what they want at the expense of the unrepresented and that this behavior leads to incoherent public policy.

Interest groups: organizations where people with similar policy goals enter the political process to achieve those goals.

Lobbying: a communication by someone other than a citizen acting on his or her own behalf, directed to a governmental decision maker with the hope of influencing his or her decision.

Olson’s law of large groups: suggests that the larger the group, the more difficult it will be to secure enough of the collective good to encourage participation.

Pluralist theory: argues that interest group activities provide additional representation and compete against each other to influence political outcomes.

Political action committees: a legal means for groups to participate in elections by contributing money.

Potential group: a group composed of all people who share some common interest.

Public interest lobbies: organizations that seek a collective good which does not only benefit their membership.

Right-to-work law: a state law that forbids the requirement of union membership as a condition of employment.

Selective benefits: these benefits are goods that a group can restrict to those who are members.

Single-issue groups: groups which have very narrow interests, shun compromise, and single-mindedly pursue goals.

Subgovernments: exclusive relationships composed of interest groups leaders, government agency personnel, and members of congressional committees who perform mutually beneficial services for each other at the public’s expense.

Union shop: a rule established to prevent free-riders by requiring new employees to join the union where one has been granted bargaining rights.

TEACHING IDEAS: CLASS DISCUSSION AND STUDENT PROJECTS

- Ask your class to distinguish between the problems of *honest lobbying* and *dishonest lobbying*. Suggest that they read the beginning segment of the chapter in preparation for this discussion.
- As a library assignment, have your class look up early news reports detailing Ralph Nader's fight with General Motors. Ask for an assessment of how they think the public (and Congress) would react to a similar situation today, contrasted with the original reaction. If Nader's *Unsafe at Any Speed* is still available in your library, place it on reserve so that interested students can examine it.
- Ask students what groups they belong to. Are any of these interest groups? Have students who belong to an interest group describe what it is, why they joined, and what benefits they receive from group membership. Then assign students to identify what groups represent their interests as students. Does it matter whether they are members of those groups or not? (Alternatively, you might ask students to query their parents about their group memberships.)
- Have the students choose one or two interest groups that have Web sites on the Internet. Over the course of the semester, have them track the messages posted and compare them to coverage of those subjects in the mainstream media. How do the two differ?
- Have students investigate a federal candidate of their choice by using FECA data on PAC contributions available on the Internet. Who contributed to "their" candidate? What is the typical size of contributions? Do these data provide any surprising findings? Students could also be asked to investigate the candidate's challenger, and compare differences in the sources and levels of funding.

BACKGROUND READING

Baumgartner, Frank R., and Beth L. Leech. *Basic Interests: The Importance of Groups in Politics and in Political Science*. Princeton, NJ: Princeton University Press, 1998.

Berry, Jeffrey M. *The Interest Group Society*. 5th ed. New York: Addison-Wesley, 2008.

Berry, Jeffrey M. *The New Liberalism: The Rising Power of Citizen Groups*. Washington, D.C.: Brookings Institution, 1999.

Cigler, Allan J., and Burdett A. Loomis, eds. *Interest Group Politics*. 7th ed. Washington, D.C.: Congressional Quarterly Press, 2008.

CQ Press Editors, *Public Interest Group Profile, 2006–7*. Washington, DC: Congressional Quarterly Press, 2007.

Grossman, Gene M. *Special Interest Politics*. Cambridge, MA: MIT Press, 2001.

Kollman, Ken. *Outside Lobbying: Public Opinion and Interest Group Strategies*. Princeton, NJ: Princeton University Press, 1998.

Lowi, Theodore. *The End of Liberalism*. New York: Norton, 1979.

Petracca, Mark P., ed. *The Politics of Interests: Interest Groups Transformed*. Boulder, CO: Westview Press, 1992.

Salisbury, Robert H. *Interests and Institutions*. Pittsburgh: University of Pittsburgh Press, 1992.

MEDIA SUGGESTIONS

Friends of God: The Evangelical Movement in America. Films for the Humanities and Sciences, 2007.

This film examines the evangelical movement and its influence on politics.

Organizing America: The History of Trade Unions. Insight Media, 1994.

This film examines the formation of collective action among workers in America as a force of social change.

Religious Fundamentalism. Films for the Humanities and Sciences, 1996.

This film examines the rise of religious fundamentalism as organized interests and analyzes its impact on American political life.

The Religious Right. Films for the Humanities and Sciences, 1992.

This program analyzes the impact of the conservative religious right on contemporary Republican policies.

The Unelected: The Lobbies and the Media. Hedrick Smith Productions, PBS Video, 1996.

Part of the “Power Game” series from PBS. This video examines the influence of power lobbies and the media on Capitol Hill politics.

CHAPTER ELEVEN: CONGRESS

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LEARNING OBJECTIVES

After studying this chapter, students should be able to:

- Describe the essential roles and functions of a senator and a representative.
- Examine the role of money in congressional elections—where it comes from, how it is used, and what influence or effect it has.
- Summarize both the advantages and disadvantages of PACs' growing influence.
- Contrast organizational style and procedures in the House of Representatives with those of the Senate.
- Identify the major leadership positions in the House and Senate and summarize the functions of each office.
- Review the four types of congressional committees and explain how they control the congressional agenda and guide legislation.
- Determine the significance of legislative procedures like the *filibuster* and *oversight*.
- Outline the process by which a bill would move through the legislative process, from introduction to the point where it is sent to the president.
- Contrast three theories of the role of a legislator: *trustee*, *instructed delegate*, and *politico*.
- Appraise the influence of lobbyists and interest groups on the legislative process.
- Identify both representative and unrepresentative aspects of Congress.
- Examine the effect that the U.S. Congress has had on the *scope* of government.

CHAPTER OVERVIEW

INTRODUCTION

The framers of the Constitution conceived of Congress as the center of policymaking in America. Although the prominence of Congress has fluctuated over time, in recent years Congress has been the true center of power in Washington. In addition to its central role in policymaking, Congress also performs important roles of representation.

Congressional tasks become more difficult each year. At the same time, critics charge Congress with being responsible for enlarging the scope of government, and public opinion is critical of the institution. Why would individuals want to serve in Congress? And are the critics' claims correct?

THE REPRESENTATIVES AND SENATORS

Despite public perceptions to the contrary, *hard work* is perhaps the most prominent characteristic of a member of Congress' job. The typical representative is a member of about six committees and subcommittees; a senator is a member of about ten. There are also attractions to the job. Most important is *power*: members of Congress make key decisions about important matters of public policy. They also receive a substantial salary and "perks."

The Constitution specifies only that members of the House must be at least 25 years old, American citizens for seven years, and must be residents of the states from which they are elected. Senators must be at least 30 years old, American citizens for nine years, and must be residents of the states from which they are elected.

Members come mostly from occupations with high status and usually have substantial incomes. Law is the dominant prior occupation, with other elite occupations also well represented. Women and other minorities are substantially underrepresented. Although members of Congress obviously cannot claim **descriptive representation** (representing their constituents by mirroring their personal, politically relevant characteristics), they may engage in **substantive representation** (representing the interests of groups).

Although women have proven themselves able to compete with men for seats in Congress, women are underrepresented. Fewer women than men become major party nominees for office as women report they are less ambitious to run for office and more sensitive than men to their perceptions of the odds of winning.

CONGRESSIONAL ELECTIONS

The most important fact about congressional elections is that **incumbents** usually win. Not only do more than 90 percent of the incumbents seeking reelection to the House of Representatives win, but most of them win with more than 60 percent of the vote. Even when challengers' positions on the issues are closer to the voters' positions, incumbents

still tend to win. Voters are not very aware of how their senators and representatives actually vote.

Even though senators have a better-than-equal chance of reelection, senators typically win by narrower margins than House members. One reason for the *greater competition in the Senate* is that an entire state is almost always more diverse than a congressional district and thus provides more of a base for opposition to an incumbent.

Despite their success at reelection, incumbents have a strong feeling of vulnerability. They have been raising and spending more campaign funds, sending more mail to their constituents, traveling more to their states and districts, and staffing more local offices than ever before.

Members of Congress engage in three primary activities that increase the probability of their reelections: advertising, credit claiming, and position taking. Most congressional **advertising** takes place between elections and takes the form of *contact with constituents*. New technologies are supplementing traditional contacts with sophisticated database management, e-mails, automated phone calls, etc. **Credit claiming** involves *personal and district service*, notably through **casework** and **pork barrel** spending. Members of Congress must also engage in **position taking** on matters of public policy when they vote on issues and when they respond to constituents' questions about where they stand on issues.

When incumbents do face challengers, they are likely to be *weak opponents*. Seeing the advantages of incumbency, potentially effective opponents often do not want to risk challenging members of the House.

Candidates spend enormous sums on campaigns for Congress. In the 2005–2006 election cycle, congressional candidates spent nearly \$2 billion dollars to win the election. In the House races in 2006, the typical incumbent outspent the typical challenger by a ratio of 2 to 1. Spending is greatest when there is no incumbent and each party feels it has a chance to win. In open seats, the candidate who spends the most usually wins.

Although most of the money spent in congressional elections comes from individuals, about one-fourth of the funds raised by candidates for Congress come from **Political Action Committees (PACs)**. PACs seek *access* to policymakers. Thus, they give most of their money to incumbents, who are already heavily favored to win. Critics of PACs are convinced that PACs are not trying to elect but to buy influence.

Prolific spending in a campaign is no guarantee of success. Money is important for challengers, however. The more they spend, the more votes they receive. Money buys them name recognition and a chance to be heard.

At the base of every electoral coalition are the members of the candidate's party in the constituency. Most members of Congress represent constituencies in which their party is in the majority. It is reasonable to ask why anyone challenges incumbents at all. An incumbent tarnished by scandal or corruption becomes instantly vulnerable. Incumbents may also be redistricted out of their familiar turfs.

However, an incumbent tarnished by scandal or corruption becomes vulnerable. Voters *do* take out their anger at the polls. Redistricting can also have an impact. Congressional membership is reapportioned after each federal census, and incumbents may be redistricted out of their familiar base of support. When an incumbent is not running for reelection and the seat is **open**, there is greater likelihood of competition. Most of the turnover of the membership of Congress is the result of vacated seats, particularly in the House.

Finally, major political tidal waves occasionally roll across the country, leaving defeated incumbents in their wake. This is especially likely when national issues dominate the elections, as occurred in 1994 and 2006.

The high reelection rate of incumbents brings stability and policy expertise to Congress. At the same time, it also may insulate them from the winds of political change.

HOW CONGRESS IS ORGANIZED TO MAKE POLICY

A bicameral legislature is a legislature divided into two houses. The U.S. Congress is bicameral, as is every American state legislature except Nebraska's, which has one house (unicameral).

Making policy is the toughest of all the legislative roles. Congress is *a collection of generalists trying to make policy on specialized topics*. The complexity of today's issues requires more specialization. Congress tries to cope with these demands through its elaborate committee system.

The House and Senate each *set their own agenda*. Both use committees to narrow down the thousands of bills introduced. The House is *much larger* and *more institutionalized* than the Senate. Party loyalty to leadership and party-line voting are more common than in the Senate. One institution unique to the House is the **House Rules Committee**, which reviews most bills coming from a House committee before they go to the full House. Each bill is given a "rule," which schedules the bill on the calendar, allots time for debate, and sometimes even specifies what kind of amendments may be offered. The Senate is *less disciplined* and *less centralized* than the House. Today's senators are more equal in power than representatives are. Party leaders do for Senate scheduling what the Rules Committee does in the House. One activity unique to the Senate is the **filibuster**. This is a tactic by which opponents of a bill use their right to unlimited debate as a way to prevent the Senate from ever voting on a bill.

Much of the leadership in Congress is really *party leadership*. Those who have the real power in the congressional hierarchy are those whose party put them there. Power is no longer in the hands of a few key members of Congress who are insulated from the public. Instead, power is widely dispersed, requiring leaders to appeal broadly for support.

Chief among leadership positions in the House of Representatives is the **Speaker of the House**. This is the only legislative office mandated by the Constitution. Today the Speaker presides over the House when it is in session; plays a major role in making committee assignments, which are coveted by all members to ensure their electoral

advantage; appoints or plays a key role in appointing the party's legislative leaders and the party leadership staff; and exercises substantial control over which bills get assigned to which committees. The Speaker's principal partisan ally is the **majority leader**—a job that has been the main stepping stone to the Speaker's role. The majority leader is responsible for scheduling bills in the House. Working with the majority leader are the party's **whips**, who carry the word to party troops, counting votes before they are cast and leaning on waverers whose votes are crucial to a bill. The Constitution makes the vice president of the United States the president of the Senate; this is the vice president's only constitutionally defined job. The Senate majority leader, aided by the majority whips, is the party's workhorse, corralling votes, scheduling the floor action, and influencing committee assignments. The majority leader's counterpart in the opposition, the minority leader, has similar responsibilities.

The minority party, led by the minority leader, is also organized, poised to take over the Speakership and other key posts if it should win a majority in the House.

The structure of Congress is so complex that it seems remarkable that legislation gets passed at all. Its bicameral division means that bills have two sets of committee hurdles to clear. Recent reforms have decentralized power, and so the job of leading Congress is more difficult than ever. Congressional leaders are not in the strong positions they occupied in the past. Leaders are elected by their fellow party members and must remain responsive to them.

Most of the real work of Congress goes on in committees and subcommittees.

Committees *dominate congressional policymaking* at all stages. They regularly hold hearings to investigate problems and possible wrongdoing, and to investigate the executive branch. Committees can be grouped into four types: **standing committees** (by far the most important), **joint committees**, **conference committees**, and **select committees**.

More than 9,000 bills are submitted by members every two years, all of which must be sifted through and narrowed down by the committee process. Every bill goes to a standing committee; usually only bills receiving a favorable committee report are considered by the whole House or Senate. New bills sent to a committee typically go directly to **subcommittee**, which can hold **hearings** on the bill. The most important output of committees and subcommittees is the **"marked-up"** (revised and rewritten) bill, submitted to the full House or Senate for consideration. Members of the committee will usually serve as *"floor managers"* of the bill when the bill leaves committee, helping party leaders secure votes for the legislation. They will also be *cue-givers* to whom other members turn for advice. When the two chambers pass different versions of the same bill, some committee members will be appointed to the conference committee.

Legislative oversight—the process of *monitoring the bureaucracy and its administration of policy*—is one of the checks Congress can exercise on the executive branch. Oversight is handled primarily through hearings. Members of committees constantly monitor how a bill is implemented.

Although every committee includes members from both parties, a majority of each committee's members—as well as its chair—comes from the majority party. **Committee chairs** are the most important influence on the committee agenda. They play dominant—though no longer monopolistic—roles in scheduling hearings, hiring staff, appointing subcommittees, and managing committee bills when they are brought before the full House. Until the 1970s, committee chairs were always selected through the **seniority system**; under this system, the member of the majority party with the longest tenure on the committee would automatically be selected. In the 1970s, Congress faced a revolt of its younger members, and both parties in each house permitted members to *vote* on committee chairs. Today, seniority remains the *general rule* for selecting chairs, but there have been notable exceptions.

The explosion of *informal groups* in Congress has made the representation of interests in Congress a more direct process (cutting out the middleman, the lobbyist). In recent years, a growing number of **caucuses** have dominated these informal groups. Also increasing in recent years is the size of, and reliance of members of Congress on, their personal and committee staffs, along with staff agencies such as the *Congressional Research Service*, the *General Accounting Office*, and the *Congressional Budget Office*.

THE CONGRESSIONAL PROCESS

Approximately 9,000 **bills** are introduced in each two-year session of Congress. Most bills are quietly killed off early in the legislative process. In both chambers, party leaders involve themselves in the legislative process on major legislation earlier and more deeply, using special procedures to aid the passage of legislation. In the House, special rules from the Rules Committee have become powerful tools for controlling floor consideration of bills and sometimes for shaping the outcomes of votes. Often party leaders from each chamber negotiate among themselves instead of creating conference committees. Party leaders also use *omnibus* legislation that addresses numerous and perhaps unrelated subjects, issues, and programs to create winning coalitions. In the Senate, leaders have less leverage and *individual* senators have retained great opportunities for influence. As a result, it is often more difficult to pass legislation in the Senate.

Presidents are partners with Congress in the legislative process, but all presidents are also Congress' adversaries in the struggle to control legislative outcomes. Presidents have their own *legislative agenda*, based in part on their party's platform and their electoral coalition. The president's task is to persuade Congress that his agenda should also be Congress' agenda.

Presidential success rates for influencing congressional votes vary widely among presidents and within a president's tenure in office. Presidents are usually most successful early in their tenures and when their party has a majority in one or both houses of Congress. Regardless, in almost any year, the president will lose on many issues.

Parties are most cohesive when Congress is electing its official leaders. For example, a vote for the Speaker of the House is a straight party-line vote. On other issues, the party coalition may not stick together. Votes on issues like civil rights have shown deep

divisions within each party. Differences between the parties are sharpest on questions of social welfare and economic policy.

In the last few decades, Congress has become more ideologically polarized and more likely to vote according to the two party lines. As the parties pulled apart ideologically, they also became more homogeneous internally. This has resulted in an increased difficulty in reaching a compromise. The increased ideological distance between the parties is primarily due to the increasingly divergent electoral coalitions. As supporters of each party have matched their partisan and ideological views, they made the difference between the parties more distinctive.

There are a variety of views concerning how members of Congress should fulfill their function of *representation*. The eighteenth-century English legislator Sir Edmund Burke favored the concept of legislators as *trustees*, using their best judgment to make policy in the interests of the people. The concept of representatives as *instructed delegates* calls for representatives to mirror the preferences of their constituents. Members of Congress are actually *politicos*, combining the trustee and instructed delegate roles as they attempt to be both representatives and policymakers.

The most effective way for constituents to influence congressional voting is to elect candidates who match their policy positions, since winners of congressional elections tend to vote on roll calls pretty much as they said they would. On some controversial issues, it is perilous for a legislator to ignore constituent opinion.

Lobbyists—some of them former members of Congress—represent the interests of their organizations. They also can provide legislators with crucial information, and often can give assurances of financial aid in the next campaign. There are more than 35,000 individuals in Washington, representing 12,000 organizations. The bigger the issue, the more lobbyists are involved in it. A 1995 law passed by Congress requires anyone hired to lobby members of Congress, congressional staff members, White House officials, and federal agencies to report what issues they were seeking to influence, how much they were spending on the effort, and the identities of their clients. Congress also placed severe restrictions on the gifts, meals, and expense-paid travel that public officials may accept from lobbyists.

UNDERSTANDING CONGRESS

The central legislative dilemma for Congress is combining the faithful *representation of constituents* with the making of *effective public policy*. Supporters see Congress as a forum in which many interests compete for a spot on the policy agenda and over the form of a particular policy. Critics wonder if Congress is so responsive to so many interests that policy is too uncoordinated, fragmented, and decentralized. Some observers feel that Congress is so representative that it is incapable of taking decisive action to deal with difficult problems.

In a large democracy, the success of democratic government depends on the quality of representation. Congress clearly has some undemocratic and unrepresentative features:

its members are an American elite; its leadership is chosen by its own members; voters have little direct influence over the people who chair key committees or lead congressional parties. There is also evidence to support the view that Congress is representative: Congress does try to listen to the American people; the election does make a difference in how votes turn out; which party is in power affects policies; linkage institutions do link voters to policymakers.

If Congress is responsive to a multitude of interests and those interests desire government policies to aid them in some way, does the nature of Congress predispose it to continually increase the scope of the public sector? Members of Congress vigorously protect the interests of their constituents. At the same time, there are many members who agree with Ronald Reagan that government is not the answer to problems but rather *is* the problem. These individuals make careers out of fighting against government programs (although these same senators and representatives typically support programs aimed at aiding *their* constituents). Congress does not impose programs on a reluctant public; instead, it responds to the public's demands for them.

CHAPTER OUTLINE

I. INTRODUCTION

- A. The framers of the Constitution conceived of Congress as the *center of policymaking* in America.
 - 1. Although the prominence of Congress has fluctuated over time, in recent years Congress has been the true center of power in Washington.
 - 2. Congress' tasks become more difficult each year. The movement of legislation through the congressional labyrinth has never been more complicated, and just finding time to debate the issues has become increasingly difficult.
 - 3. Some critics charge Congress with being the source of government expansion.

II. THE REPRESENTATIVES AND SENATORS

- A. The job.
 - 1. Despite public perceptions to the contrary, *hard work* is perhaps the most prominent characteristic of a member of Congress' job.
 - a. The typical representative is a member of about six committees and subcommittees; a senator is a member of about ten.
 - b. Members are often scheduled to be in two places at the same time.
 - 2. There are also *attractions* to the job.
 - a. The most important is *power*. Members of Congress make key decisions about important matters of public policy.
 - b. Members of Congress receive substantial salary and perquisites ("perks").
- B. The members.
 - 1. There are 535 members of Congress—100 in the Senate (two from each state) and 435 in the House of Representatives.

2. The Constitution specifies only that members of the House must be at least 25 years old, American citizens for seven years, and must be residents of the states from which they are elected. Senators must be at least 30 years old, American citizens for nine years, and must be residents of the states from which they are elected.
3. Members come mostly from occupations with high status and usually have substantial incomes. Law and business are the dominant prior occupations, with other elite occupations also well represented.
4. Representation of minorities.
 - a. Less than 10 percent of voting members of the House are African American (compared with about 13 percent of the total population), and most of them are elected from overwhelmingly Black constituencies.
 - b. There are 23 Hispanics in the House and three in the Senate.
 - c. Women are the most underrepresented demographic group in Congress; more than half of the population is female, but only 16 senators and 71 voting representatives are female.
5. Although members of Congress obviously cannot claim **descriptive representation** (representing their constituents by mirroring their personal, politically relevant characteristics), they may engage in **substantive representation** (representing the interests of groups).
6. Although women have proven themselves able to compete with men for seats in Congress, women are underrepresented. Fewer women than men become major party nominees for office as women report they are less ambitious to run for office and more sensitive than men to their perceptions of the odds of winning.

III. CONGRESSIONAL ELECTIONS

A. Who wins elections?

1. **Incumbents** are those already holding office. The most important fact about congressional elections is that *incumbents usually win*.
 - a. Even in a year of great political upheaval such as 1994, in which the Republicans gained eight seats in the Senate and 53 seats in the House, 92 percent of incumbent representatives won their bids for reelection.
 - b. National issues came to fore similarly in 2006, allowing Democrats to regain the majority of both houses, but few incumbents lost their seats.
2. House of Representatives.
 - a. Not only do more than 90 percent of the incumbents seeking reelection to the House of Representatives win, but most of them win with more than 60 percent of the vote.
 - b. Even when challengers' positions on the issues are closer to the voters' positions, incumbents still tend to win.
 - c. Thus, the most important resource to ensure an opponent's defeat is simply to be the incumbent.
3. Senate.
 - a. Even though senators have a better-than-equal chance of reelection, senators typically win by narrower margins than House members.

- b. One reason for the *greater competition in the Senate* is that an entire state is almost always more diverse than a congressional district and thus provides more of a base for opposition to an incumbent.
 - c. Senators have less personal contact with their constituents and receive more coverage in the media than representatives do (and are therefore more likely to be held accountable on controversial issues).
 - d. Senators tend to draw more visible challengers who are already known to voters and who have substantial financial backing.
 - 4. Despite their success at reelection, incumbents have a strong feeling of vulnerability; thus, they have been raising and spending more campaign funds, sending more mail to their constituents, traveling more to their states and districts, and staffing more local offices than ever before.
- B. The advantages of incumbents.
- 1. Voters are not very aware of how their senators and representatives actually vote.
 - 2. Stories of presidential **coattails** (the theory that other candidates could ride into office by clinging to presidential coattails) do not seem to hold up in practice.
 - 3. Members of Congress do not gain or lose very much from the fluctuations of the economy.
 - 4. Members of Congress engage in three primary activities that increase the probability of their reelections: advertising, credit claiming, and position taking.
 - a. Most congressional **advertising** takes place between elections and takes the form of *contact with constituents*: members concentrate on staying visible, and trips to the home district (or state) are frequent. New technologies are supplementing traditional contacts with sophisticated database management, e-mails, automated phone calls, etc.
 - b. **Credit claiming** involves *personal and district service*. There are two ways members of Congress can *service the constituency*: casework and the pork barrel.
 - (1) **Casework** is helping constituents as individuals, such as cutting through bureaucratic red tape.
 - (2) The **pork barrel** refers to expenditures on federal projects, grants, and contracts for cities, businesses, colleges, and institutions. Because credit claiming is so important to reelection, members of Congress rarely pass up the opportunity to increase federal spending in their state or district.
 - (3) In recent years, more funds have been **“earmarked,”** or dedicated to a specific district (about 12,000 earmarks in 2007, amounting to \$17 billion).
 - c. Members of Congress must also engage in **position taking** on matters of public policy when they vote on issues and when they respond to constituents’ questions about where they stand on issues. The positions they take may make a difference in the outcome of an election, especially if the issues are on matters salient to voters and their stands

are out of line with those of a majority of their constituents (especially in the Senate, where issues are likely to play a greater role than in House elections).

5. Weak opponents.
 - a. Incumbents are likely to face weak opponents.
 - b. Seeing the advantages of incumbency, potentially effective opponents often do not want to risk challenging members of the House.
6. Campaign spending.
 - a. It costs a great deal of money to elect a Congress. (\$2 billion in the 2005–2006 election cycle.
 - b. Challengers have to raise large sums if they hope to defeat an incumbent. However, challengers are usually substantially outspent by incumbents (2 to 1 in 2006)
 - c. One-fourth of the funds raised by candidates for Congress comes from political action committees (PACs).
 - d. PACs seek *access* to policymakers. Thus, they give most of their money to incumbents who are already heavily favored to win. Critics of PACs are convinced that PACs are not trying to elect but to buy influence.
 - e. Spending a lot of money in a campaign is no guarantee of success.
- C. The role of party identification.
 1. Although party loyalty at the voting booth is not as strong as it was a generation ago, it is still a good predictor of voting behavior.
 2. Most members of Congress represent constituencies in which their party is in the majority.
- D. Defeating incumbents.
 1. An incumbent tarnished by scandal or corruption becomes vulnerable. Voters *do* take out their anger at the polls.
 2. Congressional membership is reapportioned after each federal census, and incumbents may be redistricted out of their familiar base of support. The majority party in the state legislature is more likely to move two of the opposition party's representatives into the same district than two of its own.
- E. Open seats.
 1. When an incumbent is not running for reelection and the seat is open, there is greater likelihood of competition.
 2. Most of the turnover in the membership of Congress results from vacated seats.
- F. Stability and change.
 1. As a result of incumbents usually winning reelection, there is some stability in the membership of Congress. This provides the opportunity for representatives and senators to *gain some expertise* in dealing with complex questions of public policy. It also *insulates* them from political change and makes it more difficult for citizens to “send a message to Washington” with their votes.
 2. Some reformers have proposed *term limitations* laws for senators and representatives.

IV. HOW CONGRESS IS ORGANIZED TO MAKE POLICY

- A. Making policy is the toughest of all the legislative roles. Congress is a collection of generalists trying to make policy on specialized topics. The complexity of today's issues requires more *specialization*. Congress tries to cope with these demands through its elaborate committee system.
- B. American bicameralism.
 - 1. A **bicameral legislature** is one divided into two houses. The U.S. Congress and every American state legislature except Nebraska's are bicameral. Each state is guaranteed two senators in the U.S. Congress, with representation in the House of Representatives based on population.
 - 2. The framers of the Constitution gave Congress's organization a hint of specialization when they split it into the House and Senate.
 - 3. The House and Senate each set their own agenda. Both use committees to narrow down the thousands of bills introduced.
 - 4. House of Representatives.
 - a. The House is *much larger* and *more institutionalized* than the Senate.
 - b. Party loyalty to leadership and party-line voting are more common than in the Senate.
 - c. Debate can be ended by a simple majority vote.
 - d. One institution unique to the House is the **House Rules Committee**, which reviews most bills coming from a House committee before they go to the full House. Each bill is given a "rule," which schedules the bill on the calendar, allots time for debate, and sometimes even specifies what kind of amendments may be offered. Members are appointed by the Speaker of the House.
 - 5. Senate.
 - a. The Senate is *less disciplined* and *less centralized* than the House. Today's senators are more equal in power than representatives are.
 - b. Party leaders do for Senate scheduling what the Rules Committee does in the House.
 - c. The **filibuster** permits *unlimited debate* on a bill. In practice, this sometimes means that opponents of a bill may try to "talk it to death." At the present time, 60 members present and voting can halt a filibuster by invoking **cloture** (closure) on debate.
- C. Congressional leadership.
 - 1. Much of the leadership in Congress is really *party leadership*. Those who have the real power in the congressional hierarchy are those whose party put them there.
 - 2. Power is no longer in the hands of a few key members of Congress who are insulated from the public. Instead, power is widely dispersed, requiring leaders to appeal broadly for support.
 - 3. House leadership.
 - a. The **Speaker of the House** is second (after the vice president) in the line to succeed a president who resigns, dies in office, or is impeached.

- (1) At one time, the Speaker had almost autocratic powers. Many of the powers were removed from the Speaker's control in 1910 and given to committees; some of the powers were later restored.
 - (2) *Formal powers* of the Speaker today include: presiding over the House when it is in session; playing a major role in making committee assignments; appointing or playing a key role in appointing the party's legislative leaders and the party leadership staff; exercising substantial control over which bills get assigned to which committees.
 - (3) The Speaker also has a great deal of *informal power* both inside and outside Congress.
 - b. The Speaker's principal partisan ally is the **majority leader**. The majority leader is responsible for rounding up votes on party legislation and for scheduling bills in the House.
 - c. Party **whips** work with the majority leader to round up votes and to report the views and complaints of the party rank-and-file back to the leadership.
 - d. The *minority party* is also organized (with a **minority leader** and **whips**), and is prepared to take over the key posts if it should win a majority in the House.
4. Senate leadership.
- a. The Constitution names the vice president as **president of the Senate**. Vice presidents typically have little power or influence in the Senate, except in the rare case when their vote can break a tie.
 - b. The **Senate majority leader**—aided by the majority whips—is the position of real power and authority in the Senate. He rounds up votes, schedules the floor action, and influences committee assignments.
5. Congressional leadership in perspective.
- a. The structure of Congress is so complex that it seems remarkable that legislation gets passed at all. Its *bicameral division* means that bills have two sets of committee hurdles to clear. Recent reforms have *decentralized power*, so the job of leading Congress is more difficult than ever.
 - b. Congressional leaders are not in the strong positions they occupied in the past. Leaders are elected by their fellow party members and must remain responsive to them.
 - c. Party leadership—at least in the House—*has* been more effective in recent years.
- D. The committees and subcommittees.
1. Most of the real work of Congress goes on in committees.
 - a. Committees *dominate congressional policymaking*.
 - b. They regularly hold hearings to investigate problems and possible wrongdoing, and to investigate the executive branch.
 - c. They *control the congressional agenda and guide legislation* from its introduction to its send-off for the president's signature.
 2. Committees can be grouped into four types: *standing committees* (by far the most important), *joint committees*, *conference committees*, and *select committees*.

- a. **Standing committees** are *permanent subject-matter* committees, formed to handle bills in different policy areas. Each chamber has its own committees and subcommittees. In the 103rd Congress, the typical representative served on two committees and four subcommittees, while senators averaged three committees and seven subcommittees each.
 - b. **Joint committees** are study committees that exist in a few policy areas, with membership drawn from both the Senate and the House.
 - c. **Conference committees** are formed to work out the differences when different versions of a bill are passed by the two houses. Membership is drawn from both houses.
 - d. **Select committees** are *temporary* committees appointed for a specific (“select”) purpose, such as the Senate select committee that looked into Watergate.
3. The committees at work: legislation and oversight.
- a. More than 9,000 bills are submitted by members every two years, which must be sifted through and narrowed down by the committee process. Every bill goes to a standing committee; usually only bills receiving a *favorable committee report* are considered by the whole House or Senate.
 - b. New bills sent to a committee typically go directly to **subcommittee**, which can hold **hearings** on the bill. The most important output of committees and subcommittees is the **“marked-up”** (revised and rewritten) bill, submitted to the full House or Senate for consideration.
 - c. Members of the committee will usually serve as *“floor managers”* of the bill when the bill leaves committee, helping party leaders secure votes for the legislation. They will also be *cue-givers* to whom other members turn for advice. When the two chambers pass different versions of the same bill, some committee members will be appointed to the conference committee.
 - d. **Legislative oversight**—the process of *monitoring the bureaucracy and its administration of policy*—is one of the *checks* Congress can exercise on the executive branch.
 - (1) Oversight is handled primarily through hearings. Members of committees constantly monitor how a bill is implemented. The process enables Congress to exert pressure on executive agencies, or even to cut their budgets in order to secure compliance with congressional wishes.
 - (2) Typically, the majority party will determine whether or not to hold hearings, since it controls the majority of committee seats and the majority of votes on the floor.
 - (3) Congressional oversight occasionally captures public attention, such as congressional investigations into the Watergate scandal and the 1987 Iran-Contra affair.
 - (4) Congress keeps tabs on more routine activities of the executive branch through its committee *staff members*, who have *specialized expertise* in the fields and agencies that their committees oversee

(and who maintain an extensive network of formal and informal *contacts* with the bureaucracy).

4. Getting on a committee.
 - a. Just after election, new members write to the party's congressional leaders and members of their state delegation indicating their committee preferences. Each party in each house has a slightly different way of picking its committee members, but party leaders almost always play a key role.
 - b. Members seek committee assignments that will help them achieve three goals: reelection, influence in Congress, and the opportunity to make policy in areas they think are important.
 - c. Although every committee includes members from both parties, *a majority of each committee's members*—as well as its *chair*—come from the majority party.
5. Getting ahead on the committee: chairs and the seniority system.
 - a. **Committee chairs** are the most important influencers of the committee agenda. They play dominant—though no longer monopolistic—roles in scheduling hearings, hiring staff, appointing subcommittees, and managing committee bills when they are brought before the full House.
 - b. Until the 1970s, committee chairs were always selected through the **seniority system**—the member of the majority party with the longest tenure on the committee would automatically be selected.
 - (1) Chairs were so powerful that they could single-handedly “bottle up” legislation in committee.
 - (2) The system also gave a decisive edge to members from “**safe**” **districts**, where members were seldom challenged for reelection.
 - c. In the 1970s, Congress faced a revolt of its younger members.
 - (1) Both parties in both houses permitted members to *vote* on committee chairs.
 - (2) Today, seniority remains the *general rule* for selecting chairs, but there have been notable exceptions.
 - (3) These and other reforms have somewhat reduced the clout of the chairs.

E. **Caucuses:** the informal organization of Congress.

1. The explosion of *informal groups* in Congress has made the representation of interests in Congress a more direct process (cutting out the middleman, the lobbyist).
2. In recent years, a growing number of caucuses have dominated these traditional informal groups. A **caucus** is a grouping of members of Congress sharing some interest or characteristic, such as the Black Caucus, the Hispanic Caucus, the Congresswomen's Caucus, and the Sunbelt Caucus. Caucuses include regional groupings, ideological groupings, and economic groupings.
3. The proliferation of congressional caucuses (currently more than 300 of them) gives members of Congress an informal, yet powerful, means of

shaping the policy agenda. Composed of legislative insiders who share similar concerns, the caucuses exert a much greater influence on policymaking than most citizen-based interest groups can.

F. Congressional staff.

1. Most staff members work in the personal offices of individual members. In total, more than 11,000 individuals serve on the personal staffs of members of Congress. Nearly one-half of these House staffers and nearly one-third of the Senate personal staff work in members' offices in their constituencies, not in Washington. This makes it easier for people to make contact with the staff.
2. The committees of the House and Senate employ another 2,000 staff members. These staff members organize hearings, research legislative options, draft committee reports on bills, write legislation, and keep tabs on the activities of the executive branch.
3. Congress has three important staff agencies that aid it in its work.
 - a. The first is the *Congressional Research Service* (CRS), administered by the Library of Congress. The CRS uses researchers, many with advanced degrees and highly developed expertise, to respond to more than 250,000 requests yearly for information.
 - b. The *General Accounting Office* (GAO), with more than 3,200 employees, helps Congress perform its oversight functions by reviewing the activities of the executive branch to see if it is following the congressional intent of laws and by investigating the efficiency and effectiveness of policy implementation.
 - c. The *Congressional Budget Office* (CBO) analyzes the president's budget and makes economic projections about the performance of the economy, the costs of proposed policies, and the economic effects of taxing and spending alternatives.

V. THE CONGRESSIONAL PROCESS

A. A **bill** is a *proposed law*, drafted in precise, legal language.

1. Anyone can draft a bill, but only members of the House or Senate can formally submit a bill for consideration. The White House and interest groups are common *sources* of bills.
2. Most bills are quietly killed off early in the legislative process.
3. Congress is typically reactive and cumbersome
4. Party leaders are most involved in the process.

B. Presidents and Congress: partners and protagonists.

1. Presidents are *partners* with Congress in the legislative process, but all presidents are also Congress' *adversaries* in the struggle to control legislative outcomes.
2. Presidents have their own *legislative agenda*, based in part on their party's platform and their electoral coalition. Political scientists sometimes call the president the **chief legislator**; the president's task is to persuade Congress that his agenda should also be Congress' agenda.
3. Presidents have many resources with which to influence Congress. They may try to influence members directly, but more often will leave White

- House lobbying to the congressional liaison office and work primarily through regular meetings with the party's leaders in the House and Senate.
4. Rather than *creating* the conditions for important shifts in public policy, an effective president is a *facilitator*, who works at the margins of coalition building to recognize and exploit opportunities presented by a favorable configuration of political forces.
 5. Presidential success rates for influencing congressional votes vary widely among presidents and within a president's tenure in office. Presidents are usually *most successful early in their tenures* and when their party has a majority in one or both houses of Congress. Regardless, in almost any year, *the president will lose on many issues*.
- C. Party, constituency, and ideology.
1. Party influence.
 - a. Parties are *most cohesive* when Congress is *electing its official leaders*. A vote for the Speaker of the House is a straight party-line vote. On other issues, the party coalition may not stick together. Votes on issues like civil rights have shown deep divisions within each party.
 - b. Differences between the parties are sharpest on questions of social welfare and economic policy.
 2. Polarized politics.
 - a. In the last few decades, Congress has become more ideologically polarized and more likely to vote according to the two party lines.
 - b. As the parties pulled apart ideologically, they also became more homogeneous internally. This has resulted in an increased difficulty in reaching a compromise.
 - c. The increased ideological distance between the parties is primarily due to the increasingly divergent electoral coalitions. As supporters of each party have matched their partisan and ideological views, they made the difference between the parties more distinctive.
 3. Constituency versus ideology.
 - a. There are a variety of views concerning how members of Congress should fulfill their function of *representation*.
 - (1) The eighteenth-century English legislator Sir Edmund Burke favored the concept of legislators as **trustees**, using their *best judgment* to make policy in the interests of the people.
 - (2) The concept of representatives as **instructed delegates** calls for representatives to *mirror the preferences of their constituents*.
 - (3) Members of Congress are actually **politicos**, *combining the trustee and instructed delegate roles* as they attempt to be both representatives and policymakers.
 - b. Winners of congressional elections tend to vote on roll calls pretty much as they said they would. The most effective way for constituents to influence congressional voting is to elect candidates who match their policy positions.

- c. On some controversial issues, it is perilous for a legislator to ignore constituent opinion. Representatives and senators have recently been concerned about the many new *single-issue groups* that will vote exclusively on a candidate's position on a single issue (such as gun control), and not on the member's total record.
 - d. Members of Congress do pay attention to voters, especially on visible issues, but most issues do not interest voters. However, it is difficult for legislators to *know what the people want*. On less visible issues, other factors (such as lobbyists and the member's individual ideologies) influence policy decisions.
- D. Lobbyists and interest groups.
- 1. **Lobbyists**—some of them former members of Congress—represent the interests of their organization. They also can provide legislators with crucial information, and often can give assurances of financial aid in the next campaign.
 - 2. There are more than 35,000 individuals in Washington representing 12,000 organizations. The bigger the issue, the more lobbyists are involved in it.
 - 3. Paid lobbyists whose principal purpose is to influence or defeat legislation must *register* and *file reports* with the secretary of the Senate and the clerk of the House.
 - a. A 1995 lobbyist regulation law requires anyone hired to lobby members of Congress, congressional staff members, White House officials, and federal agencies to report what issues they were seeking to influence, how much they were spending on the effort, and the identities of their clients.
 - b. In theory, the disclosure requirements would prevent shady deals and curb the influence of special interests.

VI. UNDERSTANDING CONGRESS

- A. Congress and democracy.
- 1. In a large democracy, the success of democratic government depends on the quality of representation.
 - 2. Congress clearly has some undemocratic and unrepresentative features: its members are an American elite; its leadership is chosen by its own members; voters have little direct influence over the people who chair key committees or lead congressional parties.
 - 3. There is also evidence to support the view that Congress is representative: Congress does try to listen to the American people; the election does make a difference in how votes turn out; which party is in power affects policies; linkage institutions do link voters to policymakers. Members of Congress are responsive to the people, if the people make clear what they want.
- B. Representativeness versus effectiveness.
- 1. The central legislative dilemma for Congress is combining the faithful *representation of constituents* with the making of *effective public policy*.
 - 2. Supporters see Congress as a forum in which many interests compete for a spot on the policy agenda and over the form of a particular policy (as the founders intended).

3. Critics wonder if Congress is so responsive to so many interests that policy is too uncoordinated, fragmented, and decentralized. Some observers feel that Congress is so representative that it is *incapable of taking decisive action* to deal with difficult problems.
- C. Congress and the scope of government.
1. Americans have contradictory preferences regarding public policy. They want to balance the budget and pay low taxes, but they also support most government programs. These *contradictory preferences* may help explain the pervasive ticket splitting in national elections, which has frequently led to divided government.
 2. Big government helps members of Congress get reelected and even gives them good reason to support making it bigger. However, Congress does not impose programs on a reluctant public; instead, it responds to the public's demands for them.

KEY TERMS AND CONCEPTS

Bicameral legislature: a legislature that is divided into two chambers.

Bill: a proposed law, drafted in precise, legal language.

Casework: helping constituents as individuals cut through bureaucratic red tape to receive their rightful benefits.

Caucus: a grouping of members of Congress sharing some interest or characteristic.

Committee chairs: the most important influences on the congressional agenda; they schedule hearings, hire staff, appoint subcommittees, and manage committee bills.

Conference committee: a special committee formed when each chamber passes a bill in different forms, composed of members of each chamber who were appointed by each chamber's leaders to work out a compromise bill.

Filibuster: is unlimited debate, is unique to the Senate, and can only be ended by a vote for cloture by 60 members.

House Rules Committee: a committee unique to the House, which is appointed by the Speaker of the House, reviews most bills coming from a House committee for a floor vote, and which gives each bill a rule.

Incumbents: people who already hold office.

Joint committees: special committees composed of members from each chamber.

Legislative oversight: the process of monitoring the bureaucracy and its administration of policy.

Majority leader: the Speaker's principal partisan ally who is responsible for soliciting support for the party's position on legislation.

Minority leader: is the minority party's counterpart to the majority party's leadership.

Pork barrel: list of federal projects, grants, and contracts available to cities, businesses, colleges, and institutions.

Select committees: appointed for a specific purpose.

Seniority system: a system used until the 1970s where majority party members who had served on their committees the longest, regardless of party loyalty, mental state, or competence, were automatically appointed chair of the committee.

Speaker of the House: as mandated by the Constitution, is next in line after the vice president to succeed a president who is unable to fulfill his/her term and who presides over the House.

Standing committees: committees formed in each chamber to handle bills in different policy areas.

Whip: The majority or minority leader's principle tool for securing support for legislation and who lobby partisans for support.

TEACHING IDEAS: CLASS DISCUSSION AND STUDENT PROJECTS

- Distribute several copies of the *Congressional Record* in your class. Ask students to look for the main features of the *Record*: the Proceedings of the House and Proceedings of the Senate, which contain an official account of the floor proceedings of each chamber; the "Extension of Remarks," which contains various documents (some of them extraneous) inserted by members; and the "Daily Digest," which contains a list of meetings and hearings of committees and subcommittees and summarizes the day's congressional activities. Point out the black dots known as "bullets" that are used to designate speeches that were not made in person. Solicit views from the class about the practice whereby members may revise or edit speeches that were made from the floor.
- Videotape several short segments of Congress in session and use them in class to discuss congressional functions. For example, you could show advise and consent hearings, a roll call vote, debate, and even a brief procedural segment. Alternatively, assign students to watch C-SPAN3, and discuss the nature of the proceedings.
- Members of Congress can obviously not claim *descriptive representation* since they come primarily from occupations with high status and usually have substantial incomes. Moreover, women and minorities are underrepresented. Ask your class to consider whether the personal characteristics of members of Congress are important. Can members of Congress effectively represent the concerns of their constituents when they do not share their constituents' economic and social backgrounds?
- Surveys consistently show a high level of dissatisfaction with Congress, yet voters continue to reelect members by extraordinary percentages (especially for the House of Representatives). Ask your class to consider possible reasons for what seems to be a contradiction. Is it simply the advantage of incumbency? Is the American public more satisfied with its *own* representatives than with Congress as an institution?
- As a library assignment or using the Internet, have students locate basic information about the responsibilities of their senator and representative—committee assignments,

subcommittees, length of time in office, and major bills he or she has sponsored. In addition, ask them to evaluate their representative's Web site and/or recent copies of constituency newsletters to assess the policy positions taken by their representative. To what extent is there representative/student agreement? Why or why not?

- Ask your students to debate the relative merits of various roles of legislators—the legislator as *trustee*, as *instructed delegate*, or as *politico*. Does the particular issue under consideration have any effect on their views? How do they perceive the performance of their own representative?
- Tape some televised coverage of House proceedings off C-SPAN. Then ask a representative (or one of his/her staff) to visit the class to discuss the proceedings. This will provide for an interactive yet unintimidating discussion of House politics, as well as give students insights into the legislative structure.
- For a reading and writing connection, have students write their members of Congress (both Senate and House) for a copy of their newsletters. Have students write an essay identifying the phrases and terminology used by their members to project the image that they are good representatives. In particular, have students compare and contrast the method of advertising used by senators as compared to House members in the newsletters.
- To build on the above reading and writing connection, have students examine the most recent voting record of their members of Congress. These records are published by *Congressional Quarterly*. Have students first identify what issues are important to them and then have them examine how their members voted on policies addressing those issues. For an extended exercise, students may examine their members' voting career on those issues by researching past voting records. Further, students could also look at how their fellow members' partisans acted on those issues to get a better sense of where their representative stands.

BACKGROUND READING

Adler, E. Scott. *Why Congressional Reforms Fail*. Chicago: University of Chicago Press, 2002.

Bond, Jon R., and Richard Fleisher. *Polarized Politics: Congress and the President in a Partisan Era*. Washington, D.C.: Congressional Quarterly Press, 2000.

Dodd, Lawrence C., and Bruce I. Oppenheimer, eds. *Congress Reconsidered*. 8th ed. Washington, D.C.: Congressional Quarterly Press, 2005.

Fenno, Richard F. *Going Home*. Chicago: University of Chicago Press, 2003.

Hall, Richard L. *Participation in Congress*. New Haven: Yale University Press, 1998.

Jacobson, Gary C. *The Politics of Congressional Elections*. 7th ed. New York: Addison-Wesley, 2007.

- Krehbiel, Keith. *Pivotal Politics: A Theory of U.S. Lawmaking*. Chicago: University of Chicago Press, 1998.
- Schickler, Eric. *Disjointed Pluralism*. Princeton, NJ: Princeton University Press, 2001.
- Sinclair, Barbara. *Unorthodox Lawmaking: New Legislative Processes in the U.S. Congress*. 3rd ed. Washington, D.C.: Congressional Quarterly Press, 2007.
- Smith, Steven S., and Christopher J. Deering. *Committees in Congress*. 3rd ed. Washington, D.C.: Congressional Quarterly Press, 1997.
- Uslaner, Eric M. *The Movers and the Shirkers: Representatives and Ideologues in the Senate*. Ann Arbor, MI: The University of Michigan Press, 1999.

MEDIA SUGGESTIONS

And That's How a Bill Becomes a Law. Films for the Humanities and Sciences, 2004.
This ABC News program focuses on the case study of how legislation can get passed without general knowledge.

A Day in the Life of a Representative. Films for the Humanities and Sciences, 1995.
This show follows two members of Congress through a typical day, raising questions about how much and what we can expect members of Congress to do.

A Day in the Life of a Senator. Films for the Humanities and Sciences, 1999.
This program focuses on three senators, examining what politicians really do.

The Elected: The Presidency and Congress. Hedrick Smith Productions, PBS Video, 1996
Part of the PBS video series, "The Power Game." An interesting yet critical look at the distribution of power in Congress.

Evolution of the Congress. Films for the Humanities and Sciences, 1995.
This film examines the evolutionary changes in Congress as responses to the challenges of democratic government.

How a Bill Becomes a Law. Films for the Humanities and Sciences, 1993.
This program explains how legislation is moved through the House and Senate.

Ken Burns' America: The Congress. Florentine Films, 1989.
This film was first broadcast in 1989 on PBS. The program chronicles the careers of some of Congress' most notable members.

Political Partisanship vs. Serving the People. Films for the Humanities and Sciences, 1995.
This film explores the problem of congressional gridlock and the role of partisanship in resolving or creating that problem.

CHAPTER TWELVE: THE PRESIDENCY

PEDAGOGICAL FEATURES

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LEARNING OBJECTIVES

After studying this chapter, students should be able to:

- Describe the constitutional process of impeachment and explain why it is so difficult to remove a discredited president before the end of his term.
- Outline the procedures established in the Twenty-fifth Amendment to deal with presidential succession and presidential disability.
- Trace the evolution of the presidency from the limited office envisioned by the framers to the more powerful contemporary office.
- Identify the major offices and positions that serve as key aides and advisors to the president.
- Examine the ways in which the American system of separation of powers is actually one of *shared* powers.
- Review methods by which presidents may improve their chances of obtaining party support in Congress.
- Summarize the constitutional powers that are allocated to the president in the realm of national security.
- Identify and review major roles and functions of the president, such as chief executive, chief legislator, commander in chief, and crisis manager.

- Determine the role that public opinion plays in setting and implementing the president's agenda.
- Describe the methods used by presidents and their advisors to encourage the media to project a positive image of the president's activities and policies.
- Examine the impact that changing world events (such as the transition from the 1950s and 1960s to the era of Vietnam and Watergate) have had on public debate over whether a "strong" president is a threat or a support to democratic government.

CHAPTER OVERVIEW

INTRODUCTION

This chapter examines *how presidents exercise leadership* and looks at *limitations* on executive authority. Americans expect a lot from presidents (perhaps too much). The myth of the president as a powerhouse distorts the public's image of presidential reality.

Presidents operate in an environment filled with checks and balances and competing centers of power. Other policymakers with whom they deal have their own agendas, their own interests, and their own sources of power. To be effective, the president must have highly developed political skills to mobilize influence, manage conflict, negotiate, and build compromises. Political scientist Richard Neustadt has argued that presidential power is *the power to persuade*, not to command.

THE PRESIDENTS

Throughout *Government in America*, the authors have pointed out the American political culture's strong belief in limited government, liberty, individualism, equality, and democracy. These values generate a distrust of strong leadership, authority, and the public sector in general. Americans are of two minds about the presidency. On the one hand, they want to believe in a powerful president, one who can do good. On the other hand, Americans dislike a concentration of power. Although presidential responsibilities have increased substantially in the past few decades, there has been no corresponding increase in presidential authority or administrative resources to meet these new expectations. Americans are basically individualistic and skeptical of authority.

Most presidents reach the White House through the electoral process. About one in five presidents assumed the presidency when the incumbent president either died (or, in the case of Gerald Ford, when Nixon resigned). Almost one-third of twentieth-century presidents have been "accidental presidents." Once in office, presidents are guaranteed a four-year term by the Constitution, but the **Twenty-second Amendment**, passed in 1951, limits them to two such terms.

Removing a discredited president before the end of a term is a difficult task. The Constitution prescribes the process through **impeachment**, which is roughly the political equivalent of an indictment in criminal law. (The term "impeachment" refers to the formal accusation, *not* to conviction.) Only two presidents have been impeached. Andrew

Johnson narrowly escaped conviction in 1868 on charges stemming from his disagreement with radical Republicans. In 1998, the House voted two articles of impeachment against President Clinton on party-line votes. The public clearly opposed the idea, however, and the Senate voted to acquit the president on both counts in 1999. In 1974, the House Judiciary Committee voted to recommend the impeachment of Richard Nixon as a result of the **Watergate** scandal. Nixon escaped a certain vote for impeachment by resigning.

The **Twenty-fifth Amendment** clarified some of the Constitution's vagueness about presidential disability and succession. The amendment permits the vice president to become acting president if the vice president and the president's cabinet determine that the president is disabled or if the president declares his own disability, and it outlines how a recuperated president can reclaim the office. Provision is also made for *selecting a new vice president* when the office becomes vacant. In the event of a vacancy in the office of vice president, the president nominates a new vice president, who assumes the office when both houses of Congress approve the nomination.

PRESIDENTIAL POWERS

The Constitution says remarkably little about presidential power: "The executive power shall be vested in a president of the United States of America." However, the contemporary presidency differs dramatically from the one the framers of the Constitution designed in 1787. The executive office they conceived of had more limited authority, fewer responsibilities, and much less organizational structure than today's presidency. There is little that presidents can do on their own, and they share executive, legislative, and judicial power with the other branches of government. *Institutional balance* was essential to delegates at the Constitutional Convention.

Today there is *more to presidential power than the Constitution alone suggests*, and that power is *derived from many sources*. During the 1950s and 1960s it was fashionable for political scientists, historians, and commentators to favor a powerful presidency. Historians rated presidents from strong to weak and there was no question that "strong" meant good and "weak" meant bad. By the 1970s, many felt differently. The Vietnam War was unpopular. Lyndon Johnson and the war made people reassess the role of presidential power. In his book, *The Imperial Presidency*, historian Arthur Schlesinger, an aide of John Kennedy's, argued that the presidency had become too powerful for the nation's own good. The role of the president changed as America increased in prominence on the world stage, and technology also helped to reshape the presidency. Presidents themselves have taken the initiative in developing new roles for the office. Various presidents enlarged the power of the presidency by expanding the president's responsibilities and political resources.

RUNNING THE GOVERNMENT: THE CHIEF EXECUTIVE

One of the president's most important roles is *presiding over the administration of government*. The Constitution merely tells the president to "take care that the laws be faithfully executed." Today, the federal bureaucracy includes more than four million civilian and military employees and spends more than \$2.5 trillion annually.

One of the resources for controlling the bureaucracy is the presidential power to *appoint top-level administrators*. New presidents have about 500 high-level positions available for appointment (cabinet and subcabinet jobs, agency heads, and other non-civil service posts), plus 2,500 lesser jobs. In recent years, presidents have paid close attention to appointing officials who will be *responsive to the president's policies*. Presidents also have the power to *recommend agency budgets* to Congress—the result of the Budgeting and Accounting Act of 1921.

Neither politicians nor political scientists have paid much attention to the vice presidency. Once the choice of a party's "second team" was an afterthought; now it is often an effort to placate some important symbolic constituency.

Although the group of presidential advisors known as the **cabinet** is not mentioned in the Constitution, every president has had one. Today, 14 secretaries and the attorney general head executive departments and constitute the cabinet. In addition, individual presidents may designate other officials (such as the ambassador to the United Nations) as cabinet members.

The **Executive Office of the President** (established in 1939) is a loosely grouped collection of offices and organizations. Some of the offices are created by legislation, while others are organized by the president. The Executive Office includes three major policymaking bodies—the **National Security Council**, the **Council of Economic Advisers**, and the **Office of Management and Budget**—plus several other units serving the president.

The **White House staff** includes the key aides the president sees daily—the chief of staff, congressional liaison people, press secretary, national security advisor, and a few other administrative political assistants. Presidents rely heavily on their staffs for information, policy options, and analysis. Each president organizes the White House to serve his own political and policy needs, as well as his decision-making style.

Despite heavy reliance on staff, it is the president who sets the tone for the White House. They all organize the White House to serve their own political and policy needs and their own decision-making style. The First Lady has no official government position, yet she is often at the center of national attention.

PRESIDENTIAL LEADERSHIP OF CONGRESS: THE POLITICS OF SHARED POWERS

The president is *a major shaper of the congressional agenda*, and the term **chief legislator** is frequently used to emphasize the executive's importance in the legislative process. Presidents' most useful resources in passing their own legislation are their party leadership, public support, and their own legislative skills.

The Constitution also gives the president power to **veto** congressional legislation. If Congress adjourns within 10 days after submitting a bill, the president can simply let it die by neither signing nor vetoing it. This process is called a **pocket veto**. The presidential veto is usually effective; only about four percent of all vetoed bills have been overridden

by Congress since the nation's founding. Thus, even the threat of a presidential veto can be an effective tool for persuading Congress to give more weight to the president's views.

Party leadership in Congress is every president's principal task when countering the *natural tendencies toward conflict* between the executive and legislative branches. The primary obstacle to party unity is the lack of consensus among party members on policies, especially in the Democratic Party. This diversity of views often reflects the diversity of constituencies represented by party members.

Although party leaders in Congress are predisposed to support presidential policies and typically work closely with the White House, they are free to oppose the president or to lend only symbolic support. Party leaders are not in a position to reward or discipline members of Congress on the basis of presidential support. The *parties are highly decentralized*, and national party leaders do not control nominations and elections.

One way for the president to improve the chances of obtaining support in Congress is to increase the number of fellow party members in the legislature. The phenomenon of **presidential coattails** occurs when voters cast their ballots for congressional candidates of the president's party because those candidates support the president. Most recent studies show a diminishing connection between presidential and congressional voting, however, and few races are determined by presidential coattails.

Presidents who have the *backing of the public* have an easier time influencing Congress. Members of Congress closely watch two indicators of public support for the president—*approval in the polls* and *mandates in presidential elections*.

Public approval is the political resource that has the most potential to turn a situation of stalemate between the president and Congress into one that is supportive of the president's legislative proposals. Widespread support gives the president leeway and weakens resistance to presidential policies, while lack of support strengthens the resolve of those inclined to oppose the president and narrows the range in which presidential policies receive the benefit of the doubt.

An electoral *mandate*—the perception that the voters strongly support the president's character and policies—can be a powerful symbol in American politics. It accords *added legitimacy and credibility* to the newly elected president's proposals. Merely winning an election does not provide presidents with a mandate. It is common after close elections to hear claims—especially from the other party—that there was “no mandate.” Even large electoral victories carry no guarantee that Congress will interpret the results as mandates, especially if the voters also elect majorities in Congress from the other party.

Presidents influence the legislative agenda more than any other political figure. No matter what a president's skills are, however, the “chief legislator” can rarely exercise complete control over the agenda. Presidents are rarely in a position to create—through their own leadership—opportunities for major changes in public policy. They may, however, use their skills to exploit favorable political conditions to bring about policy change. In general, presidential legislative skills must compete with other, more stable factors that

affect voting in Congress, such as party, ideology, personal views and commitments on specific policies, and constituency interests.

THE PRESIDENT AND NATIONAL SECURITY POLICY

Constitutionally, the president has the leading role in American defense and foreign policy (often termed *national security*). The Constitution allocates certain powers in the realm of national security that are exclusive to the executive. For example, the president alone extends *diplomatic recognition* to foreign governments (and the president can also terminate relations with other nations). The president has the sole power to negotiate *treaties* with other nations, although the Constitution requires the Senate to approve them by a two-thirds vote. Presidents negotiate *executive agreements* with the heads of foreign governments; unlike treaties, executive agreements do not require Senate ratification.

As the leader of the Western world, the president must try to lead America's allies on matters of economics and defense. Presidents usually conduct diplomatic relations through envoys, but occasionally they engage in personal diplomacy. As in domestic policymaking, the president must rely principally on *persuasion* to lead.

Because the Constitution's framers wanted civilian control of the military, they made the president the commander in chief of the armed forces. Although only Congress is constitutionally empowered to declare war and vote on the military budget, Congress long ago became accustomed to presidents making short-term military commitments of troops or naval vessels. In 1973 Congress passed the **War Powers Resolution** (over President Nixon's veto). It required presidents to consult with Congress, whenever possible, before using military force, and it mandated the withdrawal of forces after 60 days unless Congress declared war or granted an extension. Congress could at any time pass a concurrent resolution (which could not be vetoed) ending American participation in hostilities. All presidents serving since 1973 have deemed the law an unconstitutional infringement on their powers, and there is reason to believe the Supreme Court would consider the law's use of the **legislative veto** (the ability of Congress to pass a resolution to override a presidential decision) to be a violation of the doctrine of separation of powers. In recent years, presidents have committed U.S. troops to action without seeking congressional approval.

Questions continue to be raised about the relevance of America's 200-year-old constitutional mechanisms for engaging in war. Some observers are concerned that modern technology allows the president to engage in hostilities so quickly that opposing points of view do not receive proper consideration. Others stress the importance of the commander in chief having the flexibility to meet America's global responsibilities and to combat international terrorism.

As chief diplomat and commander in chief, the president is also the country's *crisis manager*. A **crisis** is a sudden, unpredictable, and potentially dangerous event. Most occur in the realm of foreign policy; quick judgments are often needed despite sketchy information.

With modern communications, the president can instantly monitor events almost anywhere. Because situations develop more rapidly today, there is a premium on rapid action, secrecy, constant management, consistent judgment, and expert advice. Because Congress usually moves slowly, the *president has become more prominent* in handling crises.

Although the president is the dominant force behind national security policy today, Congress also has a central constitutional role in making policy. The allocation of responsibilities for such matters is based upon the founders' apprehensions about the concentration and potential for abuse of power. The founders *divided the powers of supply and command*. Congress can thus refuse to provide the necessary authorizations and appropriations for presidential actions, while the chief executive can refuse to take actions favored by Congress. The role of Congress has typically been *oversight of the executive* rather than initiation of policy.

POWER FROM THE PEOPLE: THE PUBLIC PRESIDENCY

Perhaps the greatest challenge to any president is *to obtain and maintain the public's support*. Because presidents are rarely in a position to command others to comply with their wishes, they must *rely on persuasion*. The necessity of public support leads the White House to employ *public relations techniques* similar to those used to publicize products. Much of the energy the White House devotes to public relations is aimed at increasing the president's *public approval*. The reason is simple: the higher the president stands in the polls, the easier it is to persuade others to support presidential initiatives. Contrary to the conventional wisdom, citizens seem to focus on the president's efforts and stands on issues rather than on personality ("popularity") or simply how presidential policies affect them (the "pocketbook"). Job-related personal characteristics of the president, such as integrity and leadership skills, also play an important role in influencing presidential approval.

Commentators on the presidency often refer to it as a "bully pulpit," implying that presidents can *persuade or even mobilize the public* to support their policies if they are skilled enough communicators. Presidents frequently do attempt to obtain public support for their policies with speeches over the radio or television or speeches to large groups. All presidents since Truman have had *media advice* from experts on such matters as lighting, makeup, stage settings, camera angles, and even clothing.

Mobilization of the public may be the ultimate weapon in the president's arsenal of resources with which to influence Congress. The modern White House makes extraordinary efforts to control the context in which presidents appear in public and the way they are portrayed by the press. The fact that presidents nevertheless are frequently low in the polls is persuasive testimony to the *limits of presidential leadership of the public*.

THE PRESIDENT AND THE PRESS

The press has become the *principal intermediary between the president and the public*, and relations with the press are an important aspect of the president's efforts to lead public opinion. It is the mass media that provides people with most of what they know about chief executives and their policies.

Presidents and the press tend to come into conflict with each other. Presidents want to control the amount and timing of information about their administration, while the press wants immediate access to all the information that exists. The person who most often deals directly with the press is the president's *press secretary*. The best known direct interaction between the president and the press is the *presidential press conference*. Despite their visibility, press conferences are not very useful means of eliciting information. Presidents and their staffs can anticipate most of the questions that will be asked and prepare answers to them ahead of time, reducing the spontaneity of the sessions. Moreover, the large size and public nature of press conferences reduce the candor with which the president responds to questions.

Bias is the most politically charged issue in relations between the president and the press. However, a large number of studies have concluded that the news media are not biased *systematically* toward a particular person, party, or ideology. To conclude that the news contains little explicitly partisan or ideological bias is not to argue that the news does not distort reality in its coverage of the president. Some observers believe that news coverage of the presidency often tends to emphasize the negative. On the other hand, one could also argue that the press is inherently biased *toward* the White House. A consistent pattern of favorable coverage exists in all major media outlets, and the president is typically portrayed with an aura of dignity and treated with deference. In fact, the White House can largely control the environment in which the president meets the press.

UNDERSTANDING THE AMERICAN PRESIDENCY

Concerns over presidential power are generally closely *related to policy views*. Those who oppose the president's policies are the most likely to be concerned about too much presidential power. Aside from acting outside the law and the Constitution, there is little prospect that the presidency will be a threat to democracy. The Madisonian system of checks and balances remains intact.

This system is especially evident in an era characterized by divided government in which the president is of one party and a majority in each house of Congress is of the other party. In the past generation, the public has chosen a number of presidents who reflected their ideology and congresses that represented their appetite for public service. It has been the president more often than Congress who has objected to government growth.

CHAPTER OUTLINE

I. INTRODUCTION

- A. Americans expect a lot from presidents (perhaps too much). The *myth of the president as a powerhouse* distorts the public's image of presidential reality.
 - 1. To accomplish policy goals, the president must get other people to do things they otherwise would not do.

2. The main reason presidents have trouble getting things done is that other policymakers with whom they deal have their own agendas, their own interests, and their own sources of power.
 3. Presidents operate in an environment filled with checks and balances and competing centers of power.
- B. To be effective, the president must have highly developed *political skills* to mobilize influence, manage conflict, negotiate, and build compromises. Political scientist Richard Neustadt has argued that presidential power is *the power to persuade*, not to command.

II. THE PRESIDENTS

- A. The *presidency* is a *highly personal office*: the personality of the individual who serves as president does make a difference.
- B. Americans are of two minds about the presidency.
1. They want to believe in a powerful president—one who can do good.
 2. Americans do not like concentrations of power; they are basically individualistic and skeptical of authority.
- C. Characteristics of presidents.
1. The Constitution simply states that the president must be a natural-born citizen at least 35 years old and must have resided in the United States for at least 14 years.
 2. All American presidents have been white, male, and (except for John Kennedy) Protestant. In other ways, there has been considerable diversity among recent presidents.
- D. How they got there.
1. Elections: the normal road to the White House.
 - a. Most presidents reach the White House through the electoral process.
 - b. Once in office, presidents are guaranteed a four-year term by the Constitution, but the **Twenty-second Amendment** (ratified in 1951) limits them to a maximum of *two terms or 10 years*.
 - c. Only 11 of the 41 presidents before Bill Clinton have actually served two or more full terms.
 2. Succession and impeachment
 - a. About one in five presidents assumed the presidency when the incumbent president either died (or, in the case of Gerald Ford, when Nixon resigned); in the twentieth century, almost one-third have been “accidental presidents.”
 - b. At one time, the selection of the vice president was of little importance. Today, the selection is primarily an effort to placate some important symbolic constituency.
 - c. Once in office, vice presidents find that their main job is waiting.
 - (1) Constitutionally, they are assigned the minor task of presiding over the Senate and voting in case of a tie.
 - (2) Recent presidents have involved their vice presidents in policy discussions and important diplomacy.

3. Impeachment.
 - a. Removing a discredited president before the end of a term is a difficult task. The Constitution prescribes the process through **impeachment**, which is roughly the political equivalent of an indictment in criminal law. (The term “impeachment” refers to the formal accusation, *not* to conviction.)
 - b. The House of Representatives may impeach the president (and other civil officers) for “Treason, Bribery, or other high Crimes and Misdemeanors.” Impeachment requires a simple majority vote of the House.
 - c. If the House votes for impeachment, the accused president will be tried by the Senate.
 - (1) The chief justice of the Supreme Court presides when a president is being tried; the vice president (as president of the Senate) will preside if a civil officer other than the president has been impeached.
 - (2) The Senate may convict and remove the president by a two-thirds vote of the senators present.
 - d. Impeachment charges are heard first by the House Judiciary Committee or by a select committee, which makes recommendations to the full House.
 - (1) In 1974, the House Judiciary Committee voted to recommend the impeachment of Richard Nixon as a result of the **Watergate** scandal.
 - (2) Nixon escaped a certain vote for impeachment by resigning.
 - e. Only two presidents have been impeached: Andrew Johnson in 1868 and Bill Clinton in 1998.
4. Presidential succession.
 - a. The **Twenty-fifth Amendment** clarified some of the Constitution’s vagueness about presidential **disability** and **succession**.
 - b. The Amendment permits the vice president to become acting president if the vice president and the president’s cabinet determine that the president is disabled or if the president declares his own disability, and it outlines how a recuperated president can reclaim the office.
 - c. Provision is also made for *selecting a new vice president* when the office becomes vacant.
 - (1) The president nominates a new vice president, who assumes the office when both houses of Congress approve the nomination.
 - (2) This provision has been used twice: President Nixon named Gerald Ford as the new vice president after Spiro Agnew resigned in 1973, then President Ford named Nelson Rockefeller after Richard Nixon resigned in 1974.
 - d. *Statutes* specify the *order of succession* following the president and vice president—from vice president, to the Speaker of the House, to the president *pro tempore* of the Senate, through the cabinet in chronological order according to when the department was created.

III. PRESIDENTIAL POWERS

- A. The contemporary presidency differs dramatically from the one the framers of the Constitution designed in 1787. The executive office they conceived of had more limited authority, fewer responsibilities, and much less organizational structure than today's presidency.
- B. Constitutional powers.
 - 1. The constitutional discussion of the presidency begins with these general words: "The executive power shall be vested in a president of the United States of America."
 - 2. The Constitution says little else about presidential authority, going on to list only a few powers.
 - 3. *Institutional balance* was essential to delegates at the Constitutional Convention.
 - a. There is little that presidents can do on their own.
 - b. They share executive, legislative, and judicial power with the other branches of government.
 - 4. Powers derived from the Constitution.
 - a. National security powers:
 - (1) Commander in chief of the armed forces.
 - (2) Make treaties with other nations, subject to the agreement of two-thirds of the Senate.
 - (3) Nominate ambassadors, with the agreement of a majority of the Senate.
 - (4) Receive ambassadors of other nations, thereby conferring diplomatic recognition on other governments.
 - b. Legislative powers:
 - (1) Present information on the state of the union to Congress.
 - (2) Recommend legislation to Congress.
 - (3) Convene both houses of Congress on extraordinary occasions.
 - (4) Adjourn Congress if the House and Senate cannot agree on adjournment.
 - (5) Veto legislation (Congress may overrule with a two-thirds vote of each house).
 - c. Administrative powers:
 - (1) "Take care that the laws be faithfully executed."
 - (2) Appoint officials as provided for by Congress and with the agreement of a majority of the Senate.
 - (3) Request written opinions of administrative officials.
 - (4) Fill administrative vacancies during congressional recesses.
 - d. Judicial powers:
 - (1) Grant reprieves and pardons for federal offenses (except impeachment).
 - (2) Appoint federal judges with the agreement of a majority of the Senate.
- C. The expansion of power.
 - 1. Today there is more to presidential power than the Constitution alone suggests, and that power is derived from many sources.
 - 2. The role of the president changed as America increased in prominence on the world stage, and technology also helped to reshape the presidency. (See Chapter 3.)

3. Presidents themselves have taken the initiative in developing new roles for the office. Various presidents enlarged the power of the presidency by expanding the president's responsibilities and political resources.

IV. RUNNING THE GOVERNMENT: THE CHIEF EXECUTIVE

- A. One of the president's most important roles is *presiding over the administration of government*.
 1. The Constitution merely tells the president to "take care that the laws be faithfully executed."
 2. Today, the federal bureaucracy includes more than four million civilian and military employees and spends more than \$3 trillion annually.
 3. One of the resources for controlling the bureaucracy is the presidential power to *appoint top-level administrators*.
 - a. New presidents have about 500 high-level positions available for appointment (cabinet and subcabinet jobs, agency heads, and other non-civil service posts), plus 2,500 lesser jobs.
 - b. In recent years, presidents have paid close attention to appointing officials who will be responsive to the president's policies.
 - c. Presidents have also taken more interest in the regulations issued by agencies.
 4. Presidents have the power to recommend agency budgets to Congress—the result of the Budgeting and Accounting Act of 1921.
- B. The vice president.
 1. Usually chosen to symbolically reward an important constituency.
 2. Main job is to wait for "better" political opportunities.
- C. The cabinet.
 1. Although the group of presidential advisors known as the **cabinet** is not mentioned in the Constitution, every president has had one.
 2. George Washington's cabinet consisted of just three secretaries (state, treasury, and war) and the attorney general. Presidents since Washington have increased the size of the cabinet by asking Congress to create new **executive departments**.
 3. Today, 13 secretaries and the attorney general head executive departments (and constitute the cabinet). In addition, individual presidents may designate other officials (such as the ambassador to the United Nations) as cabinet members.
- D. The executive office.
 1. The **Executive Office of the President** (established in 1939) is a loosely grouped collection of offices and organizations.
 - a. Some of the offices are created by legislation (such as the Council of Economic Advisors), while others are organized by the president.
 - b. The Executive Office includes three major policymaking bodies—the National Security Council, the Council of Economic Advisors, and the Office of Management and Budget—plus several other units serving the president.

2. The **National Security Council (NSC)** is the committee that *links the president's key foreign and military policy advisors*. The president's special assistant for national security affairs and his staff provide the president with information and policy recommendations on national security, aid the president in national security crisis management, coordinate agency and departmental activities bearing on national security, and monitor the implementation of national security policy.
 3. The **Council of Economic Advisers (CEA)** has three members, each appointed by the president, who advise the president on economic policy. They prepare the *Annual Report of the Council of Economic Advisors* and help the president make policy on inflation, unemployment, and other economic matters.
 4. The **Office of Management and Budget (OMB)**, which is the successor to the Bureau of the Budget (BOB), has responsibility for *preparing the president's budget*.
 - a. Presidents use the OMB to *review legislative proposals* from the cabinet and other executive agencies so they can determine whether or not they want an agency to propose them to Congress.
 - b. The OMB assesses the proposals' budgetary implications and advises the president on the proposals' consistency with the administration's overall program.
- E. The White House staff.
1. The **White House staff** includes the *key aides* the president sees daily—the chief of staff, congressional liaison people, press secretary, national security advisor, and a few other administrative political assistants.
 2. The full **White House Office**, an agency of the Executive Office of the President, (many of whom the president rarely sees) provides the president with a wide variety of services, ranging from advance travel preparations to answering the thousands of letters received each year.
 3. Presidents rely heavily on their staffs for *information, policy options, and analysis*.
 4. Each president organizes the White House to serve his own political and policy needs, as well as his decision-making style.
 5. Despite heavy reliance on staff, it is *the president who sets the tone* for the White House. It is the president's responsibility to demand that staff members analyze a full range of options (and their likely consequences) before they offer the president their advice.

The First Lady.

1. Not an official government position.
2. Historically, First Ladies have received a lot of attention and occasionally been active in politics.
3. More recently, First Ladies have been at the center of attention in policymaking matters and played important roles as advisors to their husbands.

V. PRESIDENTIAL LEADERSHIP OF CONGRESS: THE POLITICS OF SHARED POWERS

A. Chief legislator.

1. The president is *a major shaper of the congressional agenda*, and the term **chief legislator** is frequently used to emphasize the executive's importance in the legislative process.
2. The Constitution requires the president to report to Congress on the State of the Union and instructs the president to bring other matters to Congress' attention "from time to time."
3. The Constitution gives the president the power to sign or to **veto** congressional legislation (a veto may be overridden by two-thirds of each house).
 - a. He may also decide not to take any action at all.
 - b. If Congress is still in session after 10 working days, the bill will become law without his signature; if Congress adjourns within 10 days after submitting a bill, taking no action will permit the bill to die without his signature (known as a **pocket veto**).
4. The presidential veto is usually effective; only about *four percent* of all vetoed bills have been overridden by Congress. Even the *threat* of a presidential veto can be an effective tool for persuading Congress.
5. In 1996 Congress passed a law granting the president authority to propose rescinding funds in appropriations bills and tax provisions that apply to only a few people.
 - a. The president has five days following his signing of tax or spending bills to propose rescissions, and the only way such provisions can become law is for Congress to pass them as separate bills, which would then be subject to a presidential veto.
 - b. The Supreme Court overturned the law as an unconstitutional grant of power to the president in *Clinton v. City of New York* (1998).

B. Party leadership.

1. Presidents' most useful resources in passing their own legislation are their *party leadership*, *public support*, and their own *legislative skills*.
2. **Party leadership** in Congress is every president's principal task when countering the *natural tendencies toward conflict* between the executive and legislative branches.
3. The bonds of party.
 - a. For most senators and representatives, being in the same political party as the president creates a *psychological bond*.
 - b. Presidents remain highly dependent upon their party to move their legislative programs.
 - c. Representatives and senators of the president's party usually form the nucleus of coalitions supporting presidential proposals.
4. Slippage in party support.
 - a. Presidents are forced to be active in party leadership and to devote their efforts to *conversion* as much as to *mobilization of members of their own party*: presidents can count on their own party members for support *no more than two-thirds of the time*, even on key votes.

- b. The primary obstacle to party unity is the lack of consensus among party members on policies, especially in the Democratic Party. This diversity of views often reflects the diversity of constituencies represented by party members (illustrated by the frequent defection of Southern Democrats known as “boll weevils”).
 - 5. Leading the party.
 - a. Although party leaders in Congress are *predisposed to support* presidential policies and typically work closely with the White House, they are free to oppose the president or lend only symbolic support.
 - (1) Party leaders are not in a position to reward or discipline members of Congress on the basis of presidential support.
 - (2) The White House provides many amenities to congressional party members in an attempt to create goodwill (such as “photo opportunities”), but there is little the president can do if party members wish to oppose the administration.
 - (3) The *parties are highly decentralized*, and national party leaders do not control nominations and elections. (See Chapter 8.)
 - b. One way for the president to improve the chances of obtaining support in Congress is to increase the number of party members in the legislature.
 - (1) The term **presidential coattails** refers to voters casting their ballots for congressional candidates of the president’s party because those candidates support the president. Thus, the symbolism was that the candidates would “ride into office on the president’s coattails.”
 - (2) However, most recent studies show a *diminishing connection* between presidential and congressional voting.
 - (3) In **mid-term elections**—those held between presidential elections—the president’s party *typically* loses seats; however, recent years (1994, 1998, 2002) have been exceptional.
 - c. A major impediment to party leadership is the fact that the president’s party often lacks a majority in one or both houses of Congress.
 - (1) The president usually has to solicit help from the opposition party.
 - (2) Although only a few votes may be obtained, that may be enough to bring the president the required majority.
- C. Public support.
 - 1. Presidents who have the backing of the public have an easier time influencing Congress. Members of Congress closely watch two indicators of public support for the president—*approval in the polls* and *mandates in presidential elections*.
 - 2. Public approval.
 - a. Public approval is *the political resource that has the most potential* to turn a situation of stalemate between the president and Congress into one that is supportive of the president’s legislative proposals.
 - (1) Widespread support gives the president leeway and weakens resistance to presidential policies.

- (2) Lack of support strengthens the resolve of those inclined to oppose the president and narrows the range in which presidential policies receive the benefit of the doubt.
 - (3) Low ratings in the polls may create incentives to attack the president, further eroding an already weakened position.
 - b. Public approval gives the president leverage, not control; presidents' leadership resources do not allow them to dominate Congress.
 - 3. Mandates.
 - a. An electoral **mandate**—the perception that the voters strongly support the president's character and policies—can be a powerful symbol in American politics. It accords *added legitimacy and credibility* to the newly elected president's proposals.
 - b. Merely winning an election does not provide presidents with a mandate.
 - (1) It is common after close elections to hear claims—especially from the other party—that there was “no mandate” (as with Bill Clinton's election in 1992).
 - (2) Even large electoral victories (such as Richard Nixon's in 1972 and Ronald Reagan's in 1984) carry no guarantee that Congress will interpret the results as mandates, especially if the voters also elect majorities in Congress from the other party.
- D. Legislative skills.
- 1. Presidents influence the legislative agenda more than any other political figure.
 - a. No matter what a president's skills are, however, the “chief legislator” can rarely exercise complete control over the agenda.
 - b. Presidents are rarely in a position to create—through their own leadership—opportunities for major changes in public policy. They may, however, use their skills to exploit favorable political conditions to bring about policy change.
 - 2. Presidential leadership skills include *bargaining, making personal appeals, consulting with Congress, setting priorities, exploiting “honeymoon” periods, and structuring congressional votes*.
 - a. Bargaining—in the form of trading support on two or more policies or providing specific benefits for representatives and senators—occurs less often and plays a less critical role in the creation of presidential coalitions in Congress than is often implied.
 - b. Presidents may improve their chances of success in Congress by making certain strategic moves.
 - (1) It is wise for a new president to be ready to send legislation to the Hill during the first year in office in order to exploit the “honeymoon” atmosphere that typically characterizes this period.
 - (2) It is important to establish *priorities* among legislative proposals.
 - 3. In general, presidential legislative skills must compete with other, more stable factors that affect voting in Congress, such as party, ideology, personal views and commitments on specific policies, and constituency interests.

VI. THE PRESIDENT AND NATIONAL SECURITY POLICY

- A. Constitutionally, the president has the leading role in American defense and foreign policy (often termed **national security**).
- B. Chief diplomat.
 - 1. The Constitution allocates certain powers in the realm of national security that are exclusive to the executive.
 - a. The president alone extends *diplomatic recognition* to foreign governments (and the president can also terminate relations with other nations).
 - b. The president has the sole power to negotiate **treaties** with other nations, although the Constitution requires the Senate to approve them by a two-thirds vote.
 - c. Presidents negotiate *executive agreements* with the heads of foreign governments; unlike treaties, executive agreements do not require Senate ratification.
 - 2. As the leader of the Western world, the president must try to lead America's allies on matters of economics and defense.
 - a. Presidents usually conduct diplomatic relations through envoys, but occasionally they engage in personal diplomacy.
 - b. As in domestic policymaking, the president must rely principally on *persuasion* to lead.
- C. Commander in chief.
 - 1. Because the Constitution's framers wanted *civilian control of the military*, they made the president the commander in chief of the armed forces.
 - 2. Today the president is commander in chief of about 1.4 million uniformed men and women, with commitments to defend nations around the globe.
 - 3. The president commands a vast nuclear arsenal; *the football*—a briefcase that contains the codes to unleash our nuclear capabilities—is never more than a few steps from the president.
- D. War powers.
 - 1. Although only Congress is constitutionally empowered to declare war and vote on the military budget, Congress long ago became accustomed to presidents making short-term military commitments of troops or naval vessels.
 - 2. In recent years, presidents have committed U.S. troops to action without seeking congressional approval (as in Korea and Vietnam).
 - 3. As a reaction to disillusionment about American fighting in Vietnam and Cambodia, Congress passed the **War Powers Resolution** (1973) over President Nixon's veto.
 - a. It required presidents to *consult with Congress*, whenever possible, *prior to using military force*, and it mandated the *withdrawal of forces after 60 days unless Congress declared war or granted an extension*. Congress could at any time pass a *concurrent resolution* (which cannot be vetoed), ending American participation in hostilities.
 - b. All presidents serving since 1973 have deemed the law an unconstitutional infringement on their powers, and there is reason to believe the Supreme

c. Presidents have largely ignored the law and sent troops into hostilities.

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- a. The role of Congress has typically been *oversight of the executive* rather than initiation of policy.
- b. Commentators on the presidency often refer to the *two presidencies*—one for domestic policy and the other for national security policy. By this they mean the president has more success in leading Congress on matters of national security than on matters of domestic policy.

VII. POWER FROM THE PEOPLE: THE PUBLIC PRESIDENCY

- A. Perhaps the greatest challenge to any president is *to obtain and maintain the public's support*. Because presidents are *rarely in a position to command* others to comply with their wishes, they must *rely on persuasion*.
- B. Going public.
 1. Public opinion can be an important resource for presidential persuasion.
 2. The necessity of public support leads the White House to employ *public relations techniques* similar to those used to publicize products.
 - a. John Kennedy was the first president to regularly use public appearances to seek popular backing for his policies.
 - b. Kennedy's successors (with the exception of Richard Nixon) have been even more active in making public appearances.
 - c. Bill Clinton and George W. Bush have spent enormous time and energy in selling their programs to the public.
 3. In America, the jobs of **head of state** (ceremonial) and **head of government** (executive authority) are combined.
 - a. As head of state, the president is America's *ceremonial leader and symbol of government*.
 - b. Ceremonial activities give presidents an important symbolic aura and a great deal of favorable press coverage, contributing to their efforts to build public support.
- C. Presidential approval.
 1. The president's standing in the polls is monitored closely by the press, members of Congress, and others in the Washington political community: the higher the president stands in the polls, the easier it is to persuade others to support presidential initiatives.
 2. Presidents frequently do not have widespread public support, often failing to win even majority approval.
 3. Presidential approval is the product of many factors.
 - a. Many people are predisposed to support the president.
 - (1) Political *party identification* provides the basic underpinning of approval or disapproval.
 - (2) Presidents usually benefit from a "honeymoon" with the American people after taking office.
 - b. Changes in approval levels appear to be due primarily to the public's evaluation of how the president is handling policy.

- (1) Contrary to conventional wisdom, citizens seem to focus on the president's efforts and stands on *issues* rather than on personality or simply how presidential policies affect them.
 - (2) Job-related personal characteristics of the president—such as integrity and leadership skills—also play an important role.
 - (3) Sometimes public approval of the president takes sudden jumps, often stimulated by “rally events” that relate to international relations (illustrated by President Bush's 18-percentage-point rise immediately after the fighting began in the Persian Gulf War in 1991 and George W. Bush's 39-percentage-point jump in 2001). Such occurrences usually have little enduring impact on a president's public approval.
4. The modern White House makes extraordinary efforts to control the context in which presidents appear in public and the way they are portrayed by the press. The fact that presidents nevertheless are frequently low in the polls is persuasive testimony to the limits of presidential leadership of the public.
- D. Policy support.
1. Commentators on the presidency often refer to it as a “bully pulpit,” implying that presidents can *persuade or even mobilize the public* to support their policies if they are skilled-enough communicators.
 - a. Presidents frequently do attempt to obtain public support for their policies with speeches over the radio or television or speeches to large groups.
 - b. All presidents since Truman have had *media advice* from experts on such matters as lighting, makeup, stage settings, camera angles, and even clothing.
 2. Despite these efforts, presidential speeches designed to lead public opinion have typically been rather unimpressive.
 3. The public is not always receptive to the president's message, and the public may misunderstand or ignore even the most basic facts regarding presidential policy.
- E. Mobilizing the public.
1. Mobilization of the public may be the ultimate weapon in the president's arsenal of resources with which to influence Congress.
 - a. Mobilizing the public entails the double burden of obtaining both opinion *support* and political *action* from a generally inattentive and apathetic public.
 - b. There are certain *risks* involved: if the president attempts to mobilize the public and fails, the lack of response speaks clearly to members of Congress.
 2. Perhaps the most notable recent example of the president mobilizing public opinion to put pressure on Congress was Ronald Reagan's televised plea for support of his tax-cut proposals, which resulted in a massive outpouring of phone calls, letters, and telegrams.

- a. Reagan's success appears to be a deviant case (even for Ronald Reagan).
- b. Despite high levels of approval for much of his presidency, Reagan was never again able to arouse many in his audience to communicate their support of his policies to Congress.

VIII. THE PRESIDENT AND THE PRESS

- A. The press has become the principal intermediary between the president and the public, and relations with the press are an important aspect of the president's efforts to lead public opinion.
 1. It is the mass media that provides people with most of what they know about chief executives and their policies.
 2. The media also interpret and analyze presidential activities, even the president's direct appeals to the public.
- B. Presidents and the press *tend to conflict*.
 1. Presidents want to control the amount and timing of information about their administration.
 2. The press wants all the information that exists, without delay.
- C. Because of the importance of the press to the president, the White House goes to great lengths to encourage the media to project a positive image of the president's activities and policies.
 1. The White House monitors the media closely.
 2. The president's *press secretary* conducts daily press briefings, giving prepared announcements and answering questions.
 3. Press secretaries and their staffs arrange private interviews with White House officials, photo opportunities, and travel arrangements for reporters when the president leaves Washington.
 4. The best-known direct interaction between the president and the press is the presidential *press conference*.
 - a. Despite their high visibility, press conferences are *not* very useful means of eliciting information.
 - b. Although press conferences may appear spontaneous, presidents and their staffs can anticipate most of the questions that will be asked and prepare answers to them ahead of time.
- D. Most of the news coverage of the White House comes under the heading of "*body watch*," which means that reporters focus on the most visible layer of presidents' personal and official activities rather than on the substance of policies or the fundamental processes operating in the executive branch.
- E. *Bias* is the most politically charged issue in relations between the president and the press.
 1. A large number of studies have concluded that the news media is not biased *systematically* toward a particular person, party, or ideology.
 2. Some observers believe that news coverage of the presidency often tends to emphasize the negative; George H.W. Bush's handling of the economy during the 1992 election campaign is an example.

- F. One could also argue that the press is inherently biased *toward* the White House.
 - 1. A consistent pattern of favorable coverage exists in all major media outlets, and the president is typically portrayed with an aura of dignity and treated with deference.
 - 2. The White House can largely control the environment in which the president meets the press (as when Marine helicopters revved as President Reagan approached them so that he “could not hear” reporters’ questions).

IX. UNDERSTANDING THE AMERICAN PRESIDENCY

- A. The presidency and democracy.
 - 1. Because the presidency is the single most important office in American politics, there has always been concern about *whether the president is a threat to democracy*.
 - 2. Concerns over presidential power are generally closely *related to policy views*: those who oppose the president’s policies are the most likely to be concerned about too much presidential power.
 - 3. In an era of divided government, some observers are concerned that there is *too much checking and balancing* and *too little capacity to act* to meet pressing national challenges. However, the best evidence indicates that major policy change is *not* hindered by divided government—that it is as likely to occur when the parties share control as when party control of the executive and legislative branches is divided.
- B. The presidency and the scope of government.
 - 1. Supporting an increased role for government is not inherent in the presidency; leadership can move in many directions.
 - 2. In the past generation, the public has chosen a number of presidents who reflected their ideology and congresses that represented their appetite for public service.
 - 3. It has been the president more often than Congress who has objected to government growth.

KEY TERMS AND CONCEPTS

Cabinet: the group of presidential advisors who head the executive departments.

Council of Economic Advisers (CEA): members advise the president on economic policy and prepare the Annual Report of the CEA.

Crisis: a sudden, unpredictable, and potentially dangerous event.

Impeachment: the political equivalent of an indictment for removing a discredited president.

Legislative veto: a clause which allows Congress to override the action of the executive.

National Security Council (NSC): a committee that links the president’s key foreign and military advisors.

Office of Management and Budget (OMB): responsible for preparing the president's budget and assessing the budgetary implications of legislative proposals.

Pocket veto: this occurs when Congress adjourns within 10 days after submitting a bill and the president takes no action to sign it or veto it.

Presidential coattails: where voters cast their ballots for congressional candidates of the president's party because those candidates support the president.

Twenty-fifth Amendment: passed in 1967, permits the vice president to become acting president in the event that the president is temporarily disabled.

Twenty-second Amendment: passed in 1951, limits presidents to two terms.

Veto: sending the legislation back to Congress with reasons for rejecting it.

War Powers Resolution: passed in 1973, requires presidents to consult with Congress prior to using military force and mandates the withdrawal of forces after sixty days unless Congress declares war or grants an extension.

Watergate: a political scandal involving President Nixon's abuse of his powers.

TEACHING IDEAS: CLASS DISCUSSION AND STUDENT PROJECTS

- Commentators on the presidency often refer to it as a “*bully pulpit*,” implying that presidents can persuade or even mobilize the public to support their policies if only they are skilled enough communicators. Ask your class to try to determine the skills that are needed to make a president an *effective communicator*. How has the concept of the “bully pulpit” changed since Theodore Roosevelt referred to the idea?
- How has the public changed? The office of the president? Have your class write short essays in which students explain why voters choose presidents and congresses that appear to reflect different policy positions. Is this a negative or a positive factor of the American form of government?
- Ask students to use the Internet to locate a recent presidential speech. Describe the speech's main points and its intended audience. Discuss whether the speech is consistent with the broad policies and values espoused by the president.
- For a class discussion, have students debate the different ways vice presidents can be used to enhance the president's opportunities for advancing his agenda in Congress. In particular, have them examine the concept of a co-presidency or the abolition of the vice presidency position. What would be the consequences?
- For a reading and writing connection, have students keep a clipping file of newspaper coverage of the president for at least one week. Have them categorize the articles into stories about the president's (domestic and international) roles and personality. Then have them assess the tone and nature of the coverage. Once they have analyzed their clippings, have them write an analytical essay concerning the presidential news coverage and bias in the media.

- Have students choose the State of the Union address delivered by one president, and determine the extent to which the president's speech successfully set the congressional agenda. What factors enhanced the president's ability to lead Congress? What factors hampered his ability to lead?

BACKGROUND READING

Bond, Jon, and Richard Fleisher. *The President in the Legislative Arena*. Chicago: University of Chicago Press, 1990.

Cameron, Charles. *Veto Bargaining: Presidents and the Politics of Negative Power*. New York: Cambridge University Press, 1999.

Campbell, Colin, and Bert A. Rockman, eds. *The Clinton Presidency: First Appraisals*. Chatham, NJ: Chatham House Publishers, 1995.

Edwards, George C. III. *At the Margins: Presidential Leadership of Congress*. New Haven: Yale University Press, 1989.

Edwards, George C. III. *The Strategic President: Persuasion and Opportunity in Presidential Leadership*. Princeton, NJ: Princeton University Press, 2009.

Eisinger, Robert M. *The Evolution of Presidential Polling*. New York: Cambridge University Press, 2003.

Greenstein, Fred. *The Presidential Difference.*, 2nd ed. New York: Free Press, 2005.

Jones, Charles O. *The Presidency in a Separated System*. Washington D.C.: Brookings Institution, 1994.

Kernell, Samuel. *Going Public: New Strategies of Public Leadership*. 3rd ed. Washington D.C.: Congressional Quarterly Press, 1997.

Neustadt, Richard E. *Presidential Power and the Modern President*. New York: Free Press, 1990.

Rudalevige, Andrew. *The New Imperial Presidency: Renewing Presidential Power After Watergate*. Ann Arbor: University of Michigan Press, 2005.

MEDIA SUGGESTIONS

The American President. Kunhardt Productions, 2000.

A PBS Video which depicts 41 of our nation's leaders and how they left indelible marks on our nation.

Bill Moyers Journal: Impeachment of a President. Films for the Humanities and Sciences, 2007.

Perspectives on presidential impeachment by the constitutional lawyer Bill Fein.

Constant Combatants: The President and Congress. Films for the Humanities and Sciences, 1997.

This seminar focuses on the tension between the president and Congress during a conflict with a fictional European country.

Executive Privilege and the Delegation of Power. Columbia University Seminars on Media and Society, 1984.

Part of “The Constitution: That Delicate Balance” series from Films Incorporated, examining the powers of the president.

Meet the Press Meets the Presidents. Films for the Humanities and Sciences, 2007.

A 13-part series of news conferences featuring present of former presidents.

The Press Secretary—A Fascinating All-Access Look Inside Clinton’s White House Press Office. Boston Video, 2001.

It’s September 2000, and Bill Clinton is in the final months of his presidency. You’re there for three unprecedented, uncensored days as high-definition cameras capture the fascinating, enlightening, and at times, tense scenes swirling around White House Press Secretary Joe Lockhart. For this remarkable special, Emmy-nominated documentarian Ted Bogosian enjoyed White House access not allowed since the Kennedy administration.

The Role of the First Lady. Films for the Humanities and Sciences, 1994.

This program examines the traditional and perceived role of the First Lady with special reference to Hillary Clinton.

War Powers and Covert Action. Columbia University Seminars on Media and Society, 1984.

Part of “The Constitution: That Delicate Balance” series from Films Incorporated, examining the war powers and foreign policy role of the president.

CHAPTER THIRTEEN: THE FEDERAL BUREAUCRACY

PEDAGOGICAL FEATURES

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LEARNING OBJECTIVES

After studying this chapter, students should be able to:

- Understand why many things that Americans think about bureaucracy are myths.
- Describe the ways in which the permanent bureaucracy is broadly representative of the American people.
- Trace the development of the American bureaucracy from the “spoils system” to the “merit system.”
- Identify and describe several theories of the functions and organization of bureaucracies.
- Distinguish among the four basic types of federal agencies: cabinet departments, regulatory agencies, government corporations, and independent executive agencies.
- Explain why implementation of policy can break down.
- Describe the importance of *administrative routine* and *administrative discretion*.
- Evaluate the effects that the movement toward *deregulation* has had on the American economy.
- Determine how presidents try to control the bureaucracy and how Congress tries to control the bureaucracy.
- Investigate the importance of *iron triangles* and *issue networks*.
- Explain the relationship between democratic theory and the operations of bureaucracies.

CHAPTER OVERVIEW

INTRODUCTION

Once Congress, the president, or the Supreme Court makes a policy decision, it is most likely that bureaucrats must step in to implement those decisions. Since bureaucrats are typically less visible and are not elected to their positions, their actions and power are often subjects of considerable debate.

The classic conception of bureaucracy was advanced by the German sociologist, **Max Weber**, who stressed that the bureaucracy was a “*rational*” way for a modern society to conduct its business. To Weber, a **bureaucracy** depends upon certain elements, including a hierarchical authority structure, task specialization, and extensive rules, which allow similar cases to be handled in similar ways.

THE BUREAUCRATS

Bureaucrats are typically much less visible than the president or members of Congress. Bureaucrat baiting is a popular American pastime, and spawns plenty of myths. The following are some of the most prevalent myths about bureaucracy and bureaucrats: Americans dislike bureaucrats; bureaucracies are growing bigger each year; most federal bureaucrats work in Washington, D.C.; and bureaucracies are ineffective, inefficient, and always mired in red tape.

There are approximately 2.7 million civilian bureaucrats. Although Congress has ordered federal agencies to make special efforts to recruit and promote previously disadvantaged groups, *women and nonwhites are still clustered in the lower ranks*. As a whole, however, the permanent bureaucracy is more broadly representative of the American people than legislators, judges, or presidential appointees in the executive branch.

Until approximately 100 years ago, a person got a job with the government through the **patronage** system (a hiring and promotion system based on knowing the right people). Under this “**spoils system**,” nineteenth-century presidents staffed the government with their friends and allies. Today, most federal agencies are covered by some sort of **civil service** system. The rationale for all civil service systems rests on the *merit principle* and the desire to create a nonpartisan government service. The **Office of Personnel Management (OPM)** is in charge of hiring for most agencies of the federal government.

After serving a probationary period, civil servants are protected. It is difficult to fire a civil service employee after the probationary period: an employee can appeal his or her dismissal, which can consume weeks, months, or even years. Ensuring a nonpartisan civil service requires that workers have protection from dismissals that are politically motivated. At the very top of the civil service system are about 9,000 members of the **Senior Executive Service**. These executives earn high salaries and may be moved from one agency to another as leadership needs change.

The other route to federal jobs involves recruiting from the *plum book*, which lists top federal jobs available for direct presidential appointment (often with Senate confirmation). Every incoming president launches a nationwide talent search to fill these positions (approximately 3,000 of them). Most will be “in-and-outers” who stay for a while and leave; they soon learn that senior civil servants know more, have been there longer, and will outlast them.

HOW BUREAUCRACIES ARE ORGANIZED

In general, there are four types of bureaucracies: cabinet departments, regulatory agencies, government corporations, and independent executive agencies. Each of the 15 **cabinet departments** is headed by a secretary (except the Department of Justice, which is headed by the attorney general); all are chosen by the president and approved by the Senate. Beneath the secretary are undersecretaries, deputy undersecretaries, and assistant secretaries. Each department manages specific policy areas, and each has its own budget and staff.

Each of the **independent regulatory commissions** has responsibility for some sector of the economy. Regulatory agencies make and enforce rules designed to protect the public interest; they also judge disputes over those rules.

Government corporations provide a service that could be handled by the private sector. They typically charge for their services, though often at cheaper rates than the consumer would pay a private sector producer.

The **independent executive agencies** are not part of the cabinet departments and generally do not have regulatory functions. They usually perform specialized functions.

BUREAUCRACIES AS IMPLEMENTORS

As policymakers, bureaucrats play three key roles: they are policy *implementers*; they *administer* public policy; and they are *regulators*. **Policy implementation** occurs when the bureaucracy carries out decisions of Congress, the president, and even the courts. Public policies are rarely self-executing: bureaucrats translate legislative policy goals into programs.

Policy implementation does not always work well, and bureaucrats usually take the blame when it does not. Reasons why implementation may break down include faulty program design, lack of clarity in the laws bureaucrats administer, lack of resources, the following of *standard operating procedures*, administrative discretion, and dispersal of policy responsibility among several units of the bureaucracy (i.e., *fragmentation*).

Administrative discretion is the authority of administrative actors to select among various responses to a given problem. Discretion is greatest when rules do not fit a case; but even in agencies with elaborate rules and regulations—especially when more than one rule fits—there is still room for discretion. Michael Lipsky coined the phrase **street-level bureaucrats** to refer to those bureaucrats who are in constant contact with the public and

have considerable discretion (including police officers, welfare workers, and lower court judges). **Fragmentation** has resulted in the responsibility for a policy being dispersed among several units within the bureaucracy.

PRIVATIZATION

Since the 1980s efforts have been made to decentralize authority and provide performance incentives through market competition and competitive public-versus-private bidding on government services. Although contracting for services is meant to result in better service and lower costs, there is no evidence that private contractors have provided services more efficiently at the federal level. Furthermore, contracting almost always leads to less public scrutiny.

BUREAUCRACIES AS REGULATORS

Government **regulation** is the use of governmental authority to control or change some practice in the private sector. This is the most controversial role of the bureaucracies, yet Congress gives them broad mandates to regulate activities as diverse as interest rates, the location of nuclear power plants, and food additives.

Until 1887, the federal government made almost no regulatory policies. Even the minimum regulatory powers of state and local governments were disputed. In 1887, Congress created the first regulatory agency, the Interstate Commerce Commission (ICC), charged with regulating the railroads, their prices, and their services to farmers.

Most agencies charged with regulation first have to develop a set of rules (often called *guidelines*); guidelines are developed in consultation with (and sometimes with the agreement of) the people or industries being regulated. The agency must then apply and enforce its rules and guidelines, either in court or through its own administrative procedures.

Almost every regulatory policy was created to achieve some desirable social goal. Charles L. Schultze (chairman of President Carter's Council of Economic Advisors) is a critic of the current state of federal regulation, which he described as **command-and-control policy**: the government tells business how to reach certain goals, checks that these commands are followed, and punishes offenders. Schultze prefers an **incentive system**. Defenders of the command-and-control system of regulation compare it to preventive medicine; it is designed to minimize problems such as pollution or workplace accidents before they become too severe.

Government regulation of the American economy and society has grown in recent decades. The budgets of regulatory agencies, their level of employment, and the number of rules they issue are all increasing. Opponents of government regulation contend that the rapid increase in the number and scope of environmental regulations during the past two decades has stifled economic growth. Supporters of government regulation argue that such regulations are essential to protect the nation's air, land, and water (and the people who use it).

The idea behind **deregulation**, the lifting of government restrictions on business, industry, and professional activities, is that the number and complexity of regulatory policies have made regulation too complicated and burdensome. To critics, the problem with regulation is that it raises prices, distorts market forces, and worst of all it does not work. Not everyone, however, believes that deregulation is in the nation's best interest. Many regulations have proved beneficial to Americans. As a result of government regulations, we breathe cleaner air, we have lower levels of lead in our blood, miners are safer at work, seacoasts have been preserved, and children are more likely to survive infancy.

UNDERSTANDING BUREAUCRACIES

In democratic theory, popular control of government depends on elections, but we could not possibly elect the more than four million federal civilian and military employees (or even the few thousand top men and women). However, the fact that voters do not elect civil servants does not mean that bureaucracies cannot respond to and *represent* the public's interests. Much depends on *whether bureaucracies are effectively controlled by the policymakers* that citizens do elect—the president and Congress.

Some presidential methods of exercising control over bureaucracies include:

- Appointing the right people to head the agency.
- Issuing executive orders.
- Tinkering with an agency's budget.
- Reorganizing an agency.

There are several measures Congress can take to oversee the bureaucracy:

- Influencing the appointment of agency heads.
- Tinkering with an agency's budget.
- Holding hearings.
- Rewriting the legislation or making it more detailed.

One crucial explanation for the difficulty presidents and Congress face in controlling bureaucracies relates to the role of iron triangles and issue networks. When agencies, groups, and committees all depend on one another and are in close, frequent contact, they form **iron triangles** (or *subgovernments*). Iron triangles have dominated some areas of domestic policymaking by combining internal consensus with a virtual monopoly on information in their area. Iron triangles are characterized by *mutual dependency*, in which each element provides key services, information, or policy for the others (illustrated by the *tobacco triangle*). These subgovernments can add a strong decentralizing and fragmenting element to the policymaking process.

Hugh Heclo points out that the system of subgovernments is now overlaid with an amorphous system of issue networks, which means that there is more widespread participation in bureaucratic policymaking, and many of the participants have technical policy expertise and are drawn to issues because of intellectual or emotional commitments rather than material interests. This opening of the policymaking process complicates the calculations and decreases the predictability of those involved in the stable and relatively

narrow relationships of subgovernments. Despite the fact that subgovernments often are able to dominate policymaking for decades, they are not indestructible; policies of the tobacco triangle, for one, have increasingly come under fire from health authorities.

The federal bureaucracy *has not grown over the past two generations*. In fact, the bureaucracy has *shrunk* in size relative to the population it serves. Originally, the federal bureaucracy had a modest role, but as the economy and the society of the United States changed, additional demands were made on government. Considering the more active role the bureaucracy is expected to play in dealing with social and economic problems, a good case can be made that the bureaucracy is actually too *small* for many of the tasks currently assigned to it (such as the control of illicit drugs or the protection of the environment).

CHAPTER OUTLINE

I. THE WEBERIAN MODEL OF BUREAUCRACIES

- A. The classic conception of bureaucracy was advanced by the German sociologist, Max Weber, who stressed that the bureaucracy was a “*rational*” way for a modern society to conduct its business.
- B. To Weber, a **bureaucracy** depends upon certain elements.
 - 1. It has a *hierarchical authority structure*, in which power flows from the top down and responsibility from the bottom up.
 - 2. It uses *task specialization*, so experts instead of amateurs perform technical jobs.
 - 3. It develops extensive *rules*, which allow similar cases to be handled in similar ways.
- C. Bureaucrats work on the *merit principle*, in which entrance and promotion are on the basis of demonstrated abilities.
- D. Bureaucracies behave with *impersonality* so that all clients are treated impartially.

II. THE BUREAUCRATS

- A. Bureaucratic agencies.
 - 1. Each bureaucratic agency is created by Congress, which sets its budget and writes the policies it administers.
 - 2. Most agencies are responsible to the president, whose administrative responsibilities are only vaguely hinted at in the constitutional obligation “to take care that the laws shall be faithfully executed.”
 - 3. How to manage and control bureaucracies is a central problem of democratic government.
- B. Bureaucrats have been the scapegoats of American politics. Following are some of the most prevalent *myths* (and responses):
 - 1. *Americans dislike bureaucrats*. Despite the rhetoric about bureaucracies, Americans are generally satisfied with bureaucrats and the treatment they get from them.
 - 2. *Most federal bureaucrats work in Washington, D.C.* Only about 12 percent of federal civilian employees work in Washington.

3. *Bureaucracies are growing bigger each year.* Almost all the growth in the number of public employees has occurred in *state and local* governments. As a percentage of America's total work force, *federal* government employment has actually been shrinking and now amounts to about three percent of all civilian jobs.
 4. *Bureaucracies are ineffective, inefficient, and always mired in red tape.* Bureaucracy is simply a way of organizing people to perform work. Bureaucracies may be inefficient at times, but no one has yet demonstrated that government bureaucracies are more or less inefficient, ineffective, or mired in red tape than private bureaucracies.
- C. Bureaucrats do much more than simply follow orders.
1. Bureaucrats possess crucial information and expertise that make them partners with the president and Congress in making decisions about public policy.
 2. Those that compose the bureaucracy perform most of the vital services provided by the federal government.
 3. Despite all the complaints about bureaucracies, the vast majority of tasks carried out by governments at all levels are noncontroversial.
 4. Bureaucrats perform a wide variety of routine governmental tasks in a perfectly acceptable manner.
 5. Because of their expertise, they inevitably have some discretion in carrying out policy decisions.
- D. Federal employment.
1. The *Department of Defense (DOD)* employs about one-fourth of federal *civilian* workers in addition to the 1.4 million men and women in uniform. Altogether, the DOD makes up more than half of the federal bureaucracy.
 2. The *Postal Service* accounts for an additional 28 percent of federal civilian employees.
 3. The *Department of Veterans Affairs* (clearly related to national defense) has more than 253,000 employees
 4. *All other functions of government* are handled by the remaining 25 percent of federal employees.
- E. Who they are and how they got there.
1. There are approximately 2.7 million civil bureaucrats (more than 21 million if state and local public employees are included).
 2. Although Congress has ordered federal agencies to make special efforts to recruit and promote previously disadvantaged groups, *women and nonwhites are still clustered in the lower ranks.*
 3. As a whole, the permanent bureaucracy is more broadly representative of the American people than legislators, judges, or presidential appointees in the executive branch.
 4. The diversity of employees in bureaucratic jobs mirrors the diversity of private sector jobs.
- F. Civil service: from patronage to protection.

1. Until approximately 100 years ago, a person got a job with the government through the **patronage** system (a hiring and promotion system based on knowing the right people).
 - a. Under this “**spoils system**,” nineteenth-century presidents staffed the government with their friends and allies.
 - b. In a tragic irony of history, Charles Guiteau (a disappointed office seeker) actually helped end this system of federal appointments: frustrated because President James A. Garfield would not give him a job, Guiteau shot and killed the president.
 - c. Vice President Chester A. Arthur (who then became president) surprised his critics by pushing for passage of the **Pendleton Civil Service Act** (1883), which created the federal Civil Service.
2. Today, most federal agencies are covered by some sort of civil service system.
3. The rationale for all **civil service** systems rests on the idea of *merit* and the desire to create a *nonpartisan* government service.
 - a. The **merit principle** (using examinations and promotion ratings) is intended to produce administration by people with talent and skill.
 - b. Creating a nonpartisan civil service means insulating government workers from the risk of being fired when a new party comes to power.
 - c. The **Hatch Act** (1939, amended 1993) also prohibits those employees from *active participation* in partisan politics.
4. The **Office of Personnel Management (OPM)** is in charge of hiring for most agencies of the federal government.
 - a. For each position that is open, the OPM will send three names to the agency (known as the *rule of three*).
 - b. Once hired, a person is assigned a **GS (General Schedule) rating**, ranging from GS 1 to GS 18.
 - c. After a probationary period, civil servants are *protected*; it is difficult to fire a civil service employee after the probationary period. An employee can appeal his or her dismissal, which can consume weeks, months, or even years. (The right of appeal must be exhausted before one’s paycheck stops.)
 - (1) Ensuring a nonpartisan civil service requires that workers have protection from dismissals that are politically motivated.
 - (2) Protecting all workers against political firings may also protect a few from dismissal for good cause.
5. At the very top of the civil service system are about 9,000 members of the **Senior Executive Service**. These executives earn high salaries and may be moved from one agency to another as leadership needs change.
6. The other route to federal jobs: recruiting from the *plum book*.
 - a. Congress publishes the *plum book*, which lists top federal jobs available for direct presidential appointment (often with Senate confirmation).
 - b. Every incoming president launches a nationwide talent search to fill these positions (approximately 3,000 of them).
 - c. Presidents look for individuals who combine executive talent, political skills, and policy views similar to those of the president.

- d. Some positions—especially ambassadorships—go to large campaign contributors.
- e. Most will be political appointees, “in-and-outers,” who stay for a while and then leave; they soon learn that senior civil servants know more, have been there longer, and will outlast them.
- f. Most find it difficult to exercise real control over much of what their subordinates do: the security of the civil servants’ jobs combined with the transience (and even ignorance) of their superiors contribute to the bureaucracy’s resistance to change.

III. HOW BUREAUCRACIES ARE ORGANIZED

- A. In general, there are four types of bureaucracies: *cabinet departments*, *regulatory agencies*, *government corporations*, and *independent executive agencies*.
- B. The cabinet departments.
 - 1. Each of the 15 **cabinet departments** is headed by a secretary (except the Department of Justice, which is headed by the attorney general); all are chosen by the president and approved by the Senate.
 - a. Beneath the secretary are undersecretaries, deputy undersecretaries, and assistant secretaries.
 - b. Each department manages specific policy areas, and each has its own budget and staff.
 - 2. The real work of a department is done in the **bureaus** (sometimes designated by other names such as *service*, *office*, or *administration*).
 - 3. From the 1970s until 1995, the Department of Health and Human Services was the largest federal department in dollars spent (although the Department of Defense still had more employees). The Social Security Administration became an independent agency in 1995, spending one-third of the federal budget on the massive programs of Social Security and Medicare.
- C. The regulatory commissions.
 - 1. Each of the **independent regulatory commissions** has responsibility for some sector of the economy, making and enforcing rules designed to protect the public interest; they also judge disputes over those rules.
 - 2. They are sometimes called the “alphabet soup” of American government because most such agencies are known by their initials: ICC (Interstate Commerce Commission), FRB (Federal Reserve Board), NLRB (National Labor Relations Board), FCC (Federal Communications Commission), FTC (Federal Trade Commission), SEC (Securities and Exchange Commission).
 - 3. Each of the agencies is governed by a small commission, appointed by the president for fixed terms of office and confirmed by the Senate; regulatory commission members cannot be fired by the president.
 - 4. Critics claim that the close connection between the regulators and the industries they regulate has meant that the agencies have become the “captives” of industry.
- D. The government corporations.

1. **Government corporations** provide a service that could be handled by the private sector.
 2. They typically charge for their services, though often at cheaper rates than the consumer would pay a private sector producer.
 3. Examples include the Tennessee Valley Authority (TVA), Amtrak, and the Federal Deposit Insurance Corporation (FDIC). The U.S. Postal Service is the largest of the government corporations.
- E. The independent executive agencies.
1. The **independent executive agencies** are not part of the cabinet departments and generally do not have regulatory functions; they usually perform specialized functions.
 2. Their administrators are typically appointed by the president and serve at his pleasure.
 3. Examples include the General Services Administration (GSA), National Science Foundation (NSF), and National Aeronautics and Space Administration (NASA).

IV. BUREAUCRACIES AS IMPLEMENTORS

- A. As policymakers, bureaucrats play three key roles: they are policy *implementors*; they *administer* public policy; and they are *regulators*.
- B. Policy **implementation** occurs when the bureaucracy carries out decisions of Congress, the president, and even the courts.
 1. Public policies are *rarely self-executing*: bureaucrats translate legislative policy goals into programs.
 2. Congress typically announces the goals of a policy in broad terms, sets up an administrative apparatus, and leaves the bureaucracy the task of working out the details of the program.
- C. Three elements of implementation:
 1. Creation of a new agency or assignment of responsibility to an old one.
 2. Translation of policy goals into operational rules of thumb and development of guidelines.
 3. Coordination of resources and personnel to achieve the intended goals.
- D. Reasons why implementation may break down (policy implementation does not always work well, and bureaucrats usually take the blame when it does not):
 1. *Faulty program design*: a policy or program may be defective in its basic theoretical conception.
 2. *Lack of clarity*: bureaucracies are often asked to implement unclear laws; members of Congress can thus escape the messy details, and blame for the implementation decisions can be placed elsewhere. Title IX of the Education Act of 1972 is a good example of how implementation becomes complex if the original legislation is unclear.
 3. *Lack of resources*: as big as bureaucracy may appear, it frequently lacks the staff (along with the necessary training, funding, supplies, and equipment) to carry out the tasks it has been assigned to do; agencies may also lack the authority to meet their responsibilities.

4. *Administrative routine*: much of administration involves a routine in which bureaucrats follow **standard operating procedures (SOPs)** to help them make numerous everyday decisions.
 - a. SOPs bring uniformity to complex organizations.
 - b. Justice is better served if rules are applied uniformly.
 - c. Uniformity also makes personnel interchangeable.
 - d. Routines are essential to bureaucracy (but they also become frustrating to citizens, who term them “red tape” when they do not appear to appropriately address a situation, and may become obstacles to action).
5. *Administrators’ dispositions*: paradoxically, bureaucrats operate not only within the confines of routines but often with considerable *discretion to behave independently*.
 - a. **Administrative discretion** is the authority of administrative actors to select among various responses to a given problem.
 - b. Discretion is greatest when rules do not fit a case; but even in agencies with elaborate rules and regulations—especially when more than one rule fits—there is still room for discretion.
 - c. Michael Lipsky coined the phrase **street-level bureaucrats** to refer to those bureaucrats who are in constant contact with the public and have considerable discretion (including police officers, welfare workers, and lower court judges).
 - d. How bureaucrats exercise discretion depends on their dispositions about the policies and rules they administer; although bureaucrats may be indifferent to the implementation of many policies, others will be in conflict with their policy views or personal or organizational interests.
 - e. Controlling the exercise of discretion is a difficult task: it is not easy to fire bureaucrats in the Civil Service, and removing appointed officials may be politically embarrassing to the president.
6. *Fragmentation*: responsibility for a policy is sometimes dispersed among several units within the bureaucracy.
 - a. This diffusion of responsibility makes the coordination of policies both time-consuming and difficult.
 - b. Sometimes those who are supposed to administer a law receive contradictory signals from different agencies.
 - c. President George W. Bush’s creation of the Office of Homeland Security in 2001 involved directing the counterterrorism efforts of 46 federal agencies, encompassing much of the federal government.
 - d. Hyperpluralism and the decentralization of power make it difficult to reorganize government.

V. PRIVATIZATION

- A. Since the 1980s efforts have been made to decentralize authority and provide performance incentives through market competition and competitive public-versus-private bidding on government services.

- B. The theory behind contracting for services is that competition in the private sector will result in better service at lower costs.
- C. Critics of contracting argue:
 - 1. There is no evidence that private contractors have provided services more efficiently at the federal level.
 - 2. Competition is not always present.
 - 3. Contracting almost always leads to less public scrutiny.

VI. BUREAUCRACIES AS REGULATORS

- A. Regulation in the economy and in everyday life.
 - 1. Government **regulation** is the use of governmental authority to control or change some practice in the private sector.
 - 2. This is the most controversial role of the bureaucracies, yet Congress gives them broad mandates to regulate activities as diverse as interest rates, the location of nuclear power plants, and food additives.
 - 3. Everyday life itself is the subject of bureaucratic regulation; almost all bureaucratic agencies—not merely the ones called independent regulatory agencies—are in the regulatory business.
 - 4. Most government regulation is clearly in the public interest. For example, the U.S. Department of Agriculture is charged with regulating the quality of meat products.
- B. Regulation: how it grew, how it works.
 - 1. Until 1887, the federal government made almost no regulatory policies.
 - a. Even the minimum regulatory powers of state and local governments were disputed.
 - b. In 1877, the Supreme Court upheld the right of government to regulate the business operations of a firm (*Munn v. Illinois*).
 - c. In 1887, Congress created the first regulatory agency, the **Interstate Commerce Commission (ICC)**, charged with regulating the railroads, their prices, and their services to farmers.
 - 2. Most agencies charged with regulation first have to *develop a set of rules* (often called *guidelines*); guidelines are developed in consultation with (and sometimes with the agreement of) the people or industries being regulated.
 - 3. The agency must then apply and enforce its rules and guidelines, either in court or through its own administrative procedures.
 - a. Sometimes it waits for complaints to come to it (as the Equal Employment Opportunity Commission does).
 - b. Sometimes it sends inspectors into the field (as the Occupational Safety and Health Administration does).
 - c. Sometimes it requires applicants for a permit or license to demonstrate performance consistent with congressional goals and agency rules (as the Federal Communications Commission does).
 - 4. All regulation contains these elements:
 - a. A grant of power and set of directions from Congress.
 - b. A set of rules and guidelines by the regulatory agency itself.

- c. Some means of enforcing compliance with congressional goals and agency regulations.
- C. How should we regulate?
- D. Government regulation of the American economy and society has grown in recent decades.
 - 1. The budgets of regulatory agencies, their level of employment, and the number of rules they issue are all increasing—and did so even during the Reagan administration.
- E. Toward deregulation.
 - 1. The idea behind **deregulation** is that the number and complexity of regulatory policies have made regulation too complex and burdensome.
 - 2. Critics of regulation have a number of accusations against the regulatory system.
 - a. It raises prices.
 - b. It hurts America's competitive position abroad.
 - c. It does not always work well.
- F. Critics of deregulation.
 - 1. Critics of deregulation point to severe environmental damage resulting from lax enforcement of environmental protection standards during the Reagan administration.
 - 2. Many observers attribute at least a substantial portion of the blame for the enormously expensive bailout of the savings and loan industry to the deregulation of it in the 1980s.

VI. UNDERSTANDING BUREAUCRACIES

- A. Bureaucracy and democracy.
 - 1. In democratic theory, popular control of government depends on elections, but we could not possibly elect the 4.1 million federal civilian and military employees (or even the few thousand top men and women).
 - 2. The fact that voters do not elect civil servants does not mean that bureaucracies cannot respond to and *represent* the public's interests.
 - 3. Much depends on *whether bureaucracies are effectively controlled by the policymakers* that citizens do elect—the president and Congress.
 - a. Presidents try to impose their policy preferences on agencies, using some of the following methods:
 - (1) Appoint the right people to head the agency: putting their people in charge is one good way for presidents to influence agency policy.
 - (2) Issue orders: Presidents can issue **executive orders** to agencies, or presidential aides can pass the word that “the president was wondering if . . .”
 - (3) Tinker with an agency's budget: the Office of Management and Budget is the president's own final authority on any agency's budget, but each agency has its own constituents within and outside of Congress, and it is *Congress* that appropriates funds.
 - (4) Reorganize an agency: although President Reagan promised to abolish the Department of Energy and the Department of

Education, he never succeeded—largely because each was in the hands of an entrenched bureaucracy, backed by elements in Congress and strong constituent groups.

- b. Congress exhibits an ambivalent relationship with the bureaucracies:
 - (1) On the one hand, members of Congress may find a big bureaucracy congenial (big government provides services to constituents).
 - (2) On the other hand, Congress has found it hard to control the government it helped create.
- c. Measures Congress can take to oversee the bureaucracy:
 - (1) Influence the appointment of agency heads: even when senatorial approval of a presidential appointment is not required, members of Congress may be influential.
 - (2) Tinker with an agency's budget: the congressional *power of the purse* is a powerful weapon for controlling bureaucratic behavior.
 - (3) Hold hearings: committees and subcommittees can hold periodic hearings as part of their oversight job.
 - (4) Rewrite the legislation or make it more detailed: Congress can write new or more detailed legislation to limit bureaucratic discretion and make its instructions clearer.
- 4. There is one other crucial explanation for the difficulty presidents and Congress face in controlling bureaucracies: iron triangles and issue networks.
 - a. When agencies, groups, and committees all depend on one another and are in close, frequent contact, they form **iron triangles** (or *subgovernments*).
 - b. Iron triangles have dominated some areas of domestic policymaking by combining internal consensus with a virtual monopoly on information in their area.
 - c. Iron triangles are characterized by *mutual dependency*, in which each element provides key services, information, or policy for the others (illustrated by the *tobacco triangle*).
 - d. These subgovernments can add a strong decentralizing and fragmenting element to the policymaking process.
 - e. Heclo points out that the system of subgovernments is now overlaid with a system of issue networks, with more widespread participation in bureaucratic policymaking, and many of the participants have technical policy expertise and are drawn to issues because of intellectual or emotional commitments rather than material interests. This opening of the policymaking process decreases the predictability of those involved in the stable and relatively narrow relationships of subgovernments.
 - f. Despite the fact that subgovernments often are able to dominate policymaking for decades, they are not indestructible. Policies of the tobacco triangle, for one, have increasingly come under fire from health authorities.
- B. Bureaucracy and the scope of government.
 - 1. The federal bureaucracy has not grown over the past two generations; in fact, the bureaucracy has *shrunk* in size relative to the population it serves.

2. Originally, the federal bureaucracy had a modest role; but as the economy and the society of the United States changed, additional demands were made on government. (See Chapter 3.)
3. Considering the more active role the bureaucracy is expected to play in dealing with social and economic problems, a good case can be made that the bureaucracy is actually too *small* for many of the tasks currently assigned to it (such as the control of illicit drugs or the protection of the environment).

KEY TERMS AND CONCEPTS

Administrative discretion: authority of administrative actors to select among various responses to a given problem, especially when rules do not fit or more than one rule applies.

Bureaucracy: implementers of policy.

Civil service: promotes hiring on the basis of merit and establishes a nonpartisan government service.

Command-and-control policy: regulatory strategy where government sets a requirement and then enforces individual and corporate actions to be consistent with meeting the requirement.

Deregulation: the withdrawal of the use of governmental authority to control or change some practice in the private sector.

Executive orders: regulations originating in the executive branch.

Governmental corporations: provide services that could be handled by the private sector but that generally charge cheaper rates than a private sector producer.

GS (General Service) rating: assigned to each job in federal agencies, this rating helps to determine the salary associated with the position.

Hatch Act: passed in 1940, prohibits government workers from active participation in partisan politics.

Incentive system: regulatory strategy that rewards individuals or corporations for desired types of behavior, usually through the tax code.

Independent executive agencies: executive agencies that are not cabinet departments, not regulatory commissions, and not government corporations.

Independent regulatory commission: has responsibility for a sector of the economy to protect the public interest.

Iron triangles: refers to the strong ties among government agencies, interest groups, and congressional committees and subcommittees.

Merit principle: using entrance exams and promotion ratings for hiring workers.

Office of Personnel Management (OPM): responsible for hiring for most agencies.

Patronage: a hiring and promotion system based on knowing the right people.

Pendleton Civil Service Act: passed in 1883, it created the federal Civil Service.

Policy implementation: the stage of policymaking between the establishment of a policy and the results of the policy for individuals.

Regulation: the use of governmental authority to control or change some practice in the private sector.

Senior Executive Service: the very top level of the bureaucracy.

Standard operating procedures: detailed rules written to cover as many particular situations as officials can anticipate in order to help bureaucrats implement policies uniformly.

Street-level bureaucrats: bureaucrats who are in constant contact with the public.

TEACHING IDEAS: CLASS DISCUSSION AND STUDENT PROJECTS

- Have each student select one of the independent regulatory agencies and write a brief essay on the history and powers of the agency. Ask students to focus on the “capture” theory and try to determine how well—or how poorly—the theory fits the agency the student selected.
- Ask students to research current law and policies regarding the relationships between former government officials and government bureaucrats. Should these now-private citizens be able to use their former positions in order to obtain access for lobbying activities? Have your class propose changes to current federal policies on such lobbying activities.
- If yours is a fairly small community, have each student prepare a “service directory” of local government agencies. They will probably be surprised to find how many government offices and services are available even in small-town areas.
- For class discussion, have students debate the value of a professional bureaucracy. In particular, have them examine the costs and benefits of the patronage system as compared to those of the merit system in terms of responsibility and accountability to the people bureaucrats serve.
- For a reading and writing connection, have students conduct interviews with civil service employees at three different local bureaucratic agencies, preferably at the same levels. Have the student design a set of survey questions about the qualifications of the job and what kind of preparation a person would need to secure that kind of job. Encourage students to explore the popular myths about bureaucrats. In addition, have students ask questions about how much discretion each respondent has and how much interest groups and political appointees place on them. Then have students write an essay comparing and contrasting the respondents’ answers with the material in the text as well as with each other.

- Have students investigate the qualifications for a job in a federal agency of their choice using the government documents section of the library or government agency Web sites. Starting with the top appointed position to the street-level civil service positions, have them detail the qualifications stated in the government literature. Then have them research just who fills these positions now, using biographical resources. Have students write an essay comparing the standards set with the qualifications of those in office. In particular, ask them whether they think merit standards have been met, at least in the civil service positions.
- Ask students to evaluate the organization and efficiency of your university. How is it organized? Who is employed in what types of positions? Who are the bureaucrats and how efficiently do they perform their jobs? Do these bureaucrats have the same challenges in implementing policy that federal bureaucrats face? Have students prepare brief reports or presentations on their findings.
- Ask students to investigate the creation of the Department of Homeland Security in 2002. For a reading and writing connection, ask students to write an essay applying the principles of this chapter to this new department. How does this department (its mission and creation) illustrate fundamental issues regarding bureaucratic organization, efficiency, and effectiveness? What is the likely success of the agency in meeting its goals?

BACKGROUND READING

Aberbach, Joel D. *Keeping a Watchful Eye*. Washington, D.C.: Brookings Institution, 1990.

Derthick, Martha, and Paul J. Quirk. *The Politics of Deregulation*. Washington, D.C.: Brookings Institution, 1985.

Gormley, William T., Jr. and Steven J. Balla. *Bureaucracy and Democracy: Accountability and Performance*, 2nd ed. Washington, DC: CQ Press, 2007.

Light, Paul C. *The New Public Service*. Washington, D.C.: Brookings Institution, 1999.

Krause George A., And Kenneth J. Meier, eds. *Politics, Policy, and Organizations: Frontiers in the Scientific Study of Bureaucracy*. Ann Arbor, MI: University of Michigan Press, 2003.

Meier, Kenneth J. *Politics and the Bureaucracy: Policymaking in the Fourth Branch of Government*. 4th ed. New York: Harcourt Brace, 2000.

Peters, B. Guy. *The Politics of Bureaucracy*. 4th ed. New York: Longman, 1995.

Pressman, Jeffrey, and Aaron Wildavsky. *Implementation*. 3rd ed. Berkeley, CA: University of California Press, 1984.

Selden, Sally Coleman. *The Promise of Representative Bureaucracy*. New York: M.E. Sharpe, 1997.

Terry, Larry D. *Leadership of Public Bureaucracies: The Administrator as Conservator*. Armonk, NY: M.E. Sharpe, 2003.

Wilson, James Q. *Bureaucracy: What Government Agencies Do and Why They Do It*. New York: Basic Books, 1991.

Wood, B. Dan, and Richard W. Waterman. *Bureaucratic Dynamics: The Role of Bureaucracy in a Democracy*. Boulder, CO: Westview Press, 1994.

MEDIA SUGGESTIONS

Bureaucracy of Government. Films for the Humanities and Sciences, 1988.

A video examining the liberal and conservative commentary concerning the value and problems of bureaucracy.

CHAPTER FOURTEEN: THE FEDERAL COURTS

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LEARNING OBJECTIVES

After studying this chapter, students should be able to:

- Explain why the American judicial system is called an *adversarial* system.
- Identify the major actors in the judicial system and explain the functions and responsibilities of each.
- Describe the functions of federal district courts, courts of appeals, and the U.S. Supreme Court.
- Summarize judicial selection procedures for federal judges and justices.
- Discuss the backgrounds of judges and justices.
- Describe the role of the courts as *policymakers*.
- Summarize procedure in the U.S. Supreme Court, including the “discuss list,” oral argument, the conference, and opinion writing.
- Explain the importance of opinion writing at the Supreme Court level and describe the different types of opinions.
- Identify factors used by the Supreme Court in deciding which cases to accept for review.
- Analyze the contrasting positions of *judicial restraint* and *judicial activism*.
- Examine the ways in which American courts are both democratic and undemocratic institutions.

CHAPTER OVERVIEW

INTRODUCTION

Although the scope of the Supreme Court's decisions is broad, the actual number of cases tried in our legal system is tiny, compared to lower federal courts and state and local courts. This means that a great deal of judicial policymaking occurs in courts other than the Supreme Court. This chapter describes how the court systems are structured, how judges are selected, and the influence of the courts on the policy agenda in the United States.

THE NATURE OF THE JUDICIAL SYSTEM

The judicial system in the United States is an **adversarial** one in which the courts provide an arena for two parties to bring their conflict before an impartial arbiter (a judge). The system is based on the theory that justice will emerge out of the struggle between two contending points of view.

There are two basic kinds of cases, criminal and civil. In *criminal law*, an individual is charged with violating a specific law; criminal law provides punishment for crimes against society (or public order). *Civil law* does not involve a charge of criminality. Instead, it concerns a dispute between two parties and defines relationships between them. The vast majority of cases (both civil and criminal) involve state law and they are tried in state courts.

Every case is a dispute between a *plaintiff* and a *defendant*—the former bringing some charge against the latter. The task of the judge or judges is to apply the law to the case; in some cases, a **jury** is responsible for determining the outcome of a lawsuit. **Litigants** (the plaintiff and the defendant) must have **standing to sue**, which means they must have a serious interest in the case. **Class action suits** permit a small number of people to sue on behalf of all other people similarly situated. Because they recognize the courts' ability to shape policy, interest groups often seek out litigants whose cases seem particularly strong. At other times groups do not directly argue the case for litigants, but support them instead with *amicus curiae* ("friend of the court") **briefs** that attempt to influence the Court's decision, raise additional points of view, and present information not contained in the briefs of the attorneys for the official parties to the case.

There are a number of limitations on cases that federal courts will hear. Federal judges are restricted by the Constitution to deciding "**cases or controversies.**" Two parties must bring a case to them (a case involving an actual dispute rather than a hypothetical question). Courts may decide only **justiciable disputes**, which means that conflicts must be capable of being settled *by legal methods*.

THE STRUCTURE OF THE FEDERAL JUDICIAL SYSTEM

The Constitution is vague about the federal court system. Aside from specifying that there will be a Supreme Court, the Constitution left it to Congress' discretion to establish lower federal courts of general jurisdiction. In the Judiciary Act of 1789, Congress created a system of *constitutional courts* on the basis of this constitutional provision.

The basic judicial structure has been modified several times. At the present time, there are 12 federal courts of appeal, 91 federal district courts, and thousands of state and local courts (in addition to the Supreme Court).

Congress has also established some *legislative courts* (such as the Court of Military Appeals, the Court of Claims, and the Tax Court) for specialized purposes, based on Article I of the Constitution. These **Article I courts** are staffed by judges who have fixed terms of office and who lack the protections of judges on constitutional courts against removal or salary reductions.

Courts of **original jurisdiction** are those where a case is first heard, usually in which trials are held. Courts with **appellate jurisdiction** hear cases brought to them on appeal from a lower court. Appellate courts do not review the factual record, only the legal issues involved.

The entry point for most litigation in the federal courts is one of the 91 district courts. The 680 district court judges usually preside over cases alone, but certain rare cases require that three judges constitute the court. Jurisdiction of the district courts extends to federal crimes; civil suits under federal law; diversity of citizenship cases where the amount exceeds \$75,000; supervision of bankruptcy proceedings; review of the actions of some federal administrative agencies; admiralty and maritime law cases; and supervision of the naturalization of aliens.

However, approximately 98 percent of all criminal cases in the United States are heard in state and local court systems, not in federal courts. Even so, only a small percentage of the persons convicted in district courts actually have a trial. Most charged with federal crimes enter guilty pleas as part of a bargain to receive lighter punishment (“*plea bargaining*”). Most *civil suits* are also handled in *state and local* courts; the vast majority of suits are *settled out of court* without a trial.

U.S. courts of appeal are *appellate* courts empowered to review final decisions of district courts; they also have the authority to review and enforce orders of many federal regulatory agencies. The United States is divided into *12 judicial circuits*, including one for the District of Columbia. There is also a special appeals court called the **U.S. Court of Appeals for the Federal Circuit** (established in 1982), which hears appeals in *specialized cases*, such as those regarding patents, copyrights and trademarks, claims against the United States, and international trade.

About 70 percent of the more than 68,000 cases heard in the courts of appeal come from the district courts. Each court of appeals normally hears cases in panels consisting of three judges, but each may sit *en banc* (with all judges present) in particularly important cases. Decisions are made by *majority vote* of the participating judges.

The U.S. **Supreme Court** is the only court specifically established within Article III of the Constitution. The size of the Court is not set in the Constitution, and it was altered many times between 1801 and 1869; the number has remained stable at nine justices since that time. All nine justices sit together to hear cases and make decisions.

The Supreme Court has *both original and appellate jurisdiction*. Very few cases arise under original jurisdiction, which is defined in *Article III* of the Constitution. Almost all the cases come from the appeals process; appellate jurisdiction of the Court is set by *statute*. Cases may be appealed from both federal and state courts. The great majority of cases come from the lower federal courts. Unlike other federal courts, it controls its own agenda.

THE POLITICS OF JUDICIAL SELECTION

Federal judges are constitutionally guaranteed the right to serve for life “during good behavior.” Federal judges may be removed only by *impeachment*, which has occurred only seven times in two centuries. No Supreme Court justice has ever been removed from office, although Samuel Chase was tried (but not convicted by the Senate) in 1805.

Although the *president nominates* persons to fill judicial posts, the *Senate must confirm* each by majority vote. The customary manner in which the Senate disposes of state-level federal judicial nominations is through **senatorial courtesy**. Because of the strength of this informal practice, presidents usually check carefully with the relevant senator or senators ahead of time. The president usually has more influence in the selection of judges to the federal courts of appeal than to federal district courts. Individual senators are in a weaker position to determine who the nominee will be because the jurisdiction of an appeals court encompasses several states. Even here, however, senators of the president’s party from the state in which the candidate resides may be able to veto a nomination.

Although on the average there has been an opening on the Supreme Court every two years, there is a substantial variance around this mean. Presidents have failed 20 percent of the time to get Senate confirmation of their nominees to the Supreme Court—a percentage much higher than that for any other federal position. When the **chief justice’s** position is vacant, presidents usually nominate someone from outside the Court; but if they decide to elevate a sitting associate justice, he or she must go through a new confirmation hearing. Nominations are most likely to run into trouble under certain conditions. Presidents whose parties are in the minority in the Senate or who make a nomination at the end of their terms face a greatly increased probability of substantial opposition. Equally important, opponents of a nomination usually must be able to question a nominee’s competence or ethics in order to defeat a nomination.

THE BACKGROUNDS OF JUDGES AND JUSTICES

Judges serving on federal district and circuit courts are not a representative sample of the American people. They are all lawyers, and they are overwhelmingly white males. Federal judges have typically held office as a judge or prosecutor, and often they have been involved in partisan politics.

Like their colleagues on the lower federal courts, Supreme Court justices share characteristics that qualify them as an elite group. All have been lawyers, and all but four have been white males. Typically, justices have held high administrative or judicial positions; most have had some experience as a judge, often at the appellate level; many have worked for the Department of Justice; and some have held elective office. A few

have had *no* government service. The fact that many justices (including some of the most distinguished ones) *have not had any previous judicial experience* may seem surprising, but the unique work of the Supreme Court renders this background much less important than it might be for other appellate courts.

Partisanship is an important influence on the selection of judges and justices: only 13 of 110 members of the Supreme Court have been nominated by presidents of a different party. *Ideology* is as important as partisanship—presidents want to appoint to the federal bench people who share their views. Presidential aides survey candidates' decisions (if they have served on a lower court), speeches, political stands, writings, and other expressions of opinion. They also turn for information to people who know the candidates well. Presidents are typically pleased with the performance of their nominees to the Supreme Court and through them have slowed or reversed trends in the Court's decisions. Nevertheless, it is not always easy to predict the policy inclinations of candidates, and presidents have been disappointed in their nominees about one-fourth of the time.

THE COURTS AS POLICYMAKERS

The first decision the Supreme Court must make is *which cases to decide*: unlike other federal courts, the Supreme Court *controls its own agenda*. Approximately 8,000 cases are submitted annually to the U.S. Supreme Court (but only about one percent are accepted for review).

The nine justices meet in *conference* at least once each week. The first task in conference is for the justices to consider the chief justice's *discuss list* and decide which cases they want to hear. Most of the justices rely heavily on their *law clerks* to screen cases. If four justices agree to grant review of a case (the "rule of four"), it can be scheduled for oral argument or decided on the basis of the written record already on file with the Court. The most common way for the Court to put a case on its docket is by issuing a **writ of certiorari** to a lower federal or state court—a formal document that orders the lower court to send up a record of the case for review.

An important influence on the Supreme Court is the **solicitor general**. As a presidential appointee and the third-ranking official in the Department of Justice, the solicitor general is in charge of the appellate court litigation of the federal government. By avoiding frivolous appeals and displaying a high degree of competence, they typically earn the confidence of the Court, which in turn grants review of a large percentage of the cases they submit.

The Supreme Court decides *very few cases*. In a typical year, the Court issues fewer than 100 (recently about 80) *formal written opinions* that could serve as precedent. In a few dozen additional cases, the Court reaches a *per curiam decision*—a decision without explanation (usually unsigned); such decisions involve only the immediate case and have no value as precedent because the Court does not offer reasoning that would guide lower courts in future decisions.

The second task of the weekly conferences is to *discuss cases* that have been accepted and argued before the Court. Beginning the first Monday in October and lasting until June, the Court hears **oral arguments** in two-week cycles. Unlike a trial court, justices are familiar with the case before they ever enter the courtroom. The Court will have received written **briefs** from each party. They may also have received briefs from parties who are interested in the outcome of the case but are not formal litigants (known as *amicus curiae*—or “friend of the court”—briefs).

The chief justice presides in conference. The chief justice calls first on the senior associate justice for discussion and then the other justices in order of seniority. If the votes are not clear from the individual discussions, the chief justice may ask each justice to vote. Once a *tentative vote* has been reached (votes are not final until the opinion is released), an *opinion* may be written.

The written **opinion** is the legal reasoning behind the decision. The *content of an opinion may be as important as the decision itself*. Tradition requires that the chief justice—if he voted with the majority—assign the **majority opinion** to himself or another justice in the majority; otherwise, the opinion is assigned by the senior associate justice in the majority.

Concurring opinions are those written to support a majority decision but also to stress a different constitutional or legal basis for the judgment. **Dissenting opinions** are those written by justices opposed to all or part of the majority’s decision. Justices are free to write their own opinions, to join in other opinions, or to associate themselves with part of one opinion and part of another.

The vast majority of cases are settled on the principle of *stare decisis* (“let the decision stand”), meaning that an earlier decision should hold for the case being considered. Lower courts are expected to follow the **precedents** of higher courts in their decision making. The Supreme Court may overrule its own precedents, as it did in ***Brown v. Board of Education*** (1954) when it overruled ***Plessy v. Ferguson*** (1896) and found that segregation in the public schools violated the Constitution.

Policy preferences do matter in judicial decision making, especially on the nation’s highest court. When precedent is not clear, the law is less firmly established. In such cases, there is more leeway and judges become more purely political players with room for their values to influence their judgment.

The most contentious issue involving the courts is the role of *judicial discretion*; the Constitution itself does not specify any rules for interpretation. Some have argued for a jurisprudence of **original intent** (sometimes referred to as **strict constructionism**). This view, which is popular with conservatives, holds that judges and justices should determine the intent of the framers of the Constitution and decide cases in line with that intent. Advocates of strict constructionism view it as a means of constraining the exercise of judicial discretion, which they see as the *foundation of the liberal decisions* of the past four decades. Others assert that the Constitution is subject to multiple meanings; they maintain that what appears to be deference to the intentions of the framers is simply *a cover for making conservative decisions*.

Judicial implementation refers to how and whether court decisions are translated into actual policy, thereby affecting the behavior of others. The implementation of any Court decision involves many actors besides the justices, and the justices have no way of ensuring that their decisions and policies will be implemented.

UNDERSTANDING THE COURTS

Powerful courts are unusual; very few nations have them. The power of American judges raises questions about the compatibility of unelected courts with a democracy and about the appropriate role for the judiciary in policymaking.

In some ways, the courts are not a very democratic institution. Federal judges are not elected and are almost impossible to remove. Their social backgrounds probably make the courts the most elite-dominated policymaking institution. However, the courts are not entirely independent of popular preferences. Even when the Court seems out of step with other policymakers, it eventually swings around to join the policy consensus (as it did in the New Deal era).

There are strong disagreements concerning the appropriateness of allowing the courts to have a policymaking role. Many scholars and judges favor a policy of **judicial restraint** (sometimes called *judicial self-restraint*), in which judges play minimal policymaking roles, leaving policy decisions to the legislatures. Advocates of judicial restraint believe that decisions such as those on abortion and school prayer go well beyond the “referee” role they feel is appropriate for courts in a democracy. On the other side are proponents of **judicial activism**, in which judges make bolder policy decisions, even breaking new constitutional ground with a particular decision. Advocates of judicial activism emphasize that the courts may alleviate pressing needs, especially of those who are weak politically or economically.

Judicial activism or restraint should not be confused with liberalism or conservatism. In the early years of the New Deal, judicial activists were conservatives. During the tenure of Earl Warren, activists made liberal decisions. The tenure of the conservative Chief Justice Warren Burger and several conservative nominees of Republican presidents marked the most active use of judicial review in the nation’s history. The problem remains of reconciling the American democratic heritage with an active policymaking role for the judiciary. The federal courts have developed a doctrine of **political questions** as a means to avoid deciding some cases, principally those that involve conflicts between the president and Congress.

One factor that increases the acceptability of activist courts is *the ability to overturn their decisions*. The president and the Senate determine who sits on the federal bench (a process that has sometimes been used to reshape the philosophy of the Court). Congress can begin the process of amending the Constitution to overcome a constitutional decision of the Supreme Court, and Congress could even alter the appellate jurisdiction of the Supreme Court to prevent it from hearing certain types of cases. If the issue is one of **statutory construction** (in which a court interprets an act of Congress), the legislature routinely passes legislation that *clarifies existing laws*—and, in effect, overturns the courts.

CHAPTER OUTLINE

I. THE NATURE OF THE JUDICIAL SYSTEM

- A. The judicial system in the United States is an **adversarial** one, in which the courts provide an arena for two parties to bring their conflict before an impartial arbiter (a judge).
 - 1. The system is based on the theory that justice will emerge out of the struggle between two contending points of view.
 - 2. In reality, most cases never reach trial because they are settled by agreements reached out of court.
 - 3. There are two basic kinds of cases: *criminal* and *civil*.
 - a. In criminal law, an individual is charged with violating a specific law; criminal law provides punishment for crimes against society (or public order).
 - b. Civil law does not involve a charge of criminality; instead, it concerns a dispute between two parties and defines relationships between them.
 - c. The vast majority of cases (both civil and criminal) involve state law and are tried in state courts.
- B. Participants in the judicial system.
 - 1. Federal judges are restricted by the Constitution to deciding *cases or controversies*.
 - 2. Courts may decide only **justiciable disputes**, which means that conflicts must be capable of being settled *by legal methods*.
 - 3. Every case is a dispute between a **plaintiff** and a **defendant**—the former bringing some charge against the latter.
 - 4. **Litigants** (the plaintiff and the defendant) must have **standing to sue**, which means they must have a serious interest in a case (typically determined by whether or not they have sustained or are in immediate danger of sustaining a direct and substantial injury from another party or from an action of government).
 - a. In recent years, there has been some broadening of the concept of standing to sue.
 - b. **Class action suits** permit a small number of people to sue on behalf of all other people similarly situated (for example, a suit on behalf of all credit card holders of an oil company).

II. THE STRUCTURE OF THE FEDERAL JUDICIAL SYSTEM

- A. The Constitution is vague about the federal court system: aside from specifying that there will be a Supreme Court, the Constitution left it to Congress' discretion to establish lower federal courts of general jurisdiction.
 - 1. In the **Judiciary Act of 1789**, Congress created a system of **constitutional courts** (also called **Article III courts**) on the basis of this constitutional provision. In addition to the Supreme Court, there are 12 federal courts of appeal, 91 federal district courts, and thousands of state and local courts.

2. Congress has also established some **legislative courts** (such as the Court of Military Appeals, the Court of Claims, and the Tax Court) for specialized purposes, based on Article I of the Constitution. These **Article I courts** are staffed by judges who have fixed terms of office and who lack the protections of judges on constitutional courts against removal or salary reductions.
- B. District courts.
1. **District courts** are courts of *original jurisdiction*.
 2. They are *trial courts*—the only federal courts in which trials are held and in which juries may be impaneled.
 - a. Approximately 98 percent of all criminal cases in the United States are heard in state and local court systems, not in federal courts.
 3. The 680 district court judges usually preside over cases alone, but certain rare cases require that three judges constitute the court.
 4. Jurisdiction of the district courts extends to federal crimes; civil suits under federal law; diversity of citizenship cases where the amount exceeds \$75,000; supervision of bankruptcy proceedings; review of the actions of some federal administrative agencies; admiralty and maritime law cases; and supervision of the naturalization of aliens.
- C. Courts of appeal.
1. U.S. courts of appeal have **appellate jurisdiction**; *they are* empowered to *review final decisions of district courts*; they also have the authority to *review and enforce orders of many federal regulatory agencies*.
 2. The United States is divided into *12 judicial circuits*, including one for the District of Columbia.
 - a. About 70 percent of the more than 68,000 cases heard in the courts of appeal come from the district courts.
 - b. Each court of appeals normally hears cases in panels consisting of three judges, but each may sit *en banc* (with all judges present) in particularly important cases.
 - c. Decisions are made by *majority vote* of the participating judges.
 3. There is also a special appeals court called the **U.S. Court of Appeals for the Federal Circuit** (established in 1982), which hears appeals in *specialized cases*, such as those regarding patents, copyrights and trademarks, claims against the United States, and international trade.
- D. The Supreme Court.
1. The highest court in the federal system, the **U.S. Supreme Court** is also the only court specifically established within Article III of the Constitution.
 - a. There are nine justices on the Court: eight associates and one chief justice.
 - b. The size of the Court is not set in the Constitution, and it was altered many times between 1801 and 1869; the number has remained stable at nine justices since that time.
 2. Important functions include:
 - a. Resolving conflicts among the states.
 - b. Maintaining national supremacy in the law.

- c. Playing an important role in ensuring uniformity in the interpretation of national laws.
- 3. All nine justices sit together to hear cases and make decisions (*en banc*). The first decision the Court must make is *which cases to decide*: unlike other federal courts, the Supreme Court *controls its own agenda*.
- 4. The Supreme Court has *both original and appellate jurisdiction*.
 - a. Very few cases arise under original jurisdiction, which is defined in *Article III*.
 - b. Almost all the cases come from the appeals process; appellate jurisdiction is set by *statute*.
 - c. Cases may be *appealed* from *both federal and state courts*.
 - d. The great majority of cases come from the lower federal courts.
- 5. Cases appealed from state courts:
 - a. Cases appealed from state courts must involve “*a substantial federal question*.”
 - b. Cases from state courts are heard only in the Supreme Court (not in the courts of appeal) and then only after the petitioner has exhausted all the potential remedies in the state court system.
 - c. The Court will not try to settle matters of state law or determine guilt or innocence in state criminal proceedings.

III. THE POLITICS OF JUDICIAL SELECTION

- A. Although the *president nominates* persons to fill judicial posts, the *Senate must confirm* each by majority vote.
- B. Federal judges are constitutionally guaranteed the right to serve for life “during good behavior.”
 - 1. Federal judges may be removed only by *impeachment*, which has occurred only seven times in two centuries.
 - 2. No Supreme Court justice has ever been removed from office, although Samuel Chase was tried but not convicted by the Senate in 1805.
 - 3. Salaries of federal judges cannot be reduced (a stipulation that further insulates them from political pressures).
- C. The lower courts: judicial selection procedures.
 - 1. The customary manner in which the Senate disposes of state-level federal judicial nominations is through **senatorial courtesy**.
 - a. Under this unwritten tradition (which began under George Washington in 1789), nominations for these positions are not confirmed when opposed by a senator of the president’s party from the state in which the nominee is to serve.
 - b. In the case of courts of appeal judges, nominees are not confirmed if opposed by a senator of the president’s party from the state of the nominee’s residence.
 - c. Because of the strength of this informal practice, presidents usually check carefully with the relevant senator or senators ahead of time.
 - d. Typically, when there is a vacancy for a federal district judgeship, the one or two senators of the president’s party from the state where the

judge will serve suggest one or more names to the attorney general and the president; if neither senator is of the president's party, the party's state congresspersons or the other party leaders may make suggestions.

- e. The Department of Justice and the Federal Bureau of Investigation then conduct competency and background checks on these persons, and the president usually selects a nominee from those who survive the screening process.

D. The Supreme Court.

1. Although on the average there has been an opening on the Supreme Court every two years, there is a substantial variance around this mean.
2. When the **chief justice's** position is vacant, presidents usually nominate someone from outside the Court, but if they decide to elevate a sitting associate justice (as President Reagan did with William Rehnquist in 1986), he or she must go through a new confirmation hearing.
3. Selection process.
 - a. The president usually relies on the attorney general and the Department of Justice to identify and screen candidates for the Supreme Court.
 - b. Sitting justices often try to influence the nominations of their future colleagues, but presidents feel no obligation to follow their advice.
 - c. Senators play a much less prominent role in the recruitment of Supreme Court justices than in the selection of lower court judges.
 - d. The ABA's Standing Committee on the Federal Judiciary has played a varied but typically modest role at the Supreme Court level; presidents have not generally been willing to allow the committee to prescreen candidates.
 - e. Candidates for nomination usually keep a low profile.
4. Failure to confirm.
 - a. Presidents have failed 20 percent of the time to get Senate confirmation of their nominees to the Supreme Court—a percentage much higher than that for any other federal position.
 - (1) Thus, although home-state senators do not play prominent roles in the selection process, the Senate as a whole does.
 - (2) Through its **Judiciary Committee**, it may probe a nominee's background and judicial philosophy in great detail.
 - b. Nominations are most likely to run into trouble under certain conditions.
 - (1) Presidents whose parties are in the minority in the Senate or who make a nomination at the end of their terms face an increased probability of substantial opposition.
 - (2) Opponents of a nomination usually must be able to question a nominee's competence or ethics in order to defeat a nomination.
 - (3) Opposition based on a nominee's ideology is generally not considered a valid reason to vote against confirmation (illustrated by the confirmation of Chief Justice William Rehnquist, who was strongly opposed by liberals).

IV. THE BACKGROUNDS OF JUDGES AND JUSTICES

- A. Characteristics of district and circuit court judges.
 - 1. Judges serving on federal district and circuit courts are not a representative sample of the American people.
 - 2. They are all lawyers, and they are overwhelmingly white males.
 - 3. Federal judges have typically held office as a judge or prosecutor, and often they have been involved in partisan politics.
- B. Characteristics of Supreme Court justices.
 - 1. Like their colleagues on the lower federal courts, Supreme Court justices share characteristics that qualify them as an elite group.
 - 2. All have been lawyers, and all but four (Thurgood Marshall, nominated in 1967, Sandra Day O'Connor, nominated in 1981, Clarence Thomas, nominated in 1991, and Ruth Bader Ginsburg, nominated in 1993) have been white males.
 - 3. Most have been in their fifties and sixties when they took office, from the upper-middle to upper class, and Protestants.
 - 4. Race and sex have become more salient criteria in recent years.
 - 5. Geography was once a prominent criterion for selection to the court, but it is no longer very important.
 - 6. At various times, there have been what some have termed a "Jewish seat" and a "Catholic seat" on the Court, but these guidelines are not binding on the president (and are not always followed).
 - 7. Typically, justices have held high administrative or judicial positions.
 - a. Most have had some experience as a judge, often at the appellate level.
 - b. Many have worked for the Department of Justice, and some have held elective office.
 - c. A few have had *no* government service.
 - d. The fact that many justices (including some of the most distinguished ones) have not had *any* previous judicial experience may seem surprising, but the unique work of the court renders this background much less important than it might be for other appellate courts.
- C. "Politics" and the selection process.
 - 1. *Partisanship* is an important influence on the selection of judges and justices: only 13 of 110 members of the Supreme Court have been nominated by presidents of a different party.
 - 2. Judgeships are considered very prestigious patronage plums; the decisions of Congress to create new judgeships are closely related to whether or not the majority party in Congress is the same as the party of the president.
 - 3. *Ideology* is as important as partisanship; presidents want to appoint to the federal bench people who share their views.
 - a. Presidential aides survey candidates' decisions (if they have served on a lower court), speeches, political stands, writings, and other expressions of opinion.
 - b. They also turn for information to people who know the candidates well.

- c. Members of the federal bench also play the game of politics, and may try to time their retirements so that a president with compatible views will choose their successors.
- 4. Thus, presidents influence policy through the values of their judicial nominees, but this impact is limited by numerous legal and “extra-legal” factors beyond the chief executive’s control.
 - a. Presidents are typically pleased with their nominees to the Supreme Court, and through them have slowed or reversed trends in the Court’s decisions. (Franklin D. Roosevelt’s nominees substantially liberalized the Court, whereas Richard Nixon’s made it more conservative.)
 - b. Nevertheless, it is not always easy to predict the policy inclinations of candidates, and presidents have been disappointed in their nominees about one-fourth of the time. (President Eisenhower was displeased with the liberal decisions of both Earl Warren and William Brennan, and Richard Nixon was disappointed when Warren Burger wrote the Court’s decision calling for immediate desegregation of the nation’s schools.)

V. THE COURTS AS POLICYMAKERS

- A. *Deciding which cases to accept* is the first step in policymaking.
 - 1. Courts of original jurisdiction cannot very easily decide not to consider a case.
 - 2. The Supreme Court has control over its own docket.
 - 3. Approximately 8,000 cases are submitted annually to the U.S. Supreme Court.
- B. Functions of weekly conferences.
 - 1. Establish an agenda.
 - a. The nine justices meet in **conference** at least once a week.
 - b. Conferences operate under the strictest secrecy, with only the justices in attendance.
 - c. The justices consider the chief justice’s *discuss list* and decide which cases they want to hear.
 - d. Most of the justices rely heavily on their *law clerks* to screen cases.
 - e. If four justices agree to grant review of a case (the “*rule of four*”), it can be scheduled for *oral argument* or decided *on the basis of the written record already* on file with the Court.
 - f. The most common way for the Court to put a case on its docket is by issuing a **writ of certiorari** to a lower federal or state court—a formal document that orders the lower court to send up a record of the case for review.
 - g. The **solicitor general** has an important influence on the Court.
 - (1) As a presidential appointee and the third-ranking official in the Department of Justice, the solicitor general is in charge of the appellate court litigation of the federal government.
 - (2) By avoiding frivolous appeals and displaying a high degree of competence, the solicitor general and a staff of about two dozen experienced attorneys typically have the confidence of the Court—which, in turn, grants review of a large percentage of the cases for which they seek it.
 - 2. Making decisions.

- a. The second task of the weekly conferences is to *discuss cases* that have been accepted and argued before the Court.
 - b. Beginning the first Monday in October and lasting until June, the Court hears **oral arguments** in two-week cycles.
 - c. Unlike a trial court, justices are familiar with the case before they ever enter the courtroom.
 - (1) The Court will have received written **briefs** from each party.
 - (2) They may also have received briefs from parties who are interested in the outcome of the case but are not formal litigants (known as ***amicus curiae***—or “friend of the court”—briefs).
 - d. In most instances, the attorneys for each side have only a half-hour to address the Court during oral argument.
 - e. The chief justice presides in conference.
 1. The chief justice calls first on the senior associate justice for discussion and then the other justices in order of seniority.
 2. If the votes are not clear from the individual discussions, the chief justice may ask each justice to vote.
 3. Once a *tentative vote* has been reached (votes are not final until the opinion is released), an *opinion* may be written.
- C. Opinion writing.
1. The *content of an opinion may be as important as the decision itself*.
 - a. The written **opinion** is the legal reasoning behind the decision.
 - b. Tradition requires that the chief justice—if he voted with the majority—assign the **majority opinion** to himself or another justice in the majority; otherwise, the opinion is assigned by the senior associate justice in the majority.
 2. Drafts of the opinion are circulated for comments and suggestions; substantial revisions may be made.
 3. Justices are free to write their own opinions, to join in other opinions, or to associate themselves with part of one opinion and part of another.
 - a. **Concurring opinions** are those written to support a majority decision but also to stress a different constitutional or legal basis for the judgment.
 - b. **Dissenting opinions** are those written by justices opposed to all or part of the majority’s decision.
 4. The vast majority of cases are settled on the principle of *stare decisis* (“let the decision stand”), meaning that an earlier decision should hold for the case being considered.
 - a. All courts rely heavily upon such **precedent**—the way similar cases were handled in the past—as a guide to current decisions.
 - b. Lower courts are expected to follow the precedents of higher courts in their decision making.
 - c. The Supreme Court may overrule its own precedents, as it did in ***Brown v. Board of Education*** (1954) when the Court overruled ***Plessy v. Ferguson*** (1896) and found that segregation in the public schools violated the Constitution.

- d. When precedent is not clear, the law is less firmly established; here there is more leeway and judges become more purely political players with room for their values to influence their judgment.
 - e. Policy preferences do matter in judicial decision making, especially on the nation's highest court.
- D. The Supreme Court decides *very few cases*.
 - 1. In a typical year, the Court issues fewer than 100 (recently, about 80) *formal written opinions* that could serve as *precedent*.
 - 2. In a few dozen additional cases, the Court reaches a ***per curiam decision***—a decision without explanation (usually unsigned); such decisions involve only the immediate case and have no value as precedent because the Court does not offer reasoning that would guide lower courts in future decisions.
 - 3. Once announced, copies of a decision are conveyed to the press as it is being formally announced in open court.
 - 4. The decisions are bound weekly and made available to every law library and lawyer in the United States.
- E. Implementing court decisions.
 - 1. Even Supreme Court decisions are *not self-implementing*; they are actually “remands” to lower courts, instructing them to act in accordance with the Court’s decisions.
 - 2. Court decisions carry legal (even moral) authority, but courts do not possess a staff to enforce their decisions.
 - 3. **Judicial implementation** refers to how and whether court decisions are translated into actual policy.
 - 4. Charles Johnson and Bradley Canon suggest that implementation of court decisions involves several elements:
 - a. There is an *interpretation population*—heavily composed of lawyers and other judges—who must correctly sense the intent of the original decision in their subsequent actions.
 - b. The *implementing population* includes those responsible for putting the decision into effect; judicial decisions are more likely to be smoothly implemented if implementation is concentrated in the hands of a few highly visible officials.
 - c. Every decision involves a *consumer population* (those affected by the decision); the consumer population must be aware of its newfound rights and stand up for them.
- F. The debate over original intentions.
 - 1. The most contentious issue involving the courts is the role of *judicial discretion*; the Constitution itself does not specify any rules for interpretation.
 - 2. Some have argued for a jurisprudence of **original intent** (sometimes referred to as **strict constructionism**).
 - a. This view, which is popular with conservatives, holds that judges and justices should determine the intent of the framers of the Constitution and decide cases in line with that intent.

- b. Advocates of strict constructionism view it as a means of *constraining the exercise of judicial discretion*, which they see as the *foundation of the liberal decisions* of the past four decades.
3. Others assert that the Constitution is subject to multiple meanings. They maintain that what appears to be deference to the intentions of the framers is simply *a cover for making conservative decisions*.

VI. UNDERSTANDING THE COURTS

A. The courts and democracy.

1. In some ways the courts are not a very democratic institution.
 - a. Federal judges are not elected and are almost impossible to remove.
 - b. Their social backgrounds probably make the courts the most elite-dominated policymaking institution.
2. However, the courts are not entirely independent of popular preferences.
 - a. Even when the Court seems out of step with other policymakers, it eventually swings around to join the policy consensus (as it did in the New Deal).
 - b. The Court is not as insulated from the normal forms of politics as one might think.
 - (1) The Court was flooded with mail during the abortion debate, subjected to demonstrations and protests, and bombarded with *amicus curiae* briefs.
 - (2) Although it is unlikely that members of the Supreme Court cave in to interest group pressures, they are certainly aware of the public's concern about issues, and this becomes part of their consciousness as they decide cases.
 - c. Courts can also promote *pluralism*; interest groups often use the judicial system to pursue their policy goals, forcing the courts to rule on important social issues.

B. What courts should do: the scope of judicial power.

1. There are strong disagreements concerning the appropriateness of allowing the courts to have a policymaking role.
2. Many scholars and judges favor a policy of **judicial restraint** (sometimes called *judicial self-restraint*), in which judges play minimal policymaking roles, leaving policy decisions to the legislatures.
3. Advocates of judicial restraint believe that decisions such as those on abortion and school prayer go well beyond the "referee" role they feel is appropriate for courts in a democracy.
4. On the other side are proponents of **judicial activism**, in which judges make bolder policy decisions, even breaking new constitutional ground with a particular decision.
5. Advocates of judicial activism emphasize that the courts may alleviate pressing needs, especially of those who are weak politically or economically.
6. It is important not to confuse *judicial activism* or *restraint* with *liberalism* or *conservatism*.

- a. In the early years of the New Deal, judicial activists were conservatives.
 - b. During the tenure of Earl Warren, activists made liberal decisions.
 - c. Although the public often associates judicial activism with liberals, the tenure of the conservative Chief Justice Warren Burger and several conservative nominees of Republican presidents marked the most active use of judicial review in the nation's history.
- C. How the court sets limits on the cases it will hear.
 1. The federal courts have developed a doctrine of **political questions** as a means to avoid deciding some cases, principally those regarding conflicts between the president and Congress.
 2. Judges attempt, whenever possible, to avoid deciding a case on the basis of the Constitution; they show a preference for less contentious "technical" grounds.
 3. The courts employ issues of *jurisdiction*, *mootness* (whether a case presents an issue of contention), *standing*, *ripeness* (whether the issues of a case are clear enough and evolved enough to serve as the basis of a decision), and other conditions to avoid adjudication of some politically charged cases.
 4. Federal courts have been much more likely to find state laws rather than federal laws unconstitutional.
- D. Other factors that limit judicial activism.
 1. One factor that increases the acceptability of activist courts is the ability to overturn their decisions.
 - a. The president and the Senate determine who sits on the federal bench.
 - b. Congress can begin the process of amending the Constitution to overcome a constitutional decision of the Supreme Court; thus, the Sixteenth Amendment (1913) reversed the decision in ***Pollock v. Farmer's Loan and Trust Co.*** (1895), which prohibited a federal income tax.
 - c. Congress could alter the appellate jurisdiction of the Supreme Court to prevent it from hearing certain types of cases (an alteration that has not occurred since 1869, although some in Congress threatened to employ the method in the 1950s regarding some matters of civil liberties).
 - d. If the issue is one of **statutory construction** (in which a court interprets an act of Congress), the legislature routinely passes legislation that *clarifies existing laws*—and, in effect, overturns the courts.
 2. Thus, the description of the judiciary as the "ultimate arbiter of the Constitution" is hyperbolic; all the branches of government help define and shape the Constitution.

KEY TERMS AND CONCEPTS

***Amicus curiae* briefs:** “friend of the court” briefs by nonlitigants who wish to influence the Court’s decision by raising additional points of view and information not contained by briefs prepared by litigants’ attorneys.

Appellate jurisdiction: given to a court where cases are heard on appeal from a lower court.

Class action suits: cases which permit a small number of people to sue on behalf of all other people similarly affected.

Courts of appeal: courts which have the power to review all final decisions of district courts, except in instances requiring direct review by the Supreme Court.

District courts: the entry point for most federal litigation.

Judicial activism: theory that judges should make bolder policy decisions to alleviate pressing needs, especially for those who are weak politically.

Judicial implementation: how and whether court decisions are translated into actual policy.

Judicial restraint: theory that judges should play minimal role in policymaking and leave policy decisions to the legislature.

Judicial review: the power of the courts to hold acts of Congress, and by implication the executive, in violation of the Constitution.

Justiciable disputes: cases that can be settled by legal methods.

***Marbury v. Madison*:** the 1803 Supreme Court case that originated the notion of judicial review.

Opinion: a statement of the legal reasoning behind the decision.

Original intent: the theory that judges should determine the intent of the framers and decide in line with their intent.

Original jurisdiction: given to a court where a case is first heard.

Political questions: conflicts between the president and Congress.

Precedent: the way similar cases have been handled in the past is used as a guide to current decisions.

Senatorial courtesy: a tradition in which nominations for federal judicial positions are not confirmed when opposed by a senator of the president’s party from the state in which the nominee is to serve or from the state of the nominee’s residence.

Solicitor general: a presidential appointee who is in charge of the appellate court litigation of the federal government.

Standing to sue: litigants must have serious interest (sustained direct and substantial injury) from a party in a case.

***Stare decisis*:** an earlier decision should hold for the case being considered.

Statutory construction: a procedure in which the legislature passes legislation that clarifies existing laws so that the clarification has the effect of overturning the court's decision.

Supreme Court: resolves disputes between and among states, maintains the national supremacy of law, ensures uniformity in the interpretation of national laws.

United States v. Nixon: 1974 Supreme Court decision that required President Nixon to turn White House tapes over to the Courts.

TEACHING IDEAS: CLASS DISCUSSION AND STUDENT PROJECTS

- Presidents have failed 20 percent of the time to get Senate confirmation of their nominees to the Supreme Court, a percentage much higher than any other federal position. Call on volunteers to analyze why this particular office should have a rate of rejection so much higher than for other offices. And why are so few nominees for district and appeals courts rejected?
- Check the court dockets for state and local courts in your vicinity. Distribute information on locations, time of court sessions, and types of cases pending. Each student should visit a session of court within the next two weeks and write a brief statement describing how the general courtroom atmosphere differed from what he or she may have expected.
- Ask a local criminal attorney to visit your class to discuss how his or her job is different from what's portrayed on television.
- Assign groups of students to two panels. Hold a short debate on the opposing theories of *original intent* and *loose construction* of the Constitution. *You Are the Policymaker: The Debate over Original Intentions* could serve as the basis for allocating responsibilities among members of the panel.
- The Supreme Court has always insisted on maintaining complete secrecy over deliberations among the justices in conference. Therefore, there was great controversy when the Library of Congress released the papers of the late Justice Thurgood Marshall shortly after his death in 1993. Marshall's papers provide a rare look at behind-the-scenes maneuvering by the Court. Divide your class into several groups and have them review newspaper accounts of Marshall's files (May 1993). One or two groups should focus on key cases (particularly in the area of civil liberties), while another group should focus on the controversy over the decision to release the papers to the press.
- For an interesting class discussion, have students debate how democratic the Supreme Court is compared to other institutions. The discussion should integrate the material learned in other chapters about the role of representation and elections in enforcing accountability and responsibility in policymaking.

- For a reading and writing connection, have students read memoirs and court papers from justices, attorneys, and others involved in the civil rights cases of the 1950s and 1960s. Why were these cases appealed to the courts? Were the courts acting in a democratic manner in their decisions? Why were the decisions made when they were? Did the composition of the court, the broader political context, or the specific legal strategy seem to influence the outcome the most?
- Assign the various court cases (federal and state) that arose as a result of the 2000 presidential election. Have each group brief each case (e.g., parties to the case, origin, issues, the decision, and the reasoning behind it). Then, in class discussion, have students evaluate the courts' decisions, and how democratic they were.
- It is the Senate's responsibility to confirm presidential nominees to the courts. Have the students write an essay where they discuss the limits, if any, the opposition party should have in preventing nominees they don't like from taking the bench. Should they go so far as to filibuster nominees that would be confirmed if allowed to be voted on by the entire body?

BACKGROUND READING

Abraham, Henry J. *The Judiciary: The Supreme Court and the Governmental Process*. 9th ed. New York: Brown and Benchmark, 1994.

Baum, Lawrence. *American Courts: Process and Policy*. Boston: Houghton-Mifflin, 1998.

Baum, Lawrence. *The Supreme Court*. 9th ed. Washington, D.C.: Congressional Quarterly Press, 2007.

Bickel, Alexander M. *The Least Dangerous Branch: The Supreme Court at the Bar of Politics*. New Haven: Yale University Press, 1986.

Carp, Robert A., Ronald Stidham, and Kenneth L. Manning. *Judicial Process in America*. 7th ed. Washington, DC: CQ Press, 2007.

Epstein, Lee. *Constitutional Law for a Changing America: Institutional Powers and Constraints*. Washington, D.C.: CQ Press, 1998.

Epstein, Lee, and Jack Knight. *The Choices Justices Make*. Washington, D.C.: Congressional Quarterly Press, 1998.

Hoekstra, Valerie J. *The Supreme Court and Local Public Opinion*. New York: Cambridge University Press, 2003.

Jacob, Herbert. *Law and Politics in the United States*. 2nd ed. Boston: Little, Brown, 1995.

Segal, Jeffrey A. *The Supreme Court and the Attitudinal Model Revisited*. New York: Cambridge University Press, 2002.

Smith Christopher E., Christina DeJong, and John D. Burrow. *The Supreme Court, Crime & the Ideal of Equal Justice*. New York: Peter Lang, 2003.

Wasby, Stephen. *The Supreme Court in the Federal Judicial System*. 4th ed. Chicago: Nelson-Hall, 1993.

MEDIA SUGGESTIONS

An Introduction to the Federal Courts. Insight Media, 1998.

Part of the “Court System” series distributed by Insight Media. This 1991 program provides a general introduction to the structure and process of the judicial system.

Frontline: Real Justice. PBS Video, 2004.

A special two-hour report goes inside the real-life workings of America’s criminal justice system.

Hill vs. Thomas. Films for the Humanities and Sciences, 1997.

This program, hosted by Lesley Stahl, provides diverse viewpoints on the Senate nomination hearings of Supreme Court justice Clarence Thomas.

The Supreme Court. PBS Video, 2007.

A four-part series which explores the role of the Court throughout American history.

CHAPTER FIFTEEN: THE CONGRESS, THE PRESIDENT, AND THE BUDGET, THE POLITICS OF TAXING AND SPENDING

PEDAGOGICAL FEATURES

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LEARNING OBJECTIVES

After studying this chapter, students should be able to:

- Identify the major sources of federal revenue and the major recipients of federal tax expenditures.
- Determine how *tax expenditures* benefit middle- and upper-income taxpayers and corporations.
- Discuss how the *rise of the national security state* and the *rise of the social service state* are associated with government growth in America.
- Explain the term *incrementalism* and how it describes the spending and appropriations process.
- Explain the impact that “uncontrollable” expenditures and entitlements have on the federal budget.
- Evaluate the ways in which the budget affects the scope of government.

CHAPTER OVERVIEW

INTRODUCTION

The central political issue for many years has been how to pay for policies that most people support. A **budget** is a policy document allocating burdens (taxes) and benefits (expenditures). Over the past 30 years, the national government has run up large annual budget deficits. A budget **deficit** occurs when expenditures exceed revenues in a fiscal year.

The president and Congress have been caught in a *budgetary squeeze*: Americans want them to balance the budget, maintain or increase the level of government spending on most policies, and still keep taxes low. Thus, two questions become central to public policy: Who bears the burdens of paying for government? Who receives the benefits?

THE GOVERNMENT'S SOURCES OF REVENUE

Probably no government policy affects as many Americans as tax policy. In addition to raising revenues to finance its services, the government can use taxes to make citizens' incomes more or less equal, to encourage or discourage growth in the economy, and to promote specific interests.

This section looks at the substance of the budget to see how the American government raises money and where that money is spent. The three major sources of federal revenues are the *personal and corporate income tax*, *social insurance taxes*, and *borrowing*. In 1913, the **Sixteenth Amendment** was added to the Constitution, explicitly permitting Congress to levy an income tax. Although corporate taxes once yielded more revenues than individual income taxes, today corporate taxes yield only about 13 cents of every federal revenue dollar, compared with 48 cents coming from individual income taxes.

Today the **federal debt**—all of the money borrowed over the years and still outstanding—exceeds **\$11 trillion**. Nine percent of all federal expenditure goes to paying *just the interest* on this debt. When the federal government wants to borrow money, the Treasury Department sells bonds, guaranteeing to pay interest to the bondholder. Citizens, corporations, mutual funds, and other financial institutions purchase the bonds. Many economists and policymakers are concerned about the “crowding out” effect the national debt is having on available investment capital. Some have called for a *balanced budget amendment*.

Tax expenditures represent *the difference between what the government actually collects in taxes and what it would have collected without special exemptions*. Tax expenditures are essentially monies that government could collect but does not because they are *exempted* from taxation.

Early in his administration, President Reagan proposed a massive tax-cut bill, which was passed by Congress in July 1981. Families with high incomes received significant income tax reductions with the 1981 bill, but those at the lower end of the income ladder did not

notice much change in their tax burden because social insurance and excise taxes (which fall disproportionately on the poor) *rose* during the same period. Many blamed the massive deficits of the 1980s and 1990s at least partially on the *1981 tax cuts*, as government continued to spend more but reduced its revenues.

The *Tax Reform Act of 1986* was one of the most sweeping alterations in federal tax policy in history. It eliminated or reduced the value of many tax deductions, removed several million low-income individuals from the tax rolls, and greatly reduced the number of tax brackets.

In 1993, President Clinton proposed, and Congress approved, a plan to raise the income tax rate for families in the highest income bracket. Spending cuts were also enacted. By the end of the Clinton administration, the yearly deficit had been reversed into surpluses. This helped make cutting taxes once again a popular rallying cry for some politicians, including George W. Bush. In 2001, Congress enacted a tax cut that gradually lowered tax rates over the next ten years. When deficits immediately reappeared, critics charged that the president was fiscally irresponsible.

FEDERAL EXPENDITURES

Among the most important changes of the twentieth century is *the rise of large governments*. American governments—national, state, and local—spend an amount equal to one-third of the Gross Domestic Product (GDP). Expenditures of the national government alone equal over 20 percent of the GDP. Nevertheless, the United States actually has one of the *smallest* public sectors among Western nations relative to the size of the Gross Domestic Product (GDP).

Two conditions associated with government growth in America are the *rise of the national security state* and the *rise of the social service state*. After World War II, the “**cold war**” with the Soviet Union resulted in a permanent military establishment and expensive military technology. President Eisenhower coined the phrase ***military-industrial complex*** to characterize the close relationship between the military hierarchy and the defense industry that supplies its hardware needs. The Pentagon wants weapons systems and arms makers want contracts, so they tend to be mutually *supportive*. In the 1990s, *defense expenditures decreased* in response to the lessening of tensions in Europe. The budget of the Department of Defense now constitutes only about one-sixth of all federal expenditures.

The **Social Security Act** (passed in 1935) was originally intended to provide a minimal level of sustenance to older Americans. In the mid-1960s, America’s social services network greatly expanded by adding to the Social Security system and creating many new programs designed to aid the poor and the elderly. In 1965, Medicare, which provides both hospital and physician coverage to the elderly, was added to the system. Today, about 45 million Americans receive payments from the Social Security system. Social Security is not the only social policy of the federal government that is costly. The rise of the social service state has contributed to America’s growing budget in health, education, job training, and scores of other areas.

The picture of the federal budget is one of constant, slow growth. Expenditures mandated by an existing law or obligation (such as Social Security) are particularly likely to follow a pattern of **incrementalism**, which means that the best predictor of this year's budget is *last year's budget plus a little bit more*—that is, an increment. More and more federal spending has become “uncontrollable.” An **uncontrollable expenditure** is one that is *mandated* under current law or by a previous obligation. About *two-thirds of the federal budget is uncontrollable*—based on expenditures that are determined not by how much Congress appropriates to an agency but by *how many eligible beneficiaries* there are for a particular program. Many expenditures are uncontrollable because Congress has, in effect, obligated itself to pay *X* level of benefits to *Y* number of recipients. Such policies are called **entitlements**.

In 1998 President Clinton presented the first balanced budget in nearly 30 years. This was the result of a long process. In 1990 Congress shifted its focus from controlling the deficit to controlling increases in spending within three categories: domestic, defense, and international. Any new spending had to be offset by decreases. Spending for entitlement programs was placed on a “pay-as-you-go” basis. In 1993 a single cap was placed on all discretionary spending. The new Republican majority in 1995 favored cuts in entitlement programs. In 1997, the president and Congress finally agreed to a budget that was to be in balance by 2002. However, the path to a balanced budget was eased by a booming economy and the government began to run surpluses. By 2000–2001 the economic downturn and tax cuts as well as the war on terrorism and Iraq led to further deficits.

UNDERSTANDING BUDGETING

Almost all democracies have seen a substantial growth in government in the twentieth century. Economists Allen Meltzer and Scott Richard argue that *government grows in a democracy* because of the *equality of suffrage*. Poorer voters will always use their votes to support public policies that redistribute benefits from the rich to the poor. Indeed, the most rapidly growing expenditures are items like Social Security, Medicaid, Medicare, and social welfare programs (all of which benefit the poor more than the rich).

One often thinks of elites—particularly corporate elites—as being opposed to big government. However, Lockheed and Chrysler corporations have appealed to the government for large bailouts when times got rough. Corporations support a big government that offers them contracts, subsidies, and other benefits. Poor and rich voters alike have voted for parties and politicians who promised them benefits. Government often grows by responding to groups and their demands.

Conversely, some politicians compete for votes by promising *not* to spend money (such as Ronald Reagan). In contrast with other nations, Americans have chosen to tax less and spend less on public services than almost all other democracies with developed economies. Paradoxically, Americans want to spend but they do not want to pay taxes. Being a democracy, that is exactly what the government does—and the inevitable result is red ink. America's large budget deficits have been as much a constraint on government as they have been evidence of a burgeoning public sector.

CHAPTER OUTLINE

I. INTRODUCTION

- A. The president and Congress have been caught in a *budgetary squeeze*: Americans want them to balance the budget, maintain or increase the level of government spending on most policies, and still keep taxes low.
 - 1. Because budgets are so important to almost all other policies, *the budgetary process is the center of political battles* in Washington and involves nearly everyone in government.
 - 2. The central political issue for many years has been how to *pay* for policies that most people support.
 - a. Resources have been scarce because the national government has run up large annual budget deficits over the past 30 years. A budget **deficit** occurs when **expenditures** exceed **revenues**.
 - b. The total national **debt** rose sharply during the 1980s, increasing from less than one trillion dollars to \$11 trillion dollars by 2010.

II. THE GOVERNMENT'S SOURCES OF REVENUE

- A. Where it comes from.
 - 1. The three major sources of federal revenues are the *personal* and *corporate income tax*, *social insurance taxes*, and *borrowing*. StoOnly a small portion comes from *excise taxes* (such as tax on gasoline) and other sources.
 - 2. Income tax.
 - a. The first peacetime **income tax** was enacted in 1894.
 - (1) The tax was declared unconstitutional in *Pollock v. Farmer's Loan and Trust Co.* (1895).
 - (2) The **Sixteenth Amendment** was added to the Constitution in 1913, explicitly permitting Congress to levy an income tax. Congress had already started one before the amendment was ratified, and the **Internal Revenue Service (IRS)** was established to collect it.
 - b. Corporations also pay income taxes. Although corporate taxes once yielded more revenues than individual income taxes, today corporate taxes yield only about 13 cents of every federal revenue dollar, compared with 48 cents coming from individual income taxes.
 - 3. Social insurance taxes.
 - a. *Social Security taxes* come from both employers and employees.
 - b. Unlike other taxes, these payments do not go into the government's general money fund; they are specifically earmarked for the **Social Security Trust Fund** to pay benefits.
 - c. Social Security taxes have *grown faster than any other source* of federal revenue.
 - 4. Borrowing.
 - a. When the federal government wants to borrow money, the Treasury Department sells bonds, guaranteeing to pay interest to the bondholder.

- b. Today the **federal debt**—all of the money borrowed over the years and still outstanding—exceeds \$11 trillion.
 - c. Nine percent of all federal expenditure goes to paying off the debt.
 - d. Government borrowing crowds out private borrowers.
 - e. Concerns about the national debt have led to some calls for a **balanced budget amendment**.
 - f. Unlike state and local governments and private businesses, the federal government does not have a *capital budget*, a budget for items that will serve for the long-term. These purchases are counted as current expenditures and run up the deficit.
- B. Taxes and public policy.
- 1. Tax expenditures.
 - a. What *does* cost the federal budget a substantial sum is the system of **tax expenditures**, which represent the difference between what the government actually collects in taxes and what it would have collected without special exemptions.
 - (1) Tax expenditures are essentially monies that government could collect but does not because they are *exempted* from taxation.
 - (2) The Office of Management and Budget estimated that the total tax expenditures in the 2007 would be more than a third of the total federal receipts.
 - (3) Individuals receive most of the tax expenditures, and corporations get the rest.
 - b. Tax expenditures amount to subsidies for some activity, such as deductions for contributions to charities, deductions by homeowners for mortgage interest, and business deductions of investment in new plants and equipment at a more rapid rate than they can deduct other expenses.
 - c. On the whole, tax expenditures benefit middle- and upper-income taxpayers and corporations. Poor people (who tend not to own homes) cannot take advantage of most such provisions.
 - 2. Tax reduction.
 - a. Early in his administration, President Reagan proposed a massive tax-cut bill, which was passed by Congress in July 1981.
 - (1) Over a three-year period, Americans would have their federal tax bills reduced 25 percent, corporate income taxes were also reduced, new tax incentives were provided for personal savings and corporate investment, and taxes were *indexed* to the cost of living.
 - (2) Families with high incomes received significant tax reductions with the 1981 bill, but those at the lower end of the income ladder did not notice much change in their tax burden because social insurance and excise taxes (which fall disproportionately on the poor) *rose* during the same period.
 - b. Many blamed the massive deficits of the 1980s and 1990s at least partially on the *1981 tax cuts*, as government continued to spend but reduced its revenues.

- c. In 1990, a third bracket of 31 percent was added for those with higher incomes.
 - d. In 1993, Congress agreed to President Clinton's proposal to raise the income tax rate to those in the top two percent of income. Congress also increased the top corporate income tax and an energy tax.
 - e. When budget surpluses materialized (briefly) in the late 1990s, cutting taxes was once again a popular rallying cry for some politicians, including George W. Bush. In 2001, Congress enacted a tax cut that gradually lowered tax rates over the next ten years. When deficits immediately reappeared, critics charged that the president was fiscally irresponsible.
3. Tax reform.
- a. When President Reagan first revealed his massive tax simplification plan in 1986, the president actually had more problems obtaining the support of his own party than from the Democrats.
 - b. The **Tax Reform Act of 1986** was one of the most sweeping alterations in federal tax policy in history.
 - (1) It eliminated or reduced the value of many tax deductions, removed several million low-income individuals from the tax rolls, and changed the system of 15 separate brackets to just two generally lower rates (28 percent and 15 percent).

III. FEDERAL EXPENDITURES: WHERE REVENUES GO

- A. Among the most important changes of the twentieth century is *the rise of large governments*.
 - 1. The United States actually has one of the *smallest* public sectors among Western nations relative to the size of the Gross Domestic Product (GDP). **Gross Domestic Product** is Gross National Product minus the value of goods and services produced outside the country.
 - 2. American governments—national, state, and local—spend an amount equal to one-third of the Gross Domestic Product (GDP).
 - 3. Expenditures of the national government alone equals about one-fifth of the GDP.
 - 4. Two conditions associated with government growth in America are the *rise of the national security state* and the *rise of the social service state*.
- C. The rise of the national security state.
 - 1. President Eisenhower coined the phrase **military industrial complex** to characterize the close relationship between the military hierarchy and the defense industry that supplies its hardware needs. The Pentagon wants weapons systems and arms makers want contracts, so they tend to be mutually supportive.
 - 2. After World War II, the “**cold war**” with the Soviet Union resulted in a permanent military establishment and expensive military technology.
 - a. In the 1990s, defense expenditures decreased in response to the lessening of tensions in Europe and increased again after 9/11. (See Chapter 20.)
 - b. The budget of the Department of Defense now constitutes about one-fifth of all federal expenditures.

- c. Payrolls and pensions constitute a large component of the defense budget, as does research, development, and **procurement** (purchasing) of military hardware.
- 3. The *cost of advanced technology* makes any weapon, fighter plane, or component more expensive than its predecessors, and **cost overruns** are common.
- D. The rise of the social service state.
 - 1. The **Social Security Act** (passed in 1935) was originally intended to provide a minimal level of sustenance to older Americans.
 - 2. In 1965, **Medicare** was added to the Social Security system, providing hospital and physician coverage to the elderly.
 - 3. Today, more than 55 million Americans receive payments from the Social Security system.
 - a. The typical retired worker received nearly \$1,100 a month in 2008.
 - b. Disability insurance was added in the 1950s, which included workers who had not retired but were disabled.
 - 4. Essentially, money is taken from working members of the population and spent on retired members, but *demographic and economic realities* now threaten to dilute this intergenerational agreement.
 - a. In 1945, 50 workers paid taxes to support each Social Security beneficiary.
 - b. In 1990, about three workers supported each beneficiary.
 - c. By the year 2055, only about two workers will be supporting each beneficiary.
 - 5. Social Security is not the only social policy of the federal government that is costly. The rise of the social service state has contributed to America's growing budget in health, education, job training, and scores of other areas.
 - a. *Liberals* often favor these programs to assist individuals and groups in society.
 - b. *Conservatives* see them as a drain on the federal treasury.
- E. The rise of the social service state and the national security state together are linked with much of American governmental growth since the end of World War II.
- F. Why the increasing federal budget is so difficult to control.
 - 1. Incrementalism.
 - a. **Incrementalism** means that the best predictor of this year's budget is *last year's budget plus a little bit more* (an increment).
 - b. Causes of incrementalism.
 - (1) The support of relevant interests for spending programs makes it difficult to pare the budget.
 - (2) The budget is too big to review from scratch each year.
 - (3) More and more of federal spending has become "uncontrollable."
 - 2. "Uncontrollable" expenditures.
 - a. An **uncontrollable expenditure** is one that is *mandated* under current law or by a previous obligation.
 - (1) Uncontrollable expenditures result from policies that make some group automatically eligible for some benefit.
 - (2) Congress has in effect obligated itself to pay a certain level of benefits to a particular number of recipients. Such policies are called **entitlements**.

- b. About *two-thirds* of the federal budget is uncontrollable—based on expenditures that are determined not by how much Congress appropriates to an agency but by *how many eligible beneficiaries* there are for a particular program.
 - c. Although Congress *legally can* control such expenditures, it could do so only by changing a law or existing benefit levels.
 - (1) Cutting benefits or tightening eligibility restrictions would provoke a monumental outcry from millions of older voters.
 - d. The biggest uncontrollable expenditure is the *Social Security system, including Medicare*, which costs about \$1.1 trillion; other uncontrollable expenditures include veteran's aid, agricultural subsidies, military pensions, civil service workers' retirement benefits, and interest on the national debt.
3. Balancing the budget
- a. In 1998 President Clinton presented the first balanced budget in nearly 30 years. This was the result of a long process.
 - b. In 1990 Congress shifted its focus from controlling the deficit to controlling increases in spending within three categories: domestic, defense, and international. Any new spending had to be offset by decreases.
 - c. Spending for entitlement programs was placed on a “pay-as-you-go” basis. In 1993 a single cap was placed on all discretionary spending.
 - d. The new Republican majority in 1995 favored cuts in entitlement programs. In 1997, the president and Congress finally agreed to a budget that was to be in balance by 2002.
 - e. However, the path to a balanced budget was eased by a booming economy and the government began to run surpluses. By 2000–2001 the economic downturn and tax cuts as well as the war on terrorism and Iraq led to further deficits.

IV. UNDERSTANDING BUDGETING

- A. Democracy and budgeting.
 - 1. Almost all democracies have seen a substantial growth in government in the twentieth century.
 - 2. Economists Allen Meltzer and Scott Richard argue that *government grows in a democracy* because of the *equality of suffrage*.
 - a. Poorer voters will always use their votes to support public policies that redistribute benefits from the rich to the poor.
 - b. The most rapidly growing expenditures are items like Social Security, Medicaid, Medicare, and social welfare programs (all of which benefit the poor more than the rich).
 - 3. One often thinks of elites—particularly corporate elites—as being opposed to big government.
 - a. However, Lockheed and Chrysler corporations have appealed to the government for large bailouts when times got rough.
 - b. Corporations support a big government that offers them contracts, subsidies, and other benefits.

4. Poor and rich voters alike have voted for parties and politicians who promised them benefits.
 - a. Policymakers spend money for things voters like (and will remember on election day).
 - b. Citizens are not the unwilling victims of big government and its big taxes; they are at least co-conspirators.
 5. Government also grows by responding to groups and their demands.
 6. Some politicians compete for votes by promising *not* to spend money (such as Ronald Reagan).
 7. Americans have chosen to tax less and spend less on public services than almost all other democracies with developed economies. (See Chapter 1.)
 - a. Americans want to spend but not pay taxes.
 - b. Being a democracy, that is exactly what the government does—and the inevitable result is red ink.
- B. The budget and the scope of government.
1. In many ways, the budget *is* the scope of government—the bigger the budget, the bigger the government.
 2. The budget can be a force for reining in the government as well as for expanding its role.
 3. One could accurately characterize policymaking in the American government since 1980 as the “*politics of scarcity*”—scarcity of funds for programs like healthcare reform and education.
 4. America’s large budget deficit is as much a constraint on government as it is evidence of a burgeoning public sector.

KEY TERMS AND CONCEPTS

Budget: a policy document that allocates burdens (taxes) and benefits (expenditures).

Deficit: occurs when government spends more money than it receives in taxes in the fiscal year.

Entitlements: expenditures for which the total amount spent is not by congressional appropriation, but rather by rules of eligibility established by Congress.

Expenditures: money spent by the government in any one year.

Federal debt: all of the money borrowed by the government over the years that is still outstanding.

Income tax: the portion of money individuals are required to pay to the government from the money they earned.

Incrementalism: the best predictor of this year’s budget is last year’s budget plus a little bit more.

Medicare: in 1965, this program was added to Social Security to provide hospital and physician coverage to the elderly.

Revenues: money received by the government in any given year.

Sixteenth Amendment: passed in 1913, permits Congress to levy an income tax.

Social Security Act: passed to provide a minimal level of sustenance to older Americans.

Tax expenditures: revenue losses due to special exemptions, exclusions, and deductions.

Uncontrollable expenditures: result from policies that make some group automatically eligible for benefits.

TEACHING IDEAS: CLASS DISCUSSION AND STUDENT PROJECTS

- For class discussion, have students debate the value of a balanced budget amendment. In particular, have them examine the costs and benefits of balancing the budget given that most of the budget expenditures are mandated. Insist that students identify which benefits and which obligations should be the first to go.
- For a reading and writing connection, have students identify and investigate the number of federal agencies they and their families received benefits from within the last five years. Then have them evaluate the importance of these services to their and their families' standard of living. Finally, have them identify what they would have to do if these services were no longer available to them.
- If teaching at a state institution, have students investigate the sources of funding of higher education in the state. What proportion of costs does their student tuition cover? Who pays for the rest? What justification is there for state subsidies of higher education, i.e., who benefits?
- Have students locate public opinion data on public support for government programs (i.e., spending questions), using data sources such as the National Elections Studies or General Social Survey, available on the Internet. Have students assess the extent to which the public supports reducing expenditures in various areas, as well as the extent to which the level of support depends on the exact question wording used. Based on these aggregate patterns, do students believe that support for reductions in spending generally applies to all government spending—or only spending on programs that benefit others?
- Have students access a Web site that provides simulation of the federal budget or provides students with other budgetary tradeoff or analysis games. (An Internet search will reveal many.) Develop a current “balanced” budget. Have students compare their decisions in class, debating the value of their expenditure and revenue choices.
- Invite a staff member from a representative's office to brief the class about the current status of the federal budget. Who's involved? Who wants what out of the budget? If a representative or their staffer is not available, consider inviting a state senator or representative to discuss the same questions, as well as differences between the federal and state budgetary process.
- Have the students write an essay on how the War on Terrorism has influenced the National Budget. Require that the students take a side as to the costs and benefits. What has it done to the national debt? Where is the majority of the money being spent?

BACKGROUND READING

Eisner, Robert. *The Great Deficit Scares: The Federal Budget, Trade, and Social Security*. Washington, D.C.: Brookings Institution, 1997.

Jones, Bryan D., and Walter Williams. *The Politics of Bad Ideas*. New York: Pearson Longman, 2007.

Kettl, Donald F. *Deficit Politics: Public Budgeting in Its Institutional and Historical Context*. New York: MacMillan, 1992.

Pechman, Joseph A. *Federal Tax Policy*. 5th ed. Washington, D.C.: Brookings Institution, 1987.

Phillips, Kevin. *The Politics of Rich and Poor: Wealth and the American Electorate*. New York: Random House, 1990.

Rubin, Irene S. *The Politics of Public Budgeting: Getting and Spending, Borrowing and Balancing*. Washington, DC: Congressional Quarterly Press, 2006.

Schick, Allen, with the assistance of Felix LoStracco. *The Federal Budget: Politics, Policy, Process*. Washington, D.C.: Brookings Institution, 2000.

Tomkin, Shelley Lynne. *Inside OMB: Politics and Process in the President's Budget Office*. Armonk, NY: M.E. Sharpe, 1998.

Wildavsky, Aaron. *The New Politics of the Budgetary Process*. 6th ed. New York: HarperCollins, 2007.

MEDIA SUGGESTIONS

Bill Moyers Journal: February 15, 2008. Films for the Humanities and Sciences, 2008. Bill Moyers examines the impact of the federal debt on future generations with members of PublicAgenda.org.

Getting Out of Business: Privatization and the Modern State. Films for the Humanities and Sciences.

A video program which examines government benefits to industry through providing employment and infrastructure.

CHAPTER SIXTEEN: SOCIAL WELFARE POLICYMAKING

PEDAGOGICAL FEATURES

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- p. 587 **You Are the Policymaker:** *Should Government Promote Marriage?*
- p. 590 **America in Perspective:** *Immigration Policy in Europe*
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- p. 599 **Chapter Test**
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- p. 602 **Get Connected:** *Insuring Children*
- p. 602 **For Further Reading**

LEARNING OBJECTIVES

After studying this chapter, students should be able to:

- Explain the term, *social welfare policy*.
- Summarize how liberals and conservatives disagree about the conduct and impact of public assistance programs.
- Distinguish the three major types of taxation: progressive, regressive, and proportional. Show how each affects the public class structure in different ways.
- Summarize the effects that social welfare programs have had on the day-to-day living conditions of groups of Americans, such as the poor, the young, and the elderly.
- Differentiate between *entitlement* programs and *means-tested* programs.
- Indicate the role that entitlements play in the U.S. budgetary system.
- Identify the major American social welfare programs and the groups that benefit from them.
- Understand the relationship between immigration and social policy in the United States.
- Explain the changing opinions and suspicions surrounding immigration and immigration policy.
- Compare and contrast the different immigration policies of the federal government and of the states.
- Contrast social welfare policy in the United States with that of other major Western democracies.
- Trace the evolution of America's social welfare programs, with emphasis on the role of the Great Depression.
- Examine *intergenerational equality issues* that stem from the disparity in public dollars spent on the elderly as contrasted with public funds spent on children.

- Compare and contrast the views of recent presidents of both political parties toward social welfare expenditures.
- Explain why policymaking in the United States is very *incremental* in nature.
- Examine the relationship between social welfare policy and the scope of government.

CHAPTER OVERVIEW

INTRODUCTION

Americans believe strongly that people should take personal responsibility for themselves. Debates about social policy are debates about social responsibility. Social policies are often called “social insurance,” however, because they are intended to “insure” people against life’s crises and catastrophes—serious sickness, disability, the ravages of aging or job loss.

WHAT IS SOCIAL POLICY AND WHY IS IT SO CONTROVERSIAL?

Social welfare policies attempt to provide assistance and support to specific groups in society. Many Americans equate social welfare exclusively with government monies given to the poor. Yet the government gives far more money to those who are not poor than to people below the “poverty line”: only 17 percent of social spending goes to the poor. Social welfare policies consist of two kinds of programs. First are the **entitlement programs**. An entitlement is any benefit provided by law and regardless of need. The two biggest entitlement programs are Social Security and Medicare. Second are the **means-tested programs**, which provide benefits selectively only to people with specific needs. To be eligible for these programs, people must be able to prove that they qualify for them. These programs generate powerful political controversy.

INCOME, POVERTY, AND PUBLIC POLICY

The concept of **income distribution** describes the share of national income earned by various groups in the United States. The distribution of income across segments of the American population is quite uneven. **Income** is the amount of money collected between any two points in time (such as a week or a year); **wealth** is the amount already owned (such as stocks, bonds, bank accounts, cars, and houses). Studies of wealth display even more inequality than those of income.

The census lists Americans’ median family income in 2005 as \$46,326. However, there is also a great deal of poverty. In 2006, 36.5 million Americans, or *12.3 percent of all Americans*, were officially living in poverty.

Poverty in America is concentrated among a few groups. Large percentages of some groups are poor, including African Americans, Hispanics, unmarried women, and inner-city residents. Because of the high incidence of poverty among unmarried mothers and their children, experts on poverty often describe the problem today as the **feminization of poverty**.

The government spends one out of every three dollars in the American economy, and thus has a major impact on its citizens' wealth and income. In particular, there are two principal ways in which government can affect a person's income: government can manipulate incomes through its taxing powers, and government can affect income through its expenditure policies.

There are three general types of taxes, and each can affect citizens' incomes in a different way. A **progressive tax** takes a bigger bite from the incomes of the rich than from those of the poor. A **proportional tax** takes the same percentage from everyone, rich and poor alike. A **regressive tax** takes a higher percentage from those at the lower income levels than from the well-to-do. In general, federal taxes are progressive. The EITC is a special tax benefit for working people who earn low incomes.

Government *spending* policies can also affect a person's income. Benefits from government are called **transfer payments** because they transfer money from the general treasury to those in specific need. Government can also give an **"in-kind payment,"** something with cash value that is not cash itself (such as food stamps, a low-interest loan for college education, or healthcare subsidies for poor families with children).

HELPING THE POOR? SOCIAL POLICY AND POVERTY

For centuries, societies considered family welfare to be a private concern. With the growth of large, depersonalized cities and the requirements of the urban workforce, government was impelled to take a more active role in social welfare support.

A major change in how Americans viewed government's role in providing social welfare came during the Great Depression. After the onset of the Depression in 1929, many Americans began to think that governments must do more to protect their citizens against economic downturns. The federal government responded to this change by passing the **Social Security Act of 1935**, one of the most significant pieces of social welfare legislation of all time. Other programs such as Medicare were added later.

The 1960s brought an outpouring of federal programs to help the poor and the elderly, to create economic opportunities for those at the lower rungs of the economic ladder, and to reduce discrimination against minorities. Many of these programs were established during the presidency of Lyndon B. Johnson (1963–1969), whose administration coined the term "the Great Society" for these policy initiatives.

By the 1980s, many had come to believe that welfare programs of the Great Society had been a failure. President Ronald Reagan chose to target poverty programs as one major way to *cut government spending*. This action served his own ideological beliefs of *less government* and *more self-sufficiency*.

In August 1996, President Clinton signed a welfare reform bill that was supported by congressional Republicans but opposed by half of congressional Democrats. The major provisions of the bill included giving each state a fixed amount of money to run its own welfare program; requiring people on welfare to find jobs within two years or lose their

benefits; and setting a lifetime maximum of five years on welfare. After welfare reform, the means-tested benefits for the poorest of the poor were known as **Temporary Assistance to Needy Families (TANF)**. TANF benefits like AFDC are small and declining.

IMMIGRATION AND SOCIAL POLICY

Immigration policy is one of the most important ways a nation controls its future. **Immigration** is the movement of people to another country with the intention of remaining there. Immigrants and immigration is surrounded by myths and stereotypes. Americans have always been suspicious of immigration despite the fact that nearly all are descendents of immigrants. Today the issue of illegal immigration has roared to a central place in American politics.

Immigration policy has changed throughout American history. The U.S. Congress did not begin banning or restricting immigration until the turn of the century. The **Simpson–Mazzoli Act** during the Reagan administration provided amnesty to many immigrants and toughened border controls. State and local governments are particularly concerned with immigration policy since they are typically hit harder than the federal government by the costs of illegal immigrants. Many states have passed tough laws in an attempt to clamp down on illegal immigration.

LIVING ON BORROWED TIME: SOCIAL SECURITY

As it stands now, the Social Security program is living on borrowed time. By the turn of the twenty-first century, Social Security and Medicare had become the most expensive public policies in the history of the world. Social Security grew over the years, in large part because it worked. More than 90 percent of people polled, year after year, support Social Security. In 1965, Congress tacked onto Social Security a new program, Medicare, to assist the elderly with medical costs.

When Social Security was established in 1935, the average American lived less than 65 years, therefore, most would not even collect benefits. However, today, with life expectancies reaching into the 80s and with fewer births (meaning fewer new workers), the ratio of workers to retirees is getting smaller and smaller. Either Social Security has to be reformed to increase contributions, lower payments, delay retirements, tax benefits of wealthy recipients more heavily, or some combination thereof, or else the system will eventually go bankrupt.

SOCIAL WELFARE POLICY ELSEWHERE

Other national governments and their citizens often take quite a different approach to the problems of poverty and social welfare. Most Americans would be amazed at the range of social benefits in the average European country. Europeans pay a high price for generous benefits. Taxes in Western European nations far exceed those in the United States. There, taxes approach (or even exceed) 50 percent of income. Every problem the United States faces in funding Social Security is even bigger in Europe.

Social Security reform was at the top of the George W. Bush administration. Bush and Republicans favored the privatization of at least a part of Social Security funds. Democrats argue that permitting people to divert money from the system, even for good reason, would merely hasten its bankruptcy.

UNDERSTANDING SOCIAL WELFARE POLICY

Nothing more clearly accounts for the growth of government in America than social welfare spending. Americans tend to overestimate how much government spends on the poor. American attitudes toward the growth of social welfare often depend on their assessment of “target groups,” such as the poor or the elderly.

In the social welfare policy arena, the competing groups are often quite unequal in terms of political resources. For example, the elderly are relatively well organized and often have the resources needed to wield significant influence in support of programs they desire. As a result, they are usually successful in protecting and expanding their programs. For the poor, however, influencing political decisions is more difficult. They vote less frequently and lack strong, focused organizations and money.

CHAPTER OUTLINE

I. INTRODUCTION

- A. Americans believe strongly that people should take personal responsibility for themselves.
 - 1. Although many are suspicious of government programs in general, Social Security is the single most popular policy in America, with over 90 percent of Americans favoring it.
 - 2. On the other hand, programs to help the poor have always been controversial.
 - 3. Even in these days of terrorism and wars, federal spending on social programs (about \$2 trillion) dwarfs federal spending on wars and homeland security.

II. WHAT IS SOCIAL POLICY AND WHY IS IT SO CONTROVERSIAL?

- A. **Social welfare policies** provide benefits to individuals, either through entitlement or means-tested programs.
 - 1. **Entitlement programs** like Social Security and Medicare are the largest and most expensive social welfare programs in America.
 - 2. **Means-tested programs** aimed specifically at the poor, such as Medicaid and food stamps, are funded at much lower levels than non-means tested entitlement programs for the elderly.

III. INCOME, POVERTY, AND PUBLIC POLICY

- A. Who’s getting what?
 - 1. The concept of **income distribution** describes the share of national income earned by various groups in the United States.

- a. The distribution of income across segments of the American population is quite uneven.
- b. During the 1960s and 1970s there was relatively little change in the distribution of income in America.
- c. The 1980s and 1990s were periods when the rich got richer and the poor got poorer, with income and wages distributed more unequally among working people.
2. **Income** is the amount of money collected between any two points in time (such as a week or a year). **Wealth** is the amount already owned (including stocks, bonds, bank accounts, cars, and houses).
 - a. Studies of wealth display even more inequality than those of income, with the top one percent of the wealth-holders currently possessing about one-third of all American wealth.
- B. Who's poor in America?
 1. To count the poor, the U.S. Bureau of the Census has established the **poverty line**, which takes into account what a family would need to spend to maintain an "austere" standard of living (defined in 2005 as an annual income below \$15,277 for a family of three).
 2. Poverty in America is concentrated among a few groups, including African Americans, Hispanics, unmarried women, and inner-city residents.
 3. Because of the high incidence of poverty among unmarried mothers and their children, experts on poverty often describe the problem today as the **feminization of poverty**.
- C. What part does government play?
 1. The government spends a quarter of our gross domestic product, and thus has a major impact on its citizens' wealth and income.
 2. In particular, there are two principal ways in which government can affect a person's income.
 - a. Government can *manipulate income through its taxing powers*.
 - b. Government can *affect income through its expenditure policies*.
 3. Taxation.
 - a. In general, there are three types of taxes; each can affect citizens' incomes in a different way.
 - (1) A **progressive tax** takes a bigger bite from the incomes of the rich than from the poor (such as a progressive income tax that takes a higher percentage of income from the wealthy).
 - (2) A **proportional tax** takes the same share from everyone, regardless of income or wealth (sometimes called a "flat rate" tax).
 - (3) A **regressive tax** takes a higher percentage from the lower income levels than from the well-to-do (such as sales taxes, which are not overtly regressive but are regressive *in effect*).
 - b. Through the **Earned Income Tax Credit** (EITC), the working poor receive a check from Washington instead of sending one.
 4. Government expenditures.
 - a. The government can affect a person's income through its *spending* policies.

- b. Benefits from government are called **transfer payments** because they transfer money from the general treasury to those in specific need.
 - (1) *Millions* of government checks are written every year, mostly to Social Security beneficiaries and retired government employees.
 - (2) Government can also give an “*in-kind payment*,” something with cash value that is not cash itself, such as food stamps, healthcare subsidies, or a low-interest loan for college education.

IV. HELPING THE POOR? SOCIAL POLICY AND POVERTY

- A. For centuries, societies considered family welfare to be a private (not a public) concern.
- B. The federal government responded to this change by passing the **Social Security Act of 1935**—one of the most significant pieces of social welfare legislation of all time; other programs such as Medicare were added later.
- C. Lyndon Johnson’s “War on Poverty” programs combined to boost federal and state support for AFDC and other means-tested programs.
- D. Conservatives during Reagan’s time and many liberals agreed and convinced many policymakers that welfare was a failure.
 1. Murray maintained that these public policies discouraged the poor from solving their problems. He contended that the programs made it profitable to be poor, and discouraged people from pursuing means by which they could rise out of poverty.
 2. Gilens found that Americans tend to see welfare recipients (wrongly) as overwhelmingly African American. Whites’ welfare attitudes were strongly influenced by whether or not they viewed African Americans as lazy.
- E. Ending welfare as we knew it: the welfare reforms of 1996.
 1. The major provisions of this reform bill were as follows:
 - a. Each state would receive a fixed amount of money to run its own welfare programs.
 - b. People on welfare would have to find work within two years or lose all their benefits.
 - c. A lifetime maximum of five years on welfare was set.
 2. The law bore the lofty name of the **Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA)**.
 3. The cash payments to poor families once called Aid to Families with Dependent Children (AFDC) became known as **Temporary Assistance for Needy Families (TANF)**, today’s name for the means-tested aid for the poorest of the poor.
 4. President George W. Bush pushed for welfare reform to encourage people to marry.

V. IMMIGRATION AND SOCIAL POLICY

- A. Immigration policy is one of the most important ways a nation controls its future.
 1. **Immigration** is the movement of people to another country with the intention of remaining there.
 2. There are many myths and stereotypes about immigrants and immigration.
 - a. Most are not here illegally.

- b. Most are not from Mexico.
 - c. Most are not consuming federal benefits without paying taxes.
 - 3. Americans have almost always been suspicious of immigration.
- B. Immigration policy and politics: old and new.
 - 1. Throughout U.S. history, few have supported higher levels of immigration.
 - 2. The issue of illegal immigration has roared to a central place in American politics in the past decade.
 - 3. Immigration became an issue during the presidential campaign of 2008.
- C. Immigration and policy: Washington and the states.
 - 1. For about 100 years of U.S. history, there was no immigration policy.
 - 2. The Fourteenth Amendment defined citizenship for the first time.
 - 3. Immigration was not banned or restricted until the turn of the century.
 - 4. In 1924, Congress passed a sharply restrictive immigration law.
 - 5. The **Simpson–Mazzoli Act**, passed during the Reagan administration, provided amnesty to many immigrants and toughened border controls.
 - 6. States are typically hit harder than the federal government by the costs of illegal immigrants and have passed many laws restricting immigration.
 - a. In 1994 California cut off public services to illegal immigrants.
 - b. Oklahoma and Arizona have laws punishing employers who hire illegal immigrants.
 - c. States have battled over college tuition breaks for the children of illegal immigrants.

VI. LIVING ON BORROWED TIME: SOCIAL SECURITY

- A. Welfare reform over the past two decades has focused attention on:
 - 1. The long-term sustainability of entitlement programs, particularly Social Security and Medicare. This is a matter of much current debate. Indeed, as it stands now, the Social Security program is living on borrowed time.
 - 2. The Social Security dilemma is this: The number of Social Security contributors (the workers) is growing slowly, while the number of Social Security recipients (the retired) is growing rapidly.
 - 3. As the number of retirees grows, and their average benefit is constantly increased to cover the cost of living (called a Cost of Living Allowance), Social Security expenditures are going to increase.
 - 4. At some point—about 2038—unless something changes, payouts will exceed income.
 - 5. The issue of Social Security arose in the election of 2000, when Governor George W. Bush and the Republicans proposed diverting a small portion (the suggested figure was two percent) of Social Security contributions to private retirement funds. Slumping stocks eroded support for privatization.

VII. SOCIAL WELFARE POLICY ELSEWHERE

- 1. American social welfare programs are more limited in scope than is the case in other democracies.
- 2. Other national governments and their citizens often take a different approach to the problems of poverty and social welfare than does the United States.

- a. Americans tend to see poverty and social welfare needs as individual rather than as governmental concerns, while European nations tend to support greater governmental responsibility for these problems.
 - b. Europeans often have a more positive attitude toward government, while Americans are more likely to distrust government action in areas like social welfare policy.
3. *Taxes commensurate with the benefits of social policy* are also commonplace in Western European nations, far exceeding those in the United States.

VIII. UNDERSTANDING SOCIAL WELFARE POLICY

- A. Social welfare policy and the scope of government
 1. Nothing more clearly accounts for the growth of government in America than social welfare spending.
 2. Americans tend to underestimate how much government spends on the poor.
 3. American attitudes toward the growth of social welfare often depend on their assessment of “target groups,” such as the poor or elderly.
 4. We have cut back on aid to the poor, but not on aid to the elderly.
- B. Democracy and social welfare.
 1. In a democracy, competing demands are resolved by government decision makers.
 - a. These decision makers are aligned with, and pay allegiance to, various groups in society.
 - b. These groups include members of their legislative constituencies, members of their electoral coalitions, and members of their political party.
 2. In the social welfare policy arena, the competing groups are often quite unequal in terms of political resources.
 - a. The elderly are relatively well organized and often have the resources needed to wield significant influence in support of their programs.
 - b. The poor vote less and lack strong, focused organizations and money.

KEY TERMS AND CONCEPTS

Earned Income Tax Credit: a “negative income tax” that provides income to very poor individuals in lieu of charging them federal income taxes.

Entitlement programs: government benefits that certain qualified individuals are entitled by law to receive, regardless of need.

Feminization of poverty: the increasing concentration of poverty among women, especially unmarried women and their children.

Immigration: the movement of people to another country with the intention of remaining there.

Income distribution: the share of national income earned by various groups in the United States.

Income: the amount of money collected between any two points in time.

Means-tested programs: government programs available only to individuals below a poverty line.

Personal Responsibility and Work Opportunity Reconciliation Act: the official name of the “welfare reform” law of 1996.

Poverty line: official statistic indicating what a family would need to spend to maintain an “austere” standard of living.

Progressive tax: takes a higher percentage from the rich than from the poor.

Proportional tax: takes the same percentage from rich and poor.

Regressive tax: takes a higher percentage from the poor than from the rich.

Simpson–Mazzoli Act: the Reagan-era law which provided amnesty to many immigrants and toughened border controls.

Social Security Act of 1935: created both the Social Security program and a national assistance program for poor children.

Social Security Trust Fund: the “bank account” into which Social Security contributions are “deposited” and used to pay out eligible recipients.

Social welfare policies: attempt to provide assistance and support to specific groups in society.

Temporary Assistance to Needy Families: once called “Aid to Families with Dependent Children,” this is the new name for public assistance to needy families.

Transfer payments: benefits from government where money is transferred from the general treasury to those in need.

Wealth: the amount already owned.

TEACHING IDEAS: CLASS DISCUSSION AND STUDENT PROJECTS

- American social welfare programs are more limited in scope than is the case in other democracies. Divide your class into three or four research groups, and assign a country (including the United States) to each group. Ask each group to review current social welfare policies of the assigned nation. The group should focus on social welfare policies, but should also go beyond the “obvious” and look at advantages and disadvantages of the system. For example, what effect has the system had on the budget, and what is the level of taxation? One member of each group should be expected to give a brief presentation in class the following week outlining the research group’s conclusions.
- One of the major policy accomplishments of President Clinton, working with a Republican-controlled Congress under House Speaker Newt Gingrich in the early 1990s, was the reform of the social welfare system. Ask students to document the specific changes made to welfare programs in the United States. Then assign each student, or students working in groups, to use both the library and the Internet to determine how the states have responded to their new responsibilities. Is the new system better? In what ways?

- For a reading and writing connection, have students write an essay where they must identify and investigate the number of transfer payments they have benefited from either as direct payments or as benefits in-kind. Then have students evaluate the importance of each of these benefits to the successes or failures they have experienced personally. Finally, have students suggest what they would have to do if these services were not available to them when they needed help.
- Divide the class between those in favor of strict immigration laws and those in favor of more lenient immigration laws. Have the two groups meet among themselves, discuss the issues, and choose one member from each group to debate the issue in front of the class. The class could vote on the winner of the debate.
- Develop a writing assignment that requires students to interview a social welfare professional OR an individual currently or recently living in poverty. Have students describe the nature of poverty from either of these perspectives. How does it differ from what they expected?
- Have students develop a working budget for a family of three living at the poverty line. Conduct a class discussion that contrasts these budgets with students' current lifestyles.
- Assign students to read the Welfare Reform Act of 1996. What values regarding families and religion are emphasized in the text of the act? How is poverty portrayed? Ask students to write an essay on these questions, and to comment on whether Gilens' argument regarding race and attitudes toward welfare are relevant.

BACKGROUND READING

Bane, Mary Jo, and David Ellwood. *Welfare Realities: From Rhetoric to Reform*. Cambridge, MA: Harvard University Press, 1996.

Gramlich, Edward M. *Is It Time to Reform Social Security?* Ann Arbor, MI: University of Michigan Press, 1998.

Hacker, Jacob. *The Great Risk Shift*. New York: Oxford University Press, 2006.

Harrington, Michael. *The New American Poverty*. New York: Penguin Books, 1985.

Lieberman, Robert C. *Shifting the Color Line: Race and the American Welfare State*. Cambridge, MA: Harvard University Press, 1998.

Light, Paul. *The Politics of Social Security Reform*. New York: Random House, 1985.

Oberlander, Jonathan. *The Political Life of Medicare*. Chicago: University of Chicago Press, 2003.

Page, Benjamin I., and James R. Simmons. *What Government Can Do*. Chicago: University of Chicago Press, 2002.

Patterson, James T. *America's Struggle Against Poverty, 1900–1994*. Cambridge, MA: Harvard University Press, 1994.

Phillips, Kevin. *The Politics of Rich and Poor: Wealth and the American Electorate in the Reagan Aftermath*. New York: Random House, 1990.

Piven, Frances Fox, and Richard A. Cloward. *Regulating the Poor*. New York: Pantheon, 1971.

Rodgers, Harrell, Jr. *American Poverty in a New Era of Reform*. 2nd ed. New York: M.E. Sharpe, 2006.

Schram, Sanford F., and Samuel H. Beer. *Welfare Reform: A Race to the Bottom?* Baltimore: Johns Hopkins University Press, 1999.

Soss, Joe. *Unwanted Claims: The Politics of Participation in the U.S. Welfare System*. Ann Arbor, MI: The University of Michigan Press, 2000.

Stier, Haya, and Marta Tienda. *The Color of Opportunity: Pathways to Family, Welfare and Work*. Chicago: University of Chicago Press, 2000.

Swian, Carol M. (ed.). *Debating Immigration*. New York: Cambridge University Press, 2007.

MEDIA SUGGESTIONS

Failure to Protect: A National Dialogue. Films for the Humanities and Sciences, 2003.
This award-winning seminar examines child welfare policies.

Poverty in America. Films for the Humanities and Sciences, 2007.
This three-part series looks at the causes and effects of poverty in the United States while discussing possible solutions.

Welfare Reform: Social Impact. Films for the Humanities and Sciences, 1997.
This show traces the history of welfare in the U.S., beginning with the Depression. Includes interview with Wisconsin Governor Tommy Thompson. Part of the *America's Promise: Who's Entitled to What* series.

Welfare Reform: Social Responsibility. Films for the Humanities and Sciences, 1997.
This program weighs the financial savings of social welfare reform with our responsibility to help those in need. Part of the *America's Promise: Who's Entitled to What* series.

Working: The American Worker. Films for the Humanities and Sciences, 1994.
Examines the efforts of workers to maintain steady incomes in an era of corporate downsizing.

CHAPTER SEVENTEEN: NATIONAL SECURITY POLICYMAKING

PEDAGOGICAL FEATURES

- p. 626 **Figure 17.1:** *Trends in Defense Spending*
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- p. 634 **Figure 17.3:** *The Spread of Nuclear Weapons*
- p. 636 **You Are the Policymaker:** *Defanging a Nuclear Threat*
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- p. 641 **My State:** *U.S. Employment of Foreign Multinational Companies*
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- p. 647 **Get Connected:** *The Department of State*
- p. 648 **For Further Reading**

LEARNING OBJECTIVES

After studying this chapter, students should be able to:

- Understand how the instruments of foreign policy differ from those of domestic policy.
- List the major international and regional organizations and describe their roles in the realm of international relations.
- Determine how multinational corporations, groups, and individuals operate as actors in international relations.
- Identify the primary policymakers involved in foreign policy decision making.
- Delineate the major institutions of the U.S. national security establishment.
- Briefly outline American diplomatic history from the period of isolationism to contemporary involvement in international relations.
- Summarize how domestic political concerns, budgetary limitations, and ideology all influence decisions regarding the structure of defense policy.
- Outline the major agreements negotiated by the United States and other nations on arms limitations and nuclear reduction.
- Explain why the Middle East is such an important component of American foreign policy.
- Understand the roles globalization, trade, and foreign aid play in American foreign policy.
- Evaluate the roles that democracy and the scope of government play in the development of foreign policy and international relations.

CHAPTER OVERVIEW

INTRODUCTION

The end of the cold war in the early 1990s brought with it many questions regarding the future of international politics, from what the nature of threat is, to what new alliances are needed, to what the changing role of “superpowers” might be in the new global scene. As of September 11, 2001, our foreign policy goals suddenly changed to ending terrorism. This chapter reviews cold war policies and politics from a historical perspective, as well as new issues concerning terrorism and global inequality.

AMERICAN FOREIGN POLICY: INSTRUMENTS, ACTORS, AND POLICYMAKERS

Foreign policy involves making choices about relations with the rest of the world. The *instruments of foreign policy* are different from those of domestic policy. Foreign policies depend ultimately on three types of tools: military, economic, and diplomatic. Among the oldest instruments of foreign policy are war and the threat of war. Economic instruments are becoming weapons almost as potent as those of war. *Diplomacy* is the quietest instrument of foreign policy; it may involve meetings of world leaders at summit conferences, but more often involves quiet negotiations by less prominent officials.

Most of the challenges in international relations require the cooperation of many nation, thus, **international organizations** play an increasingly important role on the world stage. The **United Nations (UN)**, created in 1945, is the most important international organization today. In addition to its peacekeeping function, the UN runs a number of programs focused on economic development and health, education, and welfare concerns. **Regional organizations** are organizations of several nations bound by a treaty, often for military reasons. For example, members of the **North Atlantic Treaty Organization (NATO)** agreed to combine military forces and to treat a war against one as a war against all. By contrast, the **European Union (EU)** is a transnational government of the major European nations. It grew from a post-World War II trading alliance into a political institution now encompassing most of Europe. Today, the EU government coordinates monetary, trade, immigration, labor policies, and much more.

Much of the world’s industrial output and 10 percent of the entire global economy comes from **multinational corporations (MNCs)**. MNCs are sometimes more powerful (and often much wealthier) than the governments under which they operate. *Groups* such as churches and labor unions have long had international interests and activities. Even *individuals* are international actors; the recent explosion of tourism affects the international economic system.

The president is the main force behind foreign policy: as **chief diplomat**, the president negotiates treaties; as **commander in chief**, the president deploys American troops abroad. Presidents are aided (and sometimes thwarted) by a huge national security bureaucracy. Congress also wields considerable clout in the foreign policy arena. Other

foreign policy decision makers include **diplomats** (such as the secretary of state and special assistants for national security affairs) and the **national security establishment** (including the Department of Defense, the Joint Chiefs of Staff, the National Security Council, and the Central Intelligence Agency).

The U.S. Congress shares with the president constitutional authority over foreign and defense policy. Congress has sole authority, for example, to declare war, raise and organize the armed forces, and appropriate funds for national security activities.

AMERICAN FOREIGN POLICY: AN OVERVIEW

The United States followed a foreign policy of **isolationism** throughout most of its history. The **Monroe Doctrine** reaffirmed America's inattention to Europe's problems, but warned European nations to stay out of Latin America. In the wake of World War I, President Woodrow Wilson urged the United States to join the **League of Nations**, but the Senate refused to ratify the treaty, indicating the country was not ready to abandon isolationism.

Pearl Harbor dealt the death-blow to American isolationism. At the end of World War II, the United States was the dominant world power, both economically and militarily—only the United States possessed nuclear weapons. The charter for the United Nations was signed in San Francisco in 1945, with the United States as an original signatory. NATO was created in 1949, affirming the mutual military interests of the United States and Western Europe.

All of Eastern Europe fell under Soviet domination as World War II ended. In 1946, Winston Churchill warned that the Russians had sealed off Eastern Europe with an “iron curtain.” The United States poured billions of dollars into war-ravaged European nations through the Marshall Plan. Writing in *Foreign Affairs* in 1947 (under the pseudonym “X”), George F. Kennan proposed a policy of “**containment**.” His containment doctrine called for the United States to isolate the Soviet Union and to “contain” its advances and resist its encroachments. The **Truman Doctrine** was developed to help other nations oppose communism.

The Soviet Union closed off land access to Berlin with the Berlin Blockade (1948–1949), which was countered by a massive *airlift* of food, fuel, and other necessities by the United States and its allies. The fall of China to Mao Zedong's Communist-led forces in 1949 and the development of Soviet nuclear capability seemed to confirm American fears. The invasion of pro-American South Korea by Communist North Korea in 1950 further fueled American fears. The Korean War began when President Truman sent American troops to Korea under United Nations auspices.

The **cold war** was at its height in the 1950s. Eisenhower's secretary of state, John Foster Dulles, proclaimed a policy of “brinkmanship” in which the United States was to be prepared to use nuclear weapons in order to *deter* the Soviet Union and Communist China from taking aggressive action. In the era of **McCarthyism**, domestic policy was deeply affected by the cold war and by anticommunist fears. With containment came a massive buildup of the military apparatus, resulting in the military-industrial complex (a phrase

that was coined by President Dwight D. Eisenhower to refer to the interests shared by the armed services and defense contractors). Economist Seymour Melman wrote about Pentagon capitalism, linking the military's drive to expand with the profit motives of private industry. The 1950s ushered in an **arms race** between the Soviet Union and the United States; eventually, a point of mutual assured destruction (MAD) was reached in which each side could destroy the other.

In 1950, President Truman decided to aid the French effort to retain France's colonial possessions in Southeast Asia—the beginning of American involvement in Vietnam. In 1954, the French were defeated by the Viet Minh (led by Ho Chi Minh) in a battle at Dien Bien Phu. Although it was a party to agreements in 1954 among participants in Geneva, Switzerland, the United States never accepted the Geneva agreement to hold national elections in Vietnam in 1956; instead, it began supporting one non-communist leader after another in South Vietnam.

Vietnam first became an election-year issue in 1964. Since Truman's time, the United States had sent *military "advisors"* to South Vietnam, which was in the midst of a civil war spurred by the Viet Cong (National Liberation Front). Senator Barry Goldwater was a foreign policy hard-liner who advocated tough action in Vietnam; President Lyndon Johnson promised that he would not "send American boys to do an Asian boy's job" of defending the pro-American regime in South Vietnam. Despite his election-year promise, Johnson sent in American troops when we were unable to contain the forces of the Viet Cong and North Vietnam with American advisors.

American troops and massive firepower failed to contain the North Vietnamese. At home, widespread protests against the war contributed to Johnson's decision not to run for reelection in 1968 and to begin peace negotiations. The new Nixon administration prosecuted the war vigorously, but also worked to negotiate a peace treaty with the Viet Cong and North Vietnam.

Even while the Vietnam War was being waged, President Nixon supported a new policy of **détente**. Popularized by Nixon's national security assistant (and later secretary of state), Henry Kissinger, *détente* sought a *relaxation of tensions* between the superpowers, coupled with firm guarantees of mutual security. One major initiative that came out of *détente* was the **Strategic Arms Limitation Talks (SALT)**. These talks represented an effort by the United States and the Soviet Union to agree to scale down their nuclear capabilities, with each power maintaining sufficient nuclear weapons to deter a surprise attack by the other. President Nixon signed the first SALT treaty in 1972. A second SALT treaty (SALT II) was signed and sent to the Senate by President Carter in 1979, but the Soviet invasion of Afghanistan that year caused Carter to withdraw the treaty from Senate consideration. Nevertheless, both he and President Reagan insisted that they would be committed to its arms limitations.

The philosophy of *détente* was applied to the People's Republic of China as well as to the Soviet Union. President Nixon visited the People's Republic and sent an American mission there. President Carter extended formal diplomatic recognition in November 1978.

From the mid-1950s to 1981, the *defense budget had generally been declining* as a percentage of both the total federal budget and the gross national product (with the exception of the Vietnam War). The decline in defense spending became a major issue in Ronald Reagan's presidential campaign. During the campaign, Reagan said America faced a "*window of vulnerability*" because the Soviet Union was pulling ahead of the United States in military spending. President Carter's last budget had proposed a large increase in defense spending, and the Reagan administration proposed adding \$32 billion on top of that. However, concern over huge budget deficits brought defense spending to a standstill in the second Reagan term. In 1983 President Reagan added another element to his defense policy: a new plan for defense against missiles, the Strategic Defense Initiative (SDI).

Forces of change sparked by Soviet leader Mikhail Gorbachev led to a staggering wave of upheavals that shattered communist regimes and the postwar barriers between Eastern and Western Europe. The *Berlin Wall* was brought down, and East and West Germany formed a unified, democratic republic. The former Soviet Union split into 15 separate nations; non-communist governments formed in most of them. On May 12, 1989, President Bush announced a new era in American foreign policy that he termed "*beyond containment*."

In 1989, reform seemed on the verge of occurring in China as well as in Eastern Europe. Thousands of students held protests on behalf of democratization in *Tiananmen Square* (the central meeting place in Beijing). However, on the night of June 3, the army violently crushed the democracy movement, killing hundreds—perhaps thousands—of protesters and beginning a wave of executions, arrests, and repression.

THE WAR ON TERRORISM

Perhaps the most troublesome issue in the national security area is the spread of terrorism—the use of violence to demoralize and frighten a country's population or government. Despite its risks and uncertainties, the cold war was characterized by a stable and predictable set of relations among the great powers. Now international relations have entered an era of improvisation as nations struggle to develop creative responses to changes in the global balance of power and the new challenges that have emerged.

After September 11, 2001, the United States launched an attack on the Taliban regime that had been harboring terrorists in Afghanistan. President George W. Bush made the war on terrorism the highest priority of his administration. In 2003 the United States led an attack on Iraq which led to the downfall of Saddam Hussein. Iraq soon became the frontline in the war on terrorism. Many observers argue that relying primarily on the use of force to combat terrorism is responding to a tactic rather than to the forces that generate it.

RETHINKING NATIONAL SECURITY POLICY

Despite its risks and uncertainties, the Cold War was characterized by a stable and predictable set of relations among the great powers. The national security strategy doctrine issued by the Bush administration in September 2002 is the most dramatic and far-reaching change in national security policy in a half-century. It substitutes preemption of potential threats for deterrence and containment of aggression by hostile nations or

groups that appear determined to use weapons of mass destruction against the United States. Critiques charged that the arrogation of unilateral right to define threats and use force has squandered America's moral authority and diminished its global credibility.

THE POLITICS OF DEFENSE POLICY

Defense spending comprises about one-fifth of the federal budget. Domestic political concerns, budgetary limitations, and ideology all have a role in influencing decisions regarding the structure of defense policy. Conservatives fight deep cuts in defense spending, pointing out that many nations retain potent military capability and insisting that America maintain its readiness at a high level. Liberals, while supporting the war on terrorism, maintain that the Pentagon wastes money and that the United States buys too many guns and too little butter.

Whatever its cause, the lessening of East–West tensions has given momentum to significant reductions in defense spending, what some call the *peace dividend*. Changing spending patterns is not easy, however. The trend of reductions in defense spending was reversed abruptly in 2001 following the September 11 terrorist attacks.

The structure of America's defense has been based on a large standing military force and a battery of strategic nuclear weapons. The United States has more than 1.4 million men and women on active duty and nearly 838,000 million in the National Guard and Reserves.

To deter an aggressor's attack, the United States has relied on a triad of nuclear weapons: ground-based intercontinental ballistic missiles (ICBMs), submarine-launched ballistic missiles (SLBMs), and strategic bombers. These weapons, like troops, are costly (each Stealth bomber costs over \$2 billion dollars), and they pose obvious dangers to human survival.

During the May 1988 Moscow summit meeting, President Reagan and President Gorbachev exchanged ratified copies of a new treaty eliminating **intermediate-range nuclear forces (INF)**. On November 19, 1990, the leaders of 22 countries signed a treaty, cutting conventional arms in Europe. In 1991, the Warsaw Pact (the military alliance tying Eastern Europe to the Soviet Union) was dissolved. On July 31, 1991, Gorbachev and President Bush signed the *Strategic Arms Reduction Treaty* following nine years of negotiations.

The democratization of Eastern Europe, the restructuring of the Soviet Union, and the deterioration of the Soviet economy substantially diminished Russia's inclination and potential to threaten the interests of the United States and its allies. In the fall of 1991, President Bush broke new ground with his decision to *unilaterally dismantle* some U.S. nuclear weapons; President Gorbachev followed suit shortly afterward. Presidents Bush and Yeltsin later signed an agreement to sharply reduce the U.S. and Russian nuclear arsenals.

Despite these changes, *high-tech weapons systems* will continue to play an *important role in America's defense posture*. The perception that space-age technology helped win the Gulf War in “100 hours” and with few American casualties provides support for high-tech systems.

THE NEW GLOBAL AGENDA

By whatever standards one uses, the United States is the world's mightiest power, but for Americans, merely being big and powerful is no guarantee of dominance. This is especially true since access to petroleum in the Middle East and global environmental issues have become increasingly important. Although the United States has great military power, many of the world's issues today are not military ones. Further, the United States is affected by events all over the world that it cannot control unilaterally. Interconnected issues of equality, economics, energy, and the environment have become important.

Military force is become less effective in today's international world. Military power is evolving, to different uses, such as humanitarian interventions. Economics is increasingly used as a powerful foreign policy instrument. For example, trade sanctions, when they are broadly supported by the international community, can bring pressure to bear without military force.

The United States, and much of the international community, is concerned about the spread of nuclear weapons technology beyond the eight countries that currently possess them (United States, Russia, the UK, France, China, India, Israel, Pakistan) to other countries. North Korea claims to have nuclear weapons now, and Iran is seeking to develop them. Others may be not far behind, although many countries have renounced their plans.

Today's international economy is illustrated by **interdependency**. The health of the American economy, for example, depends increasingly on the prosperity of its trading partners and on the smooth flow of trade and finance across borders. Since the era of the Great Depression, the world economy has moved away from high tariffs and protectionism toward lower tariffs and freer trade. President Bush signed the **North American Free Trade Agreement** in 1992 with Canada and Mexico, and it was approved by Congress in 1993. In 1994 Congress approved the **GATT** agreement. Nontariff barriers such as *quotas*, *subsidies*, or *quality specifications* for imported products are common means of limiting imports today; such policies may temporarily "save" American jobs in targeted industries, but they also raise prices on products that Americans use and make the overall economy less efficient—which hurts other workers.

For a number of years, America has experienced a **balance of trade deficit**; the excess of imports over exports *decreases the dollar's buying power* against other currencies, making Americans pay more for goods they buy from other nations. On the plus side, this decline in the dollar also makes American products cheaper abroad, thereby increasing our exports. In 2007, the trade deficit was \$716 billion.

More than half of the world's recoverable reserves of oil lie in the Middle East. The **Organization of Petroleum Exporting Countries (OPEC)** controls the price of oil and the amount of oil its members produce and sell to other nations. America imports more than 60 percent of its annual consumption of oil from other countries. America's decision to respond to Iraq's invasion of Kuwait in 1990 was based in large part on this dependence.

Presidents of both parties have pressed for aid to nations in the developing world—sometimes from humanitarian concern, sometimes out of a desire to stabilize friendly nations. **Foreign aid** has taken a variety of forms: sometimes it has been given in the form of grants, but it often has taken the form of credits and loan guarantees to purchase American goods, assistance with agricultural modernization, loans at favorable interest rates, and forgiveness of previous loans; preferential trade agreements have sometimes been granted for the sale of foreign goods here. A substantial percentage of foreign aid is in the form of military assistance and is targeted to a few countries that are considered to be of vital strategic significance. Foreign aid has never been very popular with Americans. Although the United States donates *more total aid than any other country*, it devotes a *smaller share of its GDP* to foreign economic development than any other developed nation.

UNDERSTANDING FOREIGN AND DEFENSE POLICYMAKING

The themes that have guided students' understanding of American politics throughout *Government in America*—democracy and the scope of government—also pertain to the topic of international relations. Treaty obligations, the nation's economic interests in an interdependent global economy, and other questions on the global agenda guarantee that the national government will be active in international relations. When the American people hold strong opinions regarding international relations as, when they first supported and later opposed the war in Vietnam, policymakers are usually responsive. A wide range of interests are represented in the making of foreign policy. As the United States remains a superpower and continues to have interests to defend around the world, the scope of American government in foreign and defense policy will be substantial.

CHAPTER OUTLINE

I. INTRODUCTION

- A. On September 11, 2001, communism was no longer the principal threat to the security of the United States, and our foreign policy goals suddenly changed to ending terrorism.

II. AMERICAN FOREIGN POLICY: INSTRUMENTS, ACTORS, AND POLICYMAKERS

- A. **Foreign policy** involves making choices about relations with the rest of the world.
 - 1. Because the president is the main force behind foreign policy, the White House receives a highly confidential intelligence *briefing* every morning.
 - 2. The *instruments of foreign policy* are different from those of domestic policy.
 - a. Foreign policies depend ultimately on three types of tools: *military*, *economic*, and *diplomatic*.
 - b. Among the oldest instruments of foreign policy are *war and the threat of war*. The United States has often used force to influence actions in other countries.

- c. Today, *economic instruments* are becoming weapons almost as potent as those of war.
 - (1) The control of oil can be as important as the control of guns.
 - (2) Trade regulations, tariff policies, and monetary policies are among the economic instruments of foreign policy.
 - d. *Diplomacy* is the quietest instrument of foreign policy.
 - (1) Sometimes national leaders meet in summit talks.
 - (2) More often, less prominent negotiators work out treaties handling all kinds of national contracts.
- B. Actors on the world stage.
- 1. International organizations.
 - a. More than 125 foreign governments have emerged since 1945—nearly two dozen in the 1990s alone.
 - b. Most of the challenges in *international relations* require the cooperation of many nations; thus, **international organizations** play an increasingly important role on the world stage.
 - c. The **United Nations (UN)**, created in 1945, is headed by the **secretary general**.
 - (1) Its members agree to renounce war and respect certain human and economic freedoms.
 - (2) The **UN General Assembly** is composed of about 191 member nations, each with one vote. The **Security Council**, with five permanent members and 10 chosen from session to session, is the seat of real power. The **Secretariat** is the executive arm of the UN and directs the administration of UN programs.
 - (3) In addition to its peacekeeping function, the UN runs a number of programs focused on economic development and health, education, and welfare concerns.
 - 2. Other international organizations.
 - a. The **International Monetary Fund** helps regulate the world of international finance, the **World Bank** finances development projects in new nations, and the **International Postal Union** helps get the mail from one country to another.
 - b. **Regional organizations** are organizations of several nations bound by a treaty, often for military reasons.
 - (1) The **North Atlantic Treaty Organization (NATO)** was created in 1949; its members (the United States, Canada, most Western European nations, and Turkey) agreed to combine military forces and to treat a war against one as a war against all.
 - (2) The *Warsaw Pact* was the regional security community of the Soviet Union and its Eastern European allies. The Warsaw Pact has been dissolved, and the role of NATO is changing dramatically as the cold war has thawed.

- (3) The **European Union (EU)** is a transnational government of the major European nations. Today, the EU government coordinates monetary, trade, immigration, labor policies, and much more.
3. Multinational corporations, groups, and individuals.
 - a. Much of the world's industrial output comes from **multinational corporations (MNCs)**, which are sometimes more powerful (and often much wealthier) than the governments under which they operate.
 - b. **Groups** such as churches and labor unions have long had international interests and activities.
 - (1) Environmental and wildlife groups, such as Greenpeace, have proliferated, as have groups interested in protecting human rights, such as Amnesty International.
 - (2) Some groups are committed to the overthrow of particular governments and operate as terrorists around the world.
 - c. **Individuals** are also international actors.
 - (1) The recent explosion of tourism affects the international economic system.
 - (2) Growing numbers of students are going to and coming from other nations; they are carriers of ideas and ideologies.
 - (3) Immigrants and refugees place new demands on public services.
- C. The policymakers.
 1. The president is the main force behind foreign policy: as **chief diplomat**, the president negotiates treaties; as **commander in chief**, the president deploys American troops abroad.
 2. Presidents are aided (and thwarted) by a huge national security bureaucracy. Congress also wields considerable clout in the foreign policy arena.
 3. Other foreign policy decision makers.
 - a. The *diplomats*.
 - (1) The **secretary of state** has traditionally been the key advisor to the president on foreign policy matters.
 - (2) The more than 32,000 people working in the **State Department** are organized into *functional areas* and *area specialties*.
 - (3) The top positions in the department and the highly select members of the **Foreign Service** are heavily involved in formulating and executing American foreign policy. (Presidents Nixon and Carter relied more heavily on their *special assistants for national security affairs* than on their secretaries of state.)
 - (4) Many recent presidents have bypassed institutional arrangements for foreign policy decision making and have established more personal systems for receiving policy advice.
 4. The *national security establishment*.
 - a. The **Department of Defense (DOD)** was created after World War II when the Army, Navy, and Air Force were combined into one department.
 - b. The commanding officers of each of the services, plus a chair, constitute the **Joint Chiefs of Staff**; Richard Betts carefully examined the Joint Chiefs' advice to the president in many crises, and found that the Joint

Chiefs were no more likely than civilian advisors to push an aggressive military policy.

- c. The **secretary of defense** manages a budget larger than that of most nations and is the president's primary military advisor.
- d. American foreign military policies are *supposed to be coordinated*; the **National Security Council (NSC)** was formed in 1947 for this purpose.
 - (1) Despite the coordinating role assigned to the NSC, conflict within the foreign policy establishment remains common.
 - (2) The NSC staff has sometimes competed with—rather than integrated—policy advice from cabinet departments; it has also become involved in *covert operations*.
- e. The **Central Intelligence Agency (CIA)**, known as “*The Company*,” was created after World War II to coordinate American information and data-gathering intelligence activities abroad and to collect, analyze, and evaluate its own intelligence.
 - (1) The size of its budget and staff are secret; estimates put them at \$5 billion and about 20,000 people.
 - (2) Most of its activities are *uncontroversial*, as the bulk of the material it collects and analyzes comes from readily available sources.
 - (3) The CIA also engages in **covert activities**.
 - (a) One way the CIA collects information is by *espionage* (usually against foreign adversaries).
 - (b) The CIA has a long history of involvement in other nations' internal affairs; it has trained and supported armies and has nurtured coups.
 - (c) At times, the agency engaged in wiretaps, interception of mail, and the infiltration of interest groups *in the United States*. This violated the CIA's charter and damaged the agency's morale and external political support.
 - (d) With the end of the cold war, there is less pressure for covert activities and a climate more conducive to *conventional intelligence gathering*. Currently, Congress requires the CIA to *inform relevant congressional committees* promptly of current and anticipated covert operations.
 - (e) Reconciling covert activities with the principle of open democratic government remains a challenge for public officials. The failure to predict the terrorist attack on September 11, 2001, increased the intensity of this debate, with many leaders calling for an increase in covert activities.
- f. Many other intelligence agencies exist, such as the National Reconnaissance Office and the National Security Agency.
 - (1) In 2004, Congress created the position of the Director of National Intelligence, to better coordinate the 100,000 employees of 16 agencies spending about \$50 billion.
 - (2) In 2005, a debate erupted regarding the NSA's monitoring of private communications between the U.S. and other countries.

5. Congress.
 - a. The president *shares constitutional authority* over foreign and defense policy with Congress.
 - (1) Congress has sole authority to *declare war, raise and organize the armed forces*, and *appropriate funds* for national security activities.
 - (2) The Senate determines whether *treaties* will be ratified and ambassadorial and cabinet *nominations* confirmed.
 - (3) The “*power of the purse*” and responsibilities for *oversight* of the executive branch give Congress considerable clout, and senators and representatives examine defense budget authorizations carefully.
 - b. It is a common mistake to believe that the Constitution vests foreign policy solely in the president. Sometimes this erroneous view leads to perverse results, as with the Iran-Contra affair, when officials at high levels in the executive branch lied to Congress and others in an attempt to protect what they viewed as the president’s “exclusive” powers.

III. AMERICAN FOREIGN POLICY: AN OVERVIEW

- A. From isolationism to internationalism.
 1. The United States followed a foreign policy of **isolationism** throughout most of its history.
 2. The **Monroe Doctrine** reaffirmed America’s inattention to Europe’s problems, but warned European nations to stay out of Latin America.
 3. In the wake of World War I, President Woodrow Wilson urged the United States to join the **League of Nations**; the Senate refused to ratify the treaty, indicating the country was not ready to abandon isolationism.
 4. The charter for the United Nations was signed in San Francisco in 1945, with the United States as an original signatory.
- B. At the end of World War II, the United States was the dominant world power, both economically and militarily.
 1. Only the United States possessed nuclear weapons.
 2. The United States poured billions of dollars into war-ravaged European nations through the **Marshall Plan**.
 3. NATO was created in 1949, affirming the mutual military interests of the United States and Western Europe.
- C. All of Eastern Europe fell under Soviet domination as World War II ended.
 1. In 1946, Winston Churchill warned that the Russians had sealed off Eastern Europe with an “**iron curtain**.”
 2. Writing in *Foreign Affairs* in 1947 (under the pseudonym “X”), George F. Kennan proposed a policy of “**containment**.” His containment doctrine called for the United States to isolate the Soviet Union and to “contain” its advances and resist its encroachments.
 3. The **Truman Doctrine** was developed to help other nations (particularly Greece) oppose communism.

4. The Soviet Union closed off land access to Berlin with the **Berlin Blockade** (1948–1949). It was countered by a massive *airlift* of food, fuel, and other necessities by the United States and its allies.
 5. The fall of China to Mao Zedong's Communist-led forces in 1949 and the development of Soviet nuclear capability seemed to confirm American fears.
 6. The invasion of pro-American South Korea by Communist North Korea in 1950 fueled American fears further.
 - a. President Truman sent American troops to Korea under United Nations auspices.
 - b. The **Korean War** (which lasted until July 23, 1953) was a chance to put containment into practice.
 7. The 1950s were the height of the **cold war**.
 - a. Eisenhower's secretary of state, John Foster Dulles, proclaimed a policy of "**brinkmanship**," in which the United States was to be prepared to use nuclear weapons in order to *deter* the Soviet Union and Communist China from taking aggressive action.
 8. The 1950s ushered in an **arms race** between the Soviet Union and the United States; eventually, a point of **mutual assured destruction (MAD)** was reached in which each side could destroy the other.
- D. The Vietnam War.
1. In 1950, President Truman decided to aid the French effort to retain France's colonial possessions in Southeast Asia.
 2. During the 1950s, the Viet Minh (the Vietnamese communist forces) began to receive military aid from the new communist government in China.
 3. In 1954, the French were defeated by the Viet Minh (led by Ho Chi Minh) in a battle at Dien Bien Phu.
 4. Although it was a party to the 1954 agreements among participants in Geneva, Switzerland, the United States never accepted the Geneva agreement to hold national elections in Vietnam in 1956; instead, it began supporting one non-communist leader after another in South Vietnam.
 5. Vietnam first became an election-year issue in 1964.
 - a. Since Truman's time, the United States had sent *military "advisors"* to South Vietnam, which was in the midst of a civil war spurred by the Viet Cong (National Liberation Front).
 6. Despite his election-year promise, Johnson sent in American troops when we were unable to contain the forces of the Viet Cong and North Vietnam with American advisors.
 - a. American troops (more than 500,000 at the peak of the *undeclared war*) and massive firepower failed to contain the North Vietnamese.
 - b. At home, widespread protests against the war contributed to Johnson's decision not to run for reelection in 1968 and to begin peace negotiations.
 7. The new Nixon administration prosecuted the war vigorously (in Cambodia as well as in Vietnam), but also worked to negotiate a peace treaty with the Viet Cong and North Vietnam.
 - a. A peace treaty was signed in 1973, but no one expected it to hold.

- b. South Vietnam's capital, Saigon, fell to the North Vietnamese army in 1975.
 - c. South and North Vietnam were reunited into a single nation, and Saigon was renamed Ho Chi Minh City.
- E. The era of *détente*.
 - 1. Even while the Vietnam War was being waged, Richard Nixon supported a new policy of *détente*.
 - a. Popularized by Henry Kissinger, Nixon's national security assistant (and later secretary of state), *détente* sought a *relaxation of tensions* between the superpowers, coupled with firm guarantees of mutual security.
 - b. Foreign policy battles were to be waged with diplomatic, economic, and propaganda weapons; the threat of force was downplayed.
 - 2. One major initiative coming out of *détente* was the **Strategic Arms Limitation Talks (SALT)**.
 - a. These talks represented an effort by the United States and the Soviet Union to agree to scale down their nuclear capabilities, with each power maintaining sufficient nuclear weapons to deter a surprise attack by the other.
 - b. President Nixon signed the first SALT treaty in 1972.
 - c. A second SALT treaty (SALT II) was signed and sent to the Senate by President Carter in 1979, but the Soviet invasion of Afghanistan that year caused Carter to withdraw the treaty from Senate consideration; both he and President Reagan nevertheless insisted that they would be committed to its arms limitations.
 - 3. The philosophy of *détente* was applied to the People's Republic of China as well as to the Soviet Union.
 - a. President Nixon visited the People's Republic and sent an American mission there.
 - b. President Carter extended formal diplomatic recognition in November 1978.
- F. The Reagan rearmament.
 - 1. From the mid-1950s to 1981, the *defense budget had generally been declining* as a percentage of both the total federal budget and the gross national product (with the exception of the Vietnam War).
 - a. During his presidential campaign, Reagan said America faced a "*window of vulnerability*" because the Soviet Union was pulling ahead of the United States in military spending.
 - 2. In 1983, President Reagan proposed the **Strategic Defense Initiative (SDI)**—renamed "Star Wars" by critics—to create a global "umbrella" of protection in space.
- G. The final thaw in the cold war.
 - 1. The cold war ended spontaneously—a situation that few could have predicted.
 - a. On May 12, 1989, President Bush announced a new era in American foreign policy, one that he termed "*beyond containment*." Bush declared that it was time to seek the integration of the Soviet Union into the community of nations.

- b. Forces of change sparked by Soviet leader Mikhail Gorbachev led to a staggering wave of upheavals that shattered communist regimes and the postwar barriers between Eastern and Western Europe.
 - c. The *Berlin Wall* (the most prominent symbol of oppression in Eastern Europe) was brought down, and East and West Germany formed a unified, democratic republic.
 - d. The former Soviet Union split into 15 separate countries; non-communist governments formed in most of them.
- 2. In 1989, reform seemed on the verge of occurring in China as well as in Eastern Europe.
 - a. Thousands of students held protests on behalf of democratization in *Tiananmen Square* (the central meeting place in Beijing).
 - b. However, on the night of June 3, the Chinese army violently crushed the democracy movement, killing hundreds—perhaps thousands—of protesters and beginning a wave of executions, arrests, and repression.

IV. THE WAR ON TERROISM

- A. Terrorism
 - 1. Perhaps the most troublesome issue in the national security area is the spread of terrorism, the use of violence to demoralize and frighten a country's population or government.
 - 2. President Bush declared a “war on terrorism” following the September 11, 2001, attacks on New York and Washington.
 - 3. The threat posed by groups and the hostile states supporting them has forced America to reconsider basic tenets of its national security policy.
- B. Afghanistan and Iraq
 - 1. After the 9/11 attack, the United States attacked the Taliban regime in Afghanistan, which had been harboring al-Qaeda.
 - 2. After declaring Iraq, Iran, and North Korea an “axis of evil,” President Bush argued that Iraq was part of the war on terror.
 - 3. Poor planning for a postwar Iraq has contributed to a continuing insurgency. Because of the ongoing conflict, al-Qaeda had grown and decentralized.
 - 4. Support for the war and President Bush has sharply declined. Critics claim that America has lost moral authority. Others fear that the United States is fighting a tactic (terrorism) rather than the forces that generate terrorism (the causes).

V. RETHINKING NATIONAL SECURITY POLICY

- A. Despite its risks and uncertainties, the Cold War was characterized by a stable and predictable set of relations.
- B. Terrorism has forced America to reconsider basic tenets of its national security policy.
- C. The George W. Bush administration's national security strategy doctrine supports preemptive strikes against terrorists and hostile states. The invasion of Iraq followed from this premise.

- D. Critics charged that the arrogation of a unilateral right to define threats and use force has squandered America's moral authority and diminished its global credibility.
- E. Almost everyone agrees that today's complicated international environment portends an overhaul of the American national security infrastructure.

VI. THE POLITICS OF DEFENSE POLICY

A. Defense spending.

1. The central assumption of the current American defense policy is that the United States requires forces and equipment sufficient to win decisively a single major conflict, defend American territory against new threats, and conduct a number of holding actions elsewhere around the world.
2. Defense spending comprises about one-fifth of the federal budget.
3. Domestic political concerns, budgetary limitations, and ideology all have a role in influencing decisions regarding the structure of defense policy.
4. Defense spending is a *political issue* entangled with *ideological disputes*.
 - a. Conservatives oppose deep cuts in defense spending, pointing out that many nations retain potent military capability and insisting that America needs to maintain its high state of readiness.
 - b. They credit the collapse of communism in Eastern and Central Europe to Western toughness and the massive increase in defense spending that occurred in the early 1980s.
 - c. Liberals maintain that the Pentagon wastes money and that the United States buys too many guns and too little butter.
 - d. They contend that Gorbachev and his fellow reformers were responding primarily to internal (not external) pressures; they believe the erosion of the Communist Party's authority was well under way when Gorbachev rose to power and that it accelerated as *glasnost* called attention to the party's failures.
5. Some scholars have argued that America faces a tradeoff between defense spending and social spending.
 - a. Evidence for the existence of such a tradeoff is mixed.
 - b. In general, defense and domestic policy expenditures appear to be independent of each other.
6. The lessening of East–West tensions has provided momentum for significant reductions in defense spending (what some call the *peace dividend*).
 - a. Some conservatives favor cutting defense spending in order to decrease the budget deficit.
 - b. Some liberals want to allocate the funds to expanded domestic programs.
 - c. Changing spending patterns is not easy: when assembly lines at weapons plants close down, people lose their jobs. These programs become political footballs.
 - d. Defense spending is decreasing, and the size of the armed forces is also being reduced.

B. Personnel.

1. The United States has nearly 1.4 million men and women on active duty and about 838,000 in the National Guard and Reserves; about 300,000 active duty troops are deployed abroad, mostly in Europe.
 2. This is a very costly enterprise. Many observers feel that America's allies—especially prosperous nations like Japan and Germany—should bear a greater share of common defense costs.
- C. Weapons.
1. To deter an aggressor's attack, the United States has relied on a *triad of nuclear weapons*—ground-based **intercontinental ballistic missiles (ICBMs)**, submarine-launched **ballistic missiles (SLBMs)**, and **strategic bombers**.
 2. Arms reduction.
 - a. During the May 1988 Moscow summit meeting, President Reagan and President Gorbachev exchanged ratified copies of a new treaty eliminating **intermediate-range nuclear forces (INF)**; Reagan became the first American president to sign a treaty to reduce current levels of nuclear weapons.
 - b. On November 19, 1990, the leaders of 22 countries signed a treaty cutting *conventional* arms in Europe.
 - c. In 1991, the Warsaw Pact (the military alliance tying Eastern Europe to the Soviet Union) was dissolved.
 - d. On July 31, 1991, President Gorbachev and President Bush signed the *Strategic Arms Reduction Treaty*, following *nine years of negotiations*.
 3. The democratization of Eastern Europe, the restructuring of the Soviet Union, and the deterioration of the Soviet economy substantially diminished Russia's inclination and potential to threaten the interests of the United States and its allies.
 - a. In the fall of 1991, President Bush broke new ground with his decision to *unilaterally dismantle* some U.S. nuclear weapons; President Gorbachev followed suit shortly afterward.
 - b. Presidents Bush and Yeltsin signed an agreement to sharply reduce the U.S. and Russian nuclear arsenals.
 4. Despite these changes, *high-tech weapons systems* will continue to play an *important role in America's defense posture*.
 - a. The perception that space-age technology helped win the Gulf War in "100 hours" and with few American casualties provides support for high-tech systems.
 - b. Producing expensive weapons also provides jobs for American workers.

VII. THE NEW GLOBAL AGENDA

- A. By whatever standards one uses, the United States is the world's mightiest power; but for Americans, merely being big and powerful is no guarantee of dominance.
 1. Our economy is increasingly dependent on international trade.
 2. Political scientist Stanley Hoffman likened the United States' plight to that of Jonathan Swift's *Gulliver*, the traveler who was seized and bound by the tiny Lilliputians.

- B. New issues and tools have emerged in the increasingly complex foreign affairs domain.
1. Military instruments of power are becoming somewhat less useful in the new interdependent world.
 2. Economic sanctions are a new and powerful non-military penalty imposed on a foreign government in an attempt to modify its behavior.
 3. Nuclear proliferation has become a more central issue, with the United States adopting a more assertive posture in attempting to deny nuclear weapons to rogue states.
- C. The international economy.
1. Today's international economy is illustrated by **interdependency**.
 2. The *International Monetary Fund (IMF)* is a cooperative international organization of 185 countries intended to stabilize the exchange of currencies and the world economy. The necessity of the IMF making the loans dramatically illustrates the world's economic interdependence.
 3. The health of the American economy depends increasingly on the prosperity of its trading partners and on the smooth *flow of trade and finance across borders*.
 - a. *Exports and imports* have increased tenfold since 1970 alone; spending by foreign tourists bolsters U.S. travel, hotel, and recreation industries; American colleges and universities derive a significant portion of their revenue from foreign students.
 - b. The *globalization of finances* has been even more dramatic than the growth of trade; worldwide computer and communications networks instantaneously link financial markets in all parts of the globe.
 4. At one time, **tariffs** (taxes added to the cost of imported goods) were the primary instruments of international economic policy.
 - a. Tariffs are intended to raise the price of imported goods in order to "protect" American businesses and workers from foreign competition.
 - b. Tariff making became a two-edged sword: high U.S. tariffs encourage *other nations to respond* with high tariffs on American products.
 5. Since the era of the Great Depression, the world economy has moved away from high tariffs and *protectionism* toward lower tariffs and freer trade.
 - a. President Bush signed the **North American Free Trade Agreement** in 1992 with Canada and Mexico; it was approved by Congress in 1993.
 - b. In 1994, Congress also approved the even more important **General Agreement on Tariffs and Trade (GATT)** treaty. In addition to lowering protectionist barriers, it also created the World Trade Organization.
 - c. Many other free trade agreements, both regional and between individual states are being approved around the world today.
 6. Various circumstances combine to upset the **balance of trade** (the ratio of what a country pays for imports to what it earns from exports).
 - a. For a number of years, America has experienced a balance of trade *deficit*; the excess of imports over exports decreases the dollar's *buying power* against other currencies, making Americans pay more for goods they buy from other nations.

- b. On the plus side, this decline in the dollar also makes American products cheaper abroad, thereby increasing our exports.
 - c. Year after recent year, the American balance of trade has been preceded by a minus sign, and the deficit for the balance of trade was more than \$716 billion in 2007.
 - d. A poor balance of trade exacerbates *unemployment*; jobs as well as dollars are flowing abroad.
- 7. A *cheaper dollar* also makes the *cost of American labor more competitive*. More foreign-owned companies are now building factories in the U.S.
- 8. In 1973, the **Organization of Petroleum Exporting Countries (OPEC)** responded to American support of Israel in the short war against Egypt by embargoing oil shipments to the United States and Western European nations. The United States is vulnerable because of its dependence on imported oil.
- D. **Foreign aid** has sometimes been given in the form of *grants*, but it often has taken the form of *credits and loan guarantees to purchase American goods, loans at favorable interest rates, and forgiveness of previous loans*. *Preferential trade agreements* have sometimes been granted for the sale of foreign goods here.
 - 1. A substantial percentage of foreign aid is in the form of *military assistance* and is targeted to a few countries that are considered to be of vital strategic significance.
 - 2. Foreign aid programs have also assisted with *agricultural modernization, irrigation, and population control*.
 - 3. Foreign aid has never been very popular with Americans. Although the United States donates more total aid than any other country, it devotes a *smaller share of its GNP* to foreign economic development than any other developed nation.

VIII. UNDERSTANDING NATIONAL SECURITY POLICYMAKING

- A. National security policymaking and democracy.
 - 1. Americans are usually more interested in domestic policy than foreign policy.
 - 2. Public opinion plays an important part in American foreign and defense policy; as with other issues, policymakers are reluctant to make unpopular decisions.
 - 3. The system of *separation of powers* plays a crucial role in foreign as well as domestic policy: the president does not act alone; Congress has a central role in matters of international relations.
 - 4. *Pluralism* is important to the development of American international economic policy: agencies and members of Congress—as well as their constituents—each pursue their own policy goals. Even foreign governments hire lobbying firms.
- B. National security policymaking and the scope of government.
 - 1. America's *global connections as a superpower* have many implications for how active the national government is in the realm of foreign policy and national defense.
 - 2. Treaty obligations, the nation's economic interests in an interdependent global economy, and other questions on the global agenda guarantee that the national government will be active in international relations.

3. As the United States remains a superpower and continues to have interests to defend around the world, the scope of American government in foreign and defense policy will be substantial.

KEY TERMS AND CONCEPTS

Arms race: one side's weaponry motivates the other side to procure more weaponry.

Balance of trade: the ratio of what a country pays for imports to what it earns from exports.

Central Intelligence Agency (CIA): created after World War II to coordinate American information and data-gathering intelligence activities.

Cold war: where the U.S. and the Soviet Union were often on the brink of war.

Containment doctrine: called for the U.S. to isolate the Soviet Union to contain its advances by peaceful or coercive means.

Détente: a slow transformation from conflict thinking to cooperative thinking in foreign policy strategy designed to ease tensions between the superpowers and guarantee mutual security.

European Union (EU): a transnational government composed of most European countries, that coordinates monetary, trade, immigration, and labor policies for their mutual benefit.

Foreign policy: involves making choices about relations with the rest of the world.

Interdependency: actions reverberate and affect other people's actions.

Isolationism: a policy that directs the U.S. to stay out of other nations' conflicts.

Joint Chiefs of Staff: composed of commanding officers of each of the services, plus a chair, are the president's military advisors.

North Atlantic Treaty Organization (NATO): created in 1949 to combine military forces of the U.S., Canada, Western European nations, and Turkey.

Organization of Petroleum Exporting Countries (OPEC): organization comprised of oil producing countries in the Middle East.

Secretary of defense: the president's main civilian defense advisor.

Secretary of state: a key advisor to the president on foreign policy.

Strategic Defense Initiative (SDI): also known as "Star Wars," this plan proposed creating a global umbrella in space to destroy invading missiles.

Tariff: raises the price of an imported good to protect domestic business.

United Nations: an international organization created in 1945 where members agree to renounce war and respect human and economic freedoms.

TEACHING IDEAS: CLASS DISCUSSION AND STUDENT PROJECTS

- Reconciling covert activities with the principles of open democratic government remains a challenge for public officials. Does your class perceive any conflict between “democracy” and the need for “national security”? What types of limitations would your students place on covert activities? What type of distinction do they draw between activities of democracies and activities of nations like the former Soviet Union when it comes to national security?
- Public opinion polls find that Americans today are more likely to perceive threats to their security in economic competition from allies than from military rivalry with potential adversaries. As a library project, challenge your students to contrast the positions of the United States and Japan with regard to both defense expenditures and protective economic policies. Divide the class into several research groups for this project, and have them allocate some division of responsibility among themselves.
- For class discussion, have students debate the value of American involvement in UN peacekeeping efforts. In particular, have them examine the costs and benefits of this policy to American taxpayers. Ask them what exactly they would propose instead of American participation in these efforts.
- Have each student choose a country, and, using Internet, library, and government document sources, investigate the nature of U.S. foreign policy toward that country. In what specific issues does the United States have an interest? What policy instruments (foreign aid, diplomacy, military forces, etc.) is the United States using to accomplish those goals? Have students write a brief essay addressing these questions. If shared with the class, this writing exercise could also result in an interesting discussion highlighting the diversity of American interests around the world, and help students to develop more thoughtful positions on foreign and defense policymaking.
- Assign students to read media reports from Europe, Central America, and elsewhere to gauge foreign opinion toward the U.S. attack on Iraq. How do beliefs about and attitudes toward the war and the U.S. compare? Do such differences matter, and in what ways?
- Ask the students to write down the objectives(s) the Bush administration had in going to war with Iraq. Then have them reveal their answers, and discuss why they differ from one another. What are the consequences of the war, and have any of these objectives/goals been achieved? You may also find that some believe Iraq to be responsible for 9/11, even years after the Bush administration has declared this to be untrue.

BACKGROUND READING

Gilpin, Robert. *The Political Economy of International Relations*. Princeton, NJ: Princeton University Press, 1987.

Gordon, Philip H. *Winning the Right War*. New York: Times Books, 2007.

Hilsman, Roger, Laura Gaughran, and Patricia Wertsman. *The Politics of Policymaking in Defense and Foreign Affairs*. Englewood Cliffs, NJ: Prentice-Hall, 1992.

Keegan, John. *The Iraq War*. New York : Alfred A. Knopf, 2004.

Kennedy, Paul M. *The Rise and Fall of the Great Powers*. New York: Vintage Books, 1989.

Mann, Thomas E., ed. *A Question of Balance: The President, the Congress, and Foreign Policy*. Washington, D.C.: Brookings Institution, 1990.

Oye, Kenneth, et al., eds. *Eagle in a New World*. New York: HarperCollins, 1992.

Spanier, John. *American Foreign Policy Since World War II*. 14th ed. Washington, D.C.: Congressional Quarterly Press, 1997.

MEDIA SUGGESTIONS

America at War. Films for the Humanities and Sciences.

This film examines American wars from World War II to the Persian Gulf.

Inside the Cold War. Films for the Humanities and Sciences.

A CD-ROM that includes eight mini-documentaries of the history of the Cold War.

Reconstructs the chain of events that brought the superpowers to the brink of war.

The Road to War: American Decision Making During the Gulf Crisis. Films for the Humanities and Sciences.

This film provides an in-depth analysis of how decisions were made in response to the Gulf crisis.

The UN: It's More Than You Think. Films for the Humanities and Sciences, 1991.

This program provides an accurate profile of the organization, structure, and purpose of the United Nations.

The United Nations: Working for Us All. Films for the Humanities and Sciences, 2003.

This program examines the creation, history, and functions of the United Nations.

Frontline: Ghosts of Rwanda. Prod./Dir. Greg Barker, PBS Home Video, 2004.

This film examines the Rwandan crisis and America's, as well as the UN's, response and interviews key actors involved in the crisis.