AMERICAN GOVERNMENT



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American Government

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Glossary

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Licensing

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CHAPTER OVERVIEW

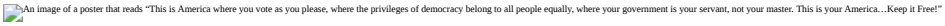
1: Introduction

Topic hierarchy

1.1: Introduction
1.2: What is Government?
1.3: Who Governs? Elitism, Pluralism, and Tradeoffs
1.4: Engagement in a Democracy

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1.1: Introduction



In the United States, the right to vote is an important feature of the nation’s system of government, and over the years many people have fought and sacrificed to obtain it. Yet, today, many people ignore this important means of civic engagement. (credit: modification of work by the National Archives and Records Administration)

Since its founding, the United States has relied on citizen participation to govern at the local, state, and national levels. This civic engagement ensures that representative democracy will continue to flourish and that people will continue to influence government. The right of citizens to participate in government is an important feature of democracy, and over the centuries many have fought to acquire and defend this right. During the American Revolution (1775–1783), British colonists fought for the right to govern themselves. In the early nineteenth century, agitated citizens called for the removal of property requirements for voting so poor white men could participate in government just as wealthy men could. Throughout the late nineteenth and twentieth centuries, women, African Americans, Native Americans, and many other groups fought for the right to vote and hold office.

The poster shown above (Figure), created during World War II, depicts voting as an important part of the fight to keep the United States free. The purpose of voting and other forms of political engagement is to ensure that government serves the people, and not the other way around. But what does government do to serve the people? What different forms of government exist? How do they differ? How can citizens best engage with and participate in the crucial process of governing the nation? This chapter seeks to answer these questions.

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1.2: What is Government?

Learning Objectives

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

- Explain what government is and what it does
- Identify the type of government in the United States and compare it to other forms of government

Government affects all aspects of people's lives. What we eat, where we go to school, what kind of education we receive, how our tax money is spent, and what we do in our free time are all affected by government. Americans are often unaware of the pervasiveness of government in their everyday lives, and many are unsure precisely what it does. Here we will look at what government is, what it does, and how the government of the United States differs from other kinds of governments.

DEFINING GOVERNMENT

The term government describes the means by which a society organizes itself and allocates authority in order to accomplish collective goals and provide benefits that the society as a whole needs. Among the goals that governments around the world seek to accomplish are economic prosperity for the nation, secure national borders, and the safety and well-being of citizens. Governments also provide benefits for their citizens. The type of benefits provided differ according to the country and their specific type of governmental system, but governments commonly provide such things as education, health care, and an infrastructure for transportation. The term politics refers to the process of gaining and exercising control within a government for the purpose of setting and achieving particular goals, especially those related to the division of resources within a nation.

Sometimes governmental systems are confused with economic systems. This is because certain types of political thought or governmental organization are closely related to or develop with certain types of economic systems. For example, the economic system of capitalism in Western Europe and North America developed at roughly the same time as ideas about democratic republics, self-government, and natural rights. At this time, the idea of liberty became an important concept. According to John Locke, an English political philosopher of the seventeenth century, all people have natural rights to life, liberty, and property. From this came the idea that people should be free to consent to being governed. In the eighteenth century, in Great Britain's North American colonies, and later in France, this developed into the idea that people should govern themselves through elected representatives and not a king; only those representatives chosen by the people had the right to make laws to govern them.

Similarly, Adam Smith, a Scottish philosopher who was born nineteen years after Locke's death, believed that all people should be free to acquire property in any way that they wished. Instead of being controlled by government, business, and industry, Smith argued, people should be allowed to operate as they wish and keep the proceeds of their work. Competition would ensure that prices remained low and faulty goods disappeared from the market. In this way, businesses would reap profits, consumers would have their needs satisfied, and society as a whole would prosper. Smith discussed these ideas, which formed the basis for industrial capitalism, in his book *The Wealth of Nations*, which was published in 1776, the same year that the Declaration of Independence was written.

Representative government and capitalism developed together in the United States, and many Americans tend to equate democracy, a political system in which people govern themselves, with capitalism. In theory, a democratic government promotes individualism and the freedom to act as one chooses instead of being controlled, for good or bad, by government. Capitalism, in turn, relies on individualism. At the same time, successful capitalists prefer political systems over which they can exert at least some influence in order to maintain their liberty.

Democracy and capitalism do not have to go hand in hand, however. Indeed, one might argue that a capitalist economic system might be bad for democracy in some respects. Although Smith theorized that capitalism would lead to prosperity for all, this has not necessarily been the case. Great gaps in wealth between the owners of major businesses, industries, and financial institutions and those who work for others in exchange for wages exist in many capitalist nations. In turn, great wealth may give a very small minority great influence over the government—a greater influence than that held by the majority of the population, which will be discussed later.

Socialism is an alternative economic system. In socialist societies, the means of generating wealth, such as factories, large farms, and banks, are owned by the government and not by private individuals. The government accumulates wealth and then redistributes it to citizens, primarily in the form of social programs that provide such things as free or inexpensive health care, education, and childcare. In socialist countries, the government also usually owns and controls utilities such as electricity, transportation systems

like airlines and railroads, and telecommunications systems. In many socialist countries the government is an oligarchy: only members of a certain political party or ruling elite can participate in government. For example, in China, the government is run by members of the Chinese Communist Party. However, socialist countries can have democratic forms of government as well, such as Sweden. Although many Americans associate socialism with tyranny and a loss of individual liberties, this does not have to be the case, as we see in Sweden.

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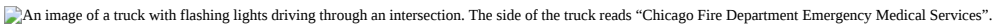
In the United States, the democratic government works closely together with its capitalist economic system. The interconnectedness of the two affects the way in which goods and services are distributed. The market provides many goods and services needed by Americans. For example, food, clothing, and housing are provided in ample supply by private businesses that earn a profit in return. These goods and services are known as private goods.

People can purchase what they need in the quantity in which they need it. This, of course, is the ideal. In reality, those who live in poverty cannot always afford to buy ample food and clothing to meet their needs, or the food and clothing that they can afford to buy in abundance is of inferior quality. Also, it is often difficult to find adequate housing; housing in the most desirable neighborhoods—those that have low crime rates and good schools—is often too expensive for poor or working-class (and sometimes middle-class) people to buy or rent.

Thus, the market cannot provide everything (in enough quantity or at low enough costs) in order to meet everyone's needs. Therefore, some goods are provided by the government. Such goods or services that are available to all without charge are called public goods. Two such public goods are national security and education. It is difficult to see how a private business could protect the United States from attack. How could it build its own armies and create plans for defense and attack? Who would pay the men and women who served? Where would the intelligence come from? Due to its ability to tax, draw upon the resources of an entire nation, and compel citizen compliance, only government is capable of protecting the nation.

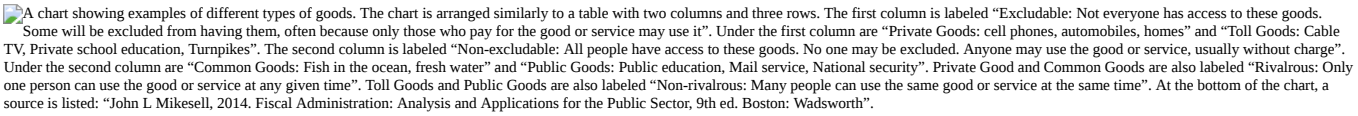
Similarly, public schools provide education for all children in the United States. Children of all religions, races and ethnicities, socioeconomic classes, and levels of academic ability can attend public schools free of charge from kindergarten through the twelfth grade. It would be impossible for private schools to provide an education for all of the nation's children. Private schools do provide some education in the United States; however, they charge tuition, and only those parents who can afford to pay their fees (or whose children gain a scholarship) can attend these institutions. Some schools charge very high tuition, the equivalent to the tuition at a private college. If private schools were the only educational institutions, most poor and working-class children and many middle-class children would be uneducated. Private schooling is a type of good called a toll good. Toll goods are available to many people, and many people can make use of them, but only if they can pay the price. They occupy a middle ground between public and private goods. All parents may send their children to public schools in the United States. They can choose to send their children to a private school, but the private school will charge them. On the other hand, public schools, which are operated by the government, provide free education so all children can attend school. Therefore, everyone in the nation benefits from the educated voters and workers produced by the public school system. Another distinction between public and private goods is that public goods are available to all, typically without additional charge.

What other public goods does government provide in the United States? At the federal, state, and local level, government provides stability and security, not only in the form of a military but also in the form of police and fire departments. Government provides other valuable goods and services such as public education, public transportation, mail service, and food, housing, and health care for the poor (Figure). If a house catches on fire, the fire department does not demand payment before they put the fire out. If someone breaks into a house and tries to harm the occupants, the police will try to protect them and arrest the intruder, but the police department will not request payment for services rendered. The provision of these goods and services is funded by citizens paying into the general tax base.



A fire department ambulance rushes to the rescue in Chicago. Emergency medical services, fire departments, and police departments are all paid for by government through the tax base, and they provide their services without an additional charge. (credit: Tony Webster)

Government also performs the important job of protecting common goods: goods that all people may use free of charge but that are of limited supply, such as fish in the sea or clean drinking water. Because everyone can use these goods, they must be protected so a few people do not take everything that is available and leave others with nothing. Some examples of common goods, private goods, public goods, and toll goods are listed below (Figure).


A chart showing examples of different types of goods. The chart is arranged similarly to a table with two columns and three rows. The first column is labeled “Excludable: Not everyone has access to these goods. Some will be excluded from having them, often because only those who pay for the good or service may use it”. Under the first column are “Private Goods: cell phones, automobiles, homes” and “Toll Goods: Cable TV, Private school education, Turnpikes”. The second column is labeled “Non-excludable: All people have access to these goods. No one may be excluded. Anyone may use the good or service, usually without charge”. Under the second column are “Common Goods: Fish in the ocean, fresh water” and “Public Goods: Public education, Mail service, National security”. Private Good and Common Goods are also labeled “Rivalrous: Only one person can use the good or service at any given time”. Toll Goods and Public Goods are also labeled “Non-rivalrous: Many people can use the same good or service at the same time”. At the bottom of the chart, a source is listed: “John L Mikesell, 2014. Fiscal Administration: Analysis and Applications for the Public Sector, 9th ed. Boston: Wadsworth”.

One can distinguish between different types of goods by considering who has access to the goods (excludable/non-excludable) and how many people can access the good at the same time (rivalrous/non-rivalrous).

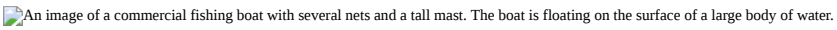
This federal website shares information about the many services the government provides.

FISHING REGULATIONS

One of the many important things government does is regulate public access to common goodslike natural resources. Unlike public goods, which all people may use without charge, common goods are in limited supply. If more public schools are needed, the government can build more. If more firefighters or mail carriers are needed, the government can hire them. Public lands and wildlife, however, are not goods the government can simply multiply if supply falls due to demand. Indeed, if some people take too freely from the supply of common goods, there will not be enough left for others to use.

Fish are one of the many common goods in which the government currently regulates access. It does so to ensure that certain species are not fished into extinction, thus depriving future generations of an important food source and a means to make a living. This idea is known as sustainability. Environmentalists want to set strict fishing limits on a variety of species. Commercial fishers resist these limits, claiming they are unnecessary and, if enforced, would drive them out of business (Figure). Currently, fishing limits are set by a combination of scientists, politicians, local resource managers, and groups representing the interests of fishers.

Juliet Elperin, “U.S. Tightens Fishing Policy, Setting 2012 Catch Limits for All Mandated Species,” *Washington Post*, 8 January 2012.


An image of a commercial fishing boat with several nets and a tall mast. The boat is floating on the surface of a large body of water.

Fishing provides income, as well as food, for many Americans. However, without government restrictions on the kinds and number of fish that can be caught, the fish population would decline and certain species could become extinct. This would ultimately lead to the loss of jobs and income as well as a valuable source of nourishment. (credit: Michael L. Baird)

Should the government regulate fishing? Is it right to interfere with people’s ability to earn money today in order to protect the access of future generations to the nation’s common goods?

Besides providing stability and goods and services for all, government also creates a structure by which goods and services can be made available to the people. In the United States, people elect representatives to city councils, state legislatures, and Congress. These bodies make laws to govern their respective jurisdictions. They also pass measures to raise money, through the imposition of taxes on such things as income, property, and sales. Local, state, and national governments also draft budgets to determine how the revenue taken in will be spent for services. On the local level, funds are allotted for education, police and fire departments, and maintenance of public parks. State governments allocate money for state colleges and universities, maintenance of state roads and bridges, and wildlife management, among other priorities. On the national level, money goes to such things as defense, Social Security, pensions for veterans, maintenance of federal courts and prisons, and management of national parks. At each level, representatives elected by the people try to secure funding for things that will benefit those who live in the areas they represent. Once money has been allocated, government agencies at each level then receive funds for the purposes mentioned above and use them to provide services to the public.

Local, state, and national governments also make laws to maintain order and to ensure the efficient functioning of society, including the fair operation of the business marketplace. In the United States, for example, Congress passes laws regulating banking, and government agencies regulate such things as the amount of toxic gases that can be emitted by factories, the purity of food offered for sale, and the safety of toys and automobiles. In this way, government checks the actions of business, something that it would not do if capitalism in the United States functioned strictly in the manner that Adam Smith believed it should…almost entirely unregulated.

Besides providing goods to citizens and maintaining public safety, most governments also provide a means for citizens to participate in government and to make their opinions known to those in power. Western democracies like the United States, Britain, France, and others protect citizens’ freedom of speech and the press. These nations, and others in the world, also allow citizens to vote.

As noted earlier, politics is the process by which choices are made regarding how resources will be allocated and which economic and social policies government will pursue. Put more simply, politics is the process of who gets what and how. Politics involves choosing which values government will support and which it will not. If government chooses to support an ideal such as individualism, it may choose to loosen regulations on business and industry or to cut taxes so that people have more money to invest in business. If it chooses to support an ideal such as egalitarianism, which calls for equal treatment for all and the destruction of socioeconomic inequalities, it may raise taxes in order to be able to spend more on public education, public transportation, housing for the poor, and care for the elderly. If, for example, the government is more concerned with national security than with individual liberty, it may authorize the tapping of people's phones and restrict what newspapers may publish. If liberty is more important, then government will place greater restrictions on the extent that law enforcement agencies can intrude upon citizens' private communications. The political process and the input of citizens help determine the answer.

Civic engagement, or the participation that connects citizens to government, is a vital ingredient of politics. In the United States, citizens play an important role in influencing what policies are pursued, what values the government chooses to support, what initiatives are granted funding, and who gets to make the final decisions. Political engagement can take many forms: reading about politics, listening to news reports, discussing politics, attending (or watching televised) political debates, donating money to political campaigns, handing out flyers promoting a candidate, voting, joining protest marches, and writing letters to their elected representatives.

DIFFERENT TYPES OF GOVERNMENT

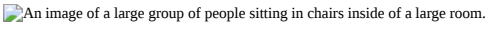
The government of the United States can best be described as a republic, or representative democracy. A democracy is a government in which political power—influence over institutions, leaders, and policies—rests in the hands of the people. In a representative democracy, however, the citizens do not govern directly. Instead, they elect representatives to make decisions and pass laws on behalf of all the people. Thus, U.S. citizens vote for members of Congress, the president and vice president, members of state legislatures, governors, mayors, and members of town councils and school boards to act on their behalf. Most representative governments favor majority rule: the opinions of the majority of the people have more influence with government than those of the minority. If the number of elected representatives who favor a proposed law is greater than those who oppose it, the law will be enacted.

However, in representative governments like the United States, minority rights are protected: people cannot be deprived of certain rights even if an overwhelming number of people think that they should be. For example, let's say American society decided that atheists, people who do not believe that God exists, were evil and should be imprisoned or expelled from the country. Even though atheists only account for about 7 percent of the population, they would be protected due to minority rights.

Michael Lipka. 5 November 2015. "7 Facts about Atheists," www.pewresearch.org/fact-tank...bout-atheists/.

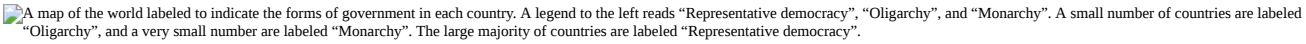
Even though the number of Americans who believe in God far outweighs the number who do not, the minority is still protected. Because decisions are made through majority rule, making your opinions known and voting for those men and women who make decisions that affect all of us are critical and influential forms of civic engagement in a representative democracy such as the United States.

In a direct democracy, unlike representative democracy, people participate directly in making government decisions. For example, in ancient Athens, the most famous example of a direct democracy, all male citizens were allowed to attend meetings of the Assembly. Here they debated and voted for or against all proposed laws. Although neither the federal government nor any of the state governments function as a direct democracy—the Constitution requires the national and state governments to be representative forms of government—some elements of direct democracy do exist in the United States. While residents of the different states vote for people to represent them and to make laws in their behalf in the state legislatures and in Congress, people may still directly vote on certain issues. For example, a referendum or proposed law might be placed on the ballot for citizens to vote on directly during state or local elections instead of leaving the matter in the hands of the state legislature. At New England town meetings, all residents are allowed to debate decisions affecting the town (Figure). Such occasions provide additional opportunities for civic engagement.



Residents of Boxborough, Massachusetts, gather in a local hotel to discuss issues affecting their town. New England town meetings provide an opportunity for people to experience direct democracy. This tradition has lasted for hundreds of years. (credit: modification of work by Liz West)

Most countries now have some form of representative government (Figure). At the other end of the political spectrum are elite-driven forms of government. In a monarchy, one ruler, usually a hereditary ruler, holds political power. Although the power of some monarchs is limited by law, and such kings and queens often rule along with an elected legislature that makes laws for the country, this is not always the case. Many southwest Asian kingdoms, such as Saudi Arabia, Qatar, and the United Arab Emirates, have absolute monarchs whose power is unrestricted. As discussed earlier, another nondemocratic form of government is oligarchy, in which a handful of elite members of society, often those who belong to a particular political party, hold all political power. For example, in Cuba, as in China, only members of the Communist Party are allowed to vote or hold public office, and the party's most important members make all government decisions. Some nondemocratic societies are totalitarian in nature. Under totalitarianism, the government is more important than the citizens, and it controls all aspects of citizens' lives. Citizens' rights are limited, and the government does not allow political criticism or opposition. These forms of government are fairly rare. North Korea is an example of a totalitarian government.


A map of the world labeled to indicate the forms of government in each country. A legend to the left reads "Representative democracy", "Oligarchy", and "Monarchy". A small number of countries are labeled "Oligarchy", and a very small number are labeled "Monarchy". The large majority of countries are labeled "Representative democracy".

The map of the world shows the different forms of government that currently exist. Countries that are colored blue have some form of representative democracy, although the people may not have as much political power as they do in the United States. Countries that are colored red, like China, Vietnam, and Cuba, have an oligarchic form of government. Countries that are colored yellow are monarchies where the people play little part in governing.

The CIA website provides information about the types of government across the world.

Summary

Government provides stability to society, as well as many crucial services such as free public education, police and fire services, and mail delivery. It also regulates access to common goods, such as public land, for the benefit of all. Government creates a structure whereby people can make their needs and opinions known to public officials. This is one of the key factors that makes the United States a representative democracy. A country where people elect representatives to make political decisions for them depends on the ability and willingness of ordinary people to make their voices known, unlike an oligarchy dominated by only a small group of people.

Glossary

common goods
goods that all people may use but that are of limited supply

democracy
a form of government where political power rests in the hands of the people

direct democracy
a form of government where people participate directly in making government decisions instead of choosing representatives to do this for them

government
the means by which a society organizes itself and allocates authority in order to accomplish collective goals

majority rule
a fundamental principle of democracy; the majority should have the power to make decisions binding upon the whole

minority rights
protections for those who are not part of the majority

monarchy
a form of government where one ruler, usually a hereditary one, holds political power

oligarchy
a form of government where a handful of elite society members hold political power

political power

influence over a government’s institutions, leadership, or policies

politics

the process by which we decide how resources will be allocated and which policies government will pursue

private goods

goods provided by private businesses that can be used only by those who pay for them

public goods

goods provided by government that anyone can use and that are available to all without charge

representative democracy

a form of government where voters elect representatives to make decisions and pass laws on behalf of all the people instead of allowing people to vote directly on laws

toll good

a good that is available to many people but is used only by those who can pay the price to do so

totalitarianism

a form of government where government is all-powerful and citizens have no rights

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1.3: Who Governs? Elitism, Pluralism, and Tradeoffs

Learning Objectives

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

- Describe the pluralism-elitism debate
- Explain the tradeoffs perspective on government

The United States allows its citizens to participate in government in many ways. The United States also has many different levels and branches of government that any citizen or group might approach. Many people take this as evidence that U.S. citizens, especially as represented by competing groups, are able to influence government actions. Some political theorists, however, argue that this is not the case. They claim that only a handful of economic and political elites have any influence over government.

ELITISM VS. PLURALISM

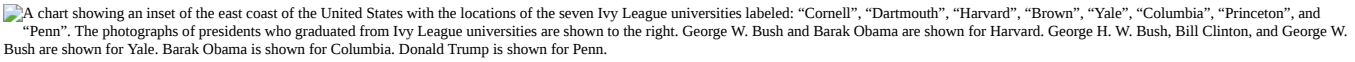
Many Americans fear that a set of elite citizens is really in charge of government in the United States and that others have no influence. This belief is called the elite theory of government. In contrast to that perspective is the pluralist theory of government, which says that political power rests with competing interest groups who share influence in government. Pluralist theorists assume that citizens who want to get involved in the system do so because of the great number of access points to government. That is, the U.S. system, with several levels and branches, has many places where people and groups can engage the government.

The foremost supporter of elite theory was C. Wright Mills. In his book, *The Power Elite*, Mills argued that government was controlled by a combination of business, military, and political elites.

C. Wright Mills. 1956. *The Power Elite*. New York: Oxford University Press.

Most are highly educated, often graduating from prestigious universities (Figure). According to elite theory, the wealthy use their power to control the nation's economy in such a way that those below them cannot advance economically. Their wealth allows the elite to secure for themselves important positions in politics. They then use this power to make decisions and allocate resources in ways that benefit them. Politicians do the bidding of the wealthy instead of attending to the needs of ordinary people, and order is maintained by force. Indeed, those who favor government by the elite believe the elite are better fit to govern and that average citizens are content to allow them to do so.

Jack L. Walker. 1966. "A Critique of the Elitist Theory of Democracy," *The American Political Science Review* 60, No. 2: 295.


A chart showing an inset of the east coast of the United States with the locations of the seven Ivy League universities labeled: "Cornell", "Dartmouth", "Harvard", "Brown", "Yale", "Columbia", "Princeton", and "Penn". The photographs of presidents who graduated from Ivy League universities are shown to the right. George W. Bush and Barak Obama are shown for Harvard. George H. W. Bush, Bill Clinton, and George W. Bush are shown for Yale. Barak Obama is shown for Columbia. Donald Trump is shown for Penn.

The five most recent U.S. presidents have all graduated from an Ivy League university.

In apparent support of the elite perspective, one-third of U.S. presidents have attended Ivy League schools, a much higher percentage than the rest of the U.S. population.

The Ivy League is technically an athletic conference in the Northeast comprised of sports teams from eight institutions of higher education—Brown University, Columbia University, Cornell University, Dartmouth College, Harvard University, University of Pennsylvania, Princeton University, and Yale University—however, the term is also used to connote academic excellence or social elitism.

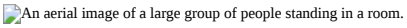
All five of the most recent U.S. presidents attended Ivy League schools such as Harvard, Yale, or Columbia. Among members of the House of Representatives, 93 percent have a bachelor's degree, as do 99 percent of members of the Senate.

Jennifer E. Manning, "Membership of the 113th Congress: A Profile," *Congressional Research Service*, p. 5 (Table 5), November 24, 2014.

Fewer than 40 percent of U.S. adults have even an associate's degree.

The majority of the men and women in Congress also engaged in either state or local politics, were business people, or practiced law before being elected to Congress.

Approximately 80 percent of both the Senate and the House of Representatives are male, and fewer than 20 percent of members of Congress are people of color (Figure). The nation's laws are made primarily by well-educated white male professionals and businessmen.



This official photograph of the the 114th Congress depicts the fairly uniform nature of congressional representation. Most are men, and nearly all are white. Members of Congress also tend to resemble one another in terms of income and level of education.

The makeup of Congress is important because race, sex, profession, education, and socioeconomic class have an important effect on people's political interests. For example, changes in the way taxes are levied and spent do not affect all citizens equally. A flat tax, which generally requires that everyone pay the same percentage rate, hurts the poor more than it does the rich. If the income tax rate was flat at 10 percent, all Americans would have to pay 10 percent of their income to the federal government. Someone who made $40,000 a year would have to pay $4,000 and be left with only $36,000 to live on. Someone who made $1,000,000 would have to pay $100,000, a greater sum, but he or she would still be left with $900,000. People who were not wealthy would probably pay more than they could comfortably afford, while the wealthy, who could afford to pay more and still live well, would not see a real impact on their daily lives. Similarly, the allocation of revenue affects the rich and the poor differently. Giving more money to public education does not benefit the wealthy as much as it does the poor, because the wealthy are more likely than the poor to send their children to private schools or to at least have the option of doing so. However, better funded public schools have the potential to greatly improve the upward mobility of members of other socioeconomic classes who have no other option than to send their children to public schools.

Currently, more than half of the members of Congress are millionaires; their median net worth is just over $1 million, and some have much more.

Alan Rappeport, "Making it Rain: Members of Congress Are Mostly Millionaires," *New York Times*, 12 January 2016.

As of 2003, more than 40 percent of Congress sent their children to private schools. Overall, only 10 percent of the American population does so.

Grace Chen. "How Many Politicians Send Their Kids to Public Schools?"

Therefore, a Congress dominated by millionaires who send their children to private schools is more likely to believe that flat taxes are fair and that increased funding for public education is not a necessity. Their experience, however, does not reflect the experience of average Americans.

Pluralist theory rejects this approach, arguing that although there are elite members of society they do not control government. Instead, pluralists argue, political power is distributed throughout society. Rather than resting in the hands of individuals, a variety of organized groups hold power, with some groups having more influence on certain issues than others. Thousands of interest groups exist in the United States.

"The Non-Governmental Order: Will NGOs Democratise, or Merely Disrupt, Global Governance?" *The Economist*, 9 December 1999.

Approximately 70–90 percent of Americans report belonging to at least one group.

Ronald J. Hrebenar. 1997. *Interest Group Politics in America*, 3rd ed. New York: Routledge, 14; Clive S. Thomas. 2004. *Research Guide to U.S. and International Interest Groups*. Westport, CT: Praeger, 106.

According to pluralist theory, people with shared interests will form groups in order to make their desires known to politicians. These groups include such entities as environmental advocates, unions, and organizations that represent the interests of various businesses. Because most people lack the inclination, time, or expertise necessary to decide political issues, these groups will speak for them. As groups compete with one another and find themselves in conflict regarding important issues, government policy begins to take shape. In this way, government policy is shaped from the bottom up and not from the top down, as we see in elitist theory. Robert Dahl, author of *Who Governs?*, was one of the first to advance the pluralist theory, and argued that politicians seeking an "electoral payoff" are attentive to the concerns of politically active citizens and, through them, become acquainted with the needs of ordinary people. They will attempt to give people what they want in exchange for their votes.

Dahl, *Who Governs?* 91–93.

The Center for Responsive Politics is a non-partisan research group that provides data on who gives to whom in elections. Visit OpenSecrets.org: Center for Responsive Politics to track campaign contributions, congressional bills and committees, and interest groups and lobbyists.

THE TRADEOFFS PERSPECTIVE

Although elitists and pluralists present political influence as a tug-of-war with people at opposite ends of a rope trying to gain control of government, in reality government action and public policy are influenced by an ongoing series of tradeoffs or compromises. For instance, an action that will meet the needs of large numbers of people may not be favored by the elite members of society. Giving the elite what they want may interfere with plans to help the poor. As pluralists argue, public policy is created as a result of competition among groups. In the end, the interests of both the elite and the people likely influence government action, and compromises will often attempt to please them both.

Since the framing of the U.S. Constitution, tradeoffs have been made between those who favor the supremacy of the central government and those who believe that state governments should be more powerful. Should state governments be able to respond to the desires of citizen groups by legalizing the use of marijuana? Should the national government be able to close businesses that sell marijuana even in states where it is legal? Should those who control the Federal Bureau of Investigation (FBI) and the National Security Agency (NSA) be allowed to eavesdrop on phone conversations of Americans and read their email? Should groups like the American Civil Liberties Union (ACLU), which protect all citizens' rights to freedom of speech, be able to prevent this?

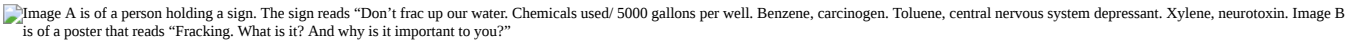
Many of the tradeoffs made by government are about freedom of speech. The First Amendment of the Constitution gives Americans the right to express their opinions on matters of concern to them; the federal government cannot interfere with this right. Because of the Fourteenth Amendment, state governments must protect this right also. At the same time, neither the federal government nor state governments can allow someone's right to free expression to interfere with someone else's ability to exercise his or her own rights. For example, in the United States, it is legal for women to have abortions. Many people oppose this right, primarily for religious reasons, and often protest outside facilities that provide abortions. In 2007, the state of Massachusetts enacted a law that required protestors to stand thirty-five feet away from clinic entrances. The intention was to prevent women seeking abortions from being harassed or threatened with violence. Groups favoring the protection of women's reproductive rights supported the law. Groups opposed to abortion argued that the buffer zone prevented them from speaking to women to try to persuade them not to have the procedure done. In 2014, in the case of *McCullen v. Coakley*, the U.S. Supreme Court struck down the law that created a buffer zone between protestors and clinic entrances.

McCullen v. Coakley, 573 U.S. __ (2014); Melissa Jeltsen, "The Reality of Abortion Clinics without Buffer Zones," *The Huffington Post*, 13 July 2014.

The federal government does not always side with those who oppose abortion, however. Several states have attempted to pass laws requiring women to notify their husbands, and often obtain their consent, before having an abortion. All such laws have been found unconstitutional by the courts.

Tradeoffs also occur as a result of conflict between groups representing the competing interests of citizens. Many Americans believe that the U.S. must become less dependent on foreign sources of energy. Many also would like people to have access to inexpensive sources of energy. Such people are likely to support fracking: the process of hydraulic fracturing that gives drilling companies access to natural gas trapped between layers of shale underground. Fracking produces abundant, inexpensive natural gas, a great benefit to people who live in parts of the country where it is expensive to heat homes during the winter. Fracking also creates jobs. At the same time, many scholars argue that fracking can result in the contamination of drinking water, air pollution, and increased risk of earthquakes. One study has even linked fracking to cancer. Thus, those who want to provide jobs and inexpensive natural gas are in conflict with those who wish to protect the natural environment and human health (Figure). Both sides are well intentioned, but they disagree over what is best for people.

Gail Bambrick. 11 December 2012. "Fracking: Pro and Con," https://now.tufts.edu/articles/fracking-pro-and-con.



A person in Ohio protests fracking (a). An announcement of a public meeting regarding fracking illustrates what some of the tradeoffs involved with the practice might be (b). (credit a: modification of work by "ProgressOhio/Flickr"; credit b: modification of work by Martin Thomas)

Tradeoffs are especially common in the United States Congress. Members of the Senate and the House of Representatives usually vote according to the concerns of people who live in their districts. Not only does this often pit the interests of people in different parts of the country against one another, but it also frequently favors the interests of certain groups of people over the interests of others within the same state. For example, allowing oil companies to drill off the state's coast may please those who need the jobs that will be created, but it will anger those who wish to preserve coastal lands as a refuge for wildlife and, in the event of an

accident, may harm the interests of people who depend on fishing and tourism for their living. At times, House members and senators in Congress may ignore the voters in their home states and the groups that represent them in order to follow the dictates of the leaders of the political party to which they belong. For example, a member of Congress from a state with a large elderly population may be inclined to vote in favor of legislation to increase benefits for retired people; however, his or her political party leaders, who disapprove of government spending on social programs, may ask for a vote against it. The opposite can occur as well, especially in the case of a legislator soon facing re-election. With two-year terms of office, we are more likely to see House members buck their party in favor of their constituents.

Finally, the government may attempt to resolve conflicting concerns within the nation as a whole through tradeoffs. After repeated incidents of mass shootings at schools, theaters, churches, and shopping malls, many are concerned with protecting themselves and their families from firearm violence. Some groups would like to ban the sale of automatic weapons completely. Some do not want to ban gun ownership; they merely want greater restrictions to be put in place on who can buy guns or how long people must wait between the time they enter the store to make a purchase and the time when they are actually given possession of the weapon. Others represent the interests of those who oppose any restrictions on the number or type of weapons Americans may own. So far, state governments have attempted to balance the interests of both groups by placing restrictions on such things as who can sell guns, where gun sales may take place, or requirements for background checks, but they have not attempted to ban gun sales altogether. For example, although federal law does not require private gun dealers (people who sell guns but do not derive most of their income from doing so) to conduct background checks before selling firearms to people at gun shows, some states have passed laws requiring this.

“Gun Show Background Checks State Laws,” www.governing.com/gov-data/sa...-laws-map.html (February 18, 2016).

Summary

Many question whether politicians are actually interested in the needs of average citizens and debate how much influence ordinary people have over what government does. Those who support the elite theory of government argue that a small, wealthy, powerful elite controls government and makes policy to benefit its members and perpetuate their power. Others favor the pluralist theory, which maintains that groups representing the people’s interests do attract the attention of politicians and can influence government policy. In reality, government policy usually is the result of a series of tradeoffs as groups and elites fight with one another for influence and politicians attempt to balance the demands of competing interests, including the interests of the constituents who elected them to office.

The elite theory of government maintains that _____.

1. special interest groups make government policy
2. politicians who have held office for a long time are favored by voters
3. poor people and people of color should not be allowed to vote
4. wealthy, politically powerful people control government, and government has no interest in meeting the needs of ordinary people

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According to the pluralist theory of government, _____.

1. government does what the majority of voters want it to do
2. government policy is formed as a result of the competition between groups with different goals and interests
3. ordinary people acting on their own have a significant influence on government
4. wealthy people decide what government policy will be, and politicians have no interest in pleasing anyone else

Which of the following is a good example of a tradeoff?

1. The government pleases environmental activists by preserving public lands but also pleases ranchers by allowing them to rent public lands for grazing purposes.
2. The government pleases environmental activists by reintroducing wolves to Yellowstone National Park but angers ranchers by placing their cattle in danger.
3. The government pleases oil companies by allowing them to drill on lands set aside for conservation but allows environmental activist groups to protest the drilling operations.
4. Groups that represent a variety of conflicting interests are all allowed to protest outside Congress and the White House.

Glossary

elite theory

claims political power rests in the hands of a small, elite group of people

pluralist theory

claims political power rests in the hands of groups of people

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1.4: Engagement in a Democracy

Learning Objectives

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

- Explain the importance of citizen engagement in a democracy
- Describe the main ways Americans can influence and become engaged in government
- Discuss factors that may affect people's willingness to become engaged in government

Participation in government matters. Although people may not get all that they want, they can achieve many goals and improve their lives through civic engagement. According to the pluralist theory, government cannot function without active participation by at least some citizens. Even if we believe the elite make political decisions, participation in government through the act of voting can change who the members of the elite are.

WHY GET INVOLVED?

Are fewer people today active in politics than in the past? Political scientist Robert Putnam has argued that civic engagement is declining; although many Americans may report belonging to groups, these groups are usually large, impersonal ones with thousands of members. People who join groups such as Amnesty International or Greenpeace may share certain values and ideals with other members of the group, but they do not actually interact with these other members. These organizations are different from the types of groups Americans used to belong to, like church groups or bowling leagues. Although people are still interested in volunteering and working for the public good, they are more interested in either working individually or joining large organizations where they have little opportunity to interact with others. Putnam considers a number of explanations for this decline in small group membership, including increased participation by women in the workforce, a decrease in the number of marriages and an increase in divorces, and the effect of technological developments, such as the internet, that separate people by allowing them to feel connected to others without having to spend time in their presence.

Robert D. Putnam. 2001. *Bowling Alone: The Collapse and Revival of American Community*. New York: Simon & Schuster, 75.

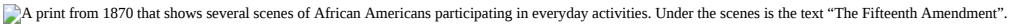
Putnam argues that a decline in social capital—"the collective value of all 'social networks' [those whom people know] and the inclinations that arise from these networks to do things for each other"—accompanies this decline in membership in small, interactive groups.

———. 1995. "Bowling Alone: America's Declining Social Capital," *Journal of Democracy*6: 66–67, 69; "About Social Capital," www.hks.harvard.edu/programs...social-capital (May 2, 2016).

Included in social capital are such things as networks of individuals, a sense that one is part of an entity larger than oneself, concern for the collective good and a willingness to help others, and the ability to trust others and to work with them to find solutions to problems. This, in turn, has hurt people's willingness and ability to engage in representative government. If Putnam is correct, this trend is unfortunate, because becoming active in government and community organizations is important for many reasons.

To learn more about political engagement in the United States, read "The Current State of Civic Engagement in America" by the Pew Research Center.

Civic engagement can increase the power of ordinary people to influence government actions. Even those without money or connections to important people can influence the policies that affect their lives and change the direction taken by government. U.S. history is filled with examples of people actively challenging the power of elites, gaining rights for themselves, and protecting their interests. For example, slavery was once legal in the United States and large sectors of the U.S. economy were dependent on this forced labor. Slavery was outlawed and blacks were granted citizenship because of the actions of abolitionists. Although some abolitionists were wealthy white men, most were ordinary people, including men and women of both races. White women and blacks were able to actively assist in the campaign to end slavery despite the fact that, with few exceptions, they were unable to vote. Similarly, the right to vote once belonged solely to white men until the Fifteenth Amendment gave the vote to African American men. The Nineteenth Amendment extended the vote to include women, and the Voting Rights Act of 1965 made exercising the right to vote a reality for African American men and women in the South. None of this would have happened, however, without the efforts of people who marched in protest, participated in boycotts, delivered speeches, wrote letters to politicians, and sometimes risked arrest in order to be heard (Figure). The tactics used to influence the government and effect change by abolitionists and members of the women's rights and African American civil rights movements are still used by many activists today.



The print above, published in 1870, celebrates the extension of the right to vote to African American men. The various scenes show legal rights black slaves did not have.

The rights gained by these activists and others have dramatically improved the quality of life for many in the United States. Civil rights legislation did not focus solely on the right to vote or to hold public office; it also integrated schools and public accommodations, prohibited discrimination in housing and employment, and increased access to higher education. Activists for women’s rights fought for, and won, greater reproductive freedom for women, better wages, and access to credit. Only a few decades ago, homosexuality was considered a mental disorder, and intercourse between consenting adults of the same sex was illegal in many states. Although legal discrimination against gays and lesbians still remains, consensual intercourse between homosexual adults is no longer illegal anywhere in the United States, and same-sex couples have the right to legally marry.

Activism can improve people’s lives in less dramatic ways as well. Working to make cities clean up vacant lots, destroy or rehabilitate abandoned buildings, build more parks and playgrounds, pass ordinances requiring people to curb their dogs, and ban late-night noise greatly affects people’s quality of life. The actions of individual Americans can make their own lives better and improve their neighbors’ lives as well.

Representative democracy cannot work effectively without the participation of informed citizens, however. Engaged citizens familiarize themselves with the most important issues confronting the country and with the plans different candidates have for dealing with those issues. Then they vote for the candidates they believe will be best suited to the job, and they may join others to raise funds or campaign for those they support. They inform their representatives how they feel about important issues. Through these efforts and others, engaged citizens let their representatives know what they want and thus influence policy. Only then can government actions accurately reflect the interests and concerns of the majority. Even people who believe the elite rule government should recognize that it is easier for them to do so if ordinary people make no effort to participate in public life.

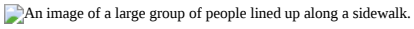
PATHWAYS TO ENGAGEMENT

People can become civically engaged in many ways, either as individuals or as members of groups. Some forms of individual engagement require very little effort. One of the simplest ways is to stay informed about debates and events in the community, in the state, and in the nation. Awareness is the first step toward engagement. News is available from a variety of reputable sources, such as newspapers like the *New York Times*; national news shows, including those offered by the Public Broadcasting Service and National Public Radio; and reputable internet sites.

Visit Avaaz and Change.org for more information on current political issues.

Another form of individual engagement is to write or email political representatives. Filing a complaint with the city council is another avenue of engagement. City officials cannot fix problems if they do not know anything is wrong to begin with. Responding to public opinion polls, actively contributing to a political blog, or starting a new blog are all examples of different ways to be involved.

One of the most basic ways to engage with government as an individual is to vote (Figure). Individual votes do matter. City council members, mayors, state legislators, governors, and members of Congress are all chosen by popular vote. Although the president of the United States is not chosen directly by popular vote but by a group called the Electoral College, the votes of individuals in their home states determine how the Electoral College ultimately votes. Registering to vote beforehand is necessary in most states, but it is usually a simple process, and many states allow registration online. (We discuss voter registration and voter turnout in more depth in a later chapter.)



Voters line up to vote early outside an Ohio polling station in 2008. Many who had never voted before did so because of the presidential candidacy of then-senator Barack Obama. (credit: Dean Beeler)

Voting, however, is not the only form of political engagement in which people may participate. Individuals can engage by attending political rallies, donating money to campaigns, and signing petitions. Starting a petition of one’s own is relatively easy, and some websites that encourage people to become involved in political activism provide petitions that can be circulated through email. Taking part in a poll or survey is another simple way to make your voice heard.

VOTES FOR EIGHTEEN-YEAR-OLDS

Young Americans are often reluctant to become involved in traditional forms of political activity. They may believe politicians are not interested in what they have to say, or they may feel their votes do not matter. However, this attitude has not always prevailed. Indeed, today's college students can vote because of the activism of college students in the 1960s. Most states at that time required citizens to be twenty-one years of age before they could vote in national elections. This angered many young people, especially young men who could be drafted to fight the war in Vietnam. They argued that it was unfair to deny eighteen-year-olds the right to vote for the people who had the power to send them to war. As a result, the Twenty-Sixth Amendment, which lowered the voting age in national elections to eighteen, was ratified by the states and went into effect in 1971.

Are you engaged in or at least informed about actions of the federal or local government? Are you registered to vote? How would you feel if you were not allowed to vote until age twenty-one?

Some people prefer to work with groups when participating in political activities or performing service to the community. Group activities can be as simple as hosting a book club or discussion group to talk about politics. Coffee Party USA provides an online forum for people from a variety of political perspectives to discuss issues that are of concern to them. People who wish to be more active often work for political campaigns. Engaging in fundraising efforts, handing out bumper stickers and campaign buttons, helping people register to vote, and driving voters to the polls on Election Day are all important activities that anyone can engage in. Individual citizens can also join interest groups that promote the causes they favor.

GETTING INVOLVED

In many ways, the pluralists were right. There is plenty of room for average citizens to become active in government, whether it is through a city council subcommittee or another type of local organization. Civic organizations always need volunteers, sometimes for only a short while and sometimes for much longer.

For example, Common Cause is a non-partisan organization that seeks to hold government accountable for its actions. It calls for campaign finance reform and paper verification of votes registered on electronic voting machines. Voters would then receive proof that the machine recorded their actual vote. This would help to detect faulty machines that were inaccurately tabulating votes or election fraud. Therefore, one could be sure that election results were reliable and that the winning candidate had in fact received the votes counted in their favor. Common Cause has also advocated that the Electoral College be done away with and that presidential elections be decided solely on the basis of the popular vote.

Follow-up activity: Choose one of the following websites to connect with organizations and interest groups in need of help:

- Common Cause;
- Friends of the Earth which mobilizes people to protect the natural environment;
- Grassroots International which works for global justice;
- The Family Research Council which promotes traditional marriage and Judeo-Christian values; or
- Eagle Forum which supports greater restrictions on immigration and fewer restrictions on home schooling.

Political activity is not the only form of engagement, and many people today seek other opportunities to become involved. This is particularly true of young Americans. Although young people today often shy away from participating in traditional political activities, they do express deep concern for their communities and seek out volunteer opportunities.

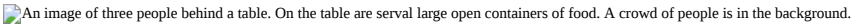
Jared Keller. 4 May 2015. "Young Americans are Opting Out of Politics, but Not Because They're Cynical," www.psmag.com/politics-and-la...cally-inclined.

Although they may not realize it, becoming active in the community and engaging in a wide variety of community-based volunteer efforts are important forms of civic engagement and help government do its job. The demands on government are great, and funds do not always exist to enable it to undertake all the projects it may deem necessary. Even when there are sufficient funds, politicians have differing ideas regarding how much government should do and what areas it should be active in. Volunteers and community organizations help fill the gaps. Examples of community action include tending a community garden, building a house for Habitat for Humanity, cleaning up trash in a vacant lot, volunteering to deliver meals to the elderly, and tutoring children in after-school programs (Figure).



After the Southern California wildfires in 2003, sailors from the USS *Ronald Reagan* helped volunteers rebuild houses in San Pasqual as part of Habitat for Humanity. Habitat for Humanity builds homes for low-income people. (credit: Johansen Laurel, U. S. Navy)

Some people prefer even more active and direct forms of engagement such as protest marches and demonstrations, including civil disobedience. Such tactics were used successfully in the African American civil rights movement of the 1950s and 1960s and remain effective today. Likewise, the sit-ins (and sleep-ins and pray-ins) staged by African American civil rightsactivists, which they employed successfully to desegregate lunch counters, motels, and churches, have been adopted today by movements such as Black Lives Matter and Occupy Wall Street (Figure). Other tactics, such as boycotting businesses of whose policies the activists disapproved, are also still common. Along with boycotts, there are now "buycotts," in which consumers purchase goods and services from companies that give extensively to charity, help the communities in which they are located, or take steps to protect the environment.


An image of three people behind a table. On the table are serval large open containers of food. A crowd of people is in the background.

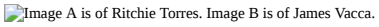
Volunteers fed people at New York's Zuccotti Park during the Occupy Wall Street protest in September 2011. (credit: David Shankbone)

Many ordinary people have become political activists. Read "19 Young Activists Changing America" to learn about people who are working to make people's lives better.

RITCHIE TORRES

In 2013, at the age of twenty-five, Ritchie Torres became the youngest member of the New York City Council and the first gay council member to represent the Bronx (Figure). Torres became interested in social justice early in his life. He was raised in poverty in the Bronx by his mother and a stepfather who left the family when Torres was twelve. The mold in his family's public housing apartment caused him to suffer from asthma as a child, and he spent time in the hospital on more than one occasion because of it. His mother's complaints to the New York City Housing Authority were largely ignored. In high school, Torres decided to become a lawyer, participated in mock trials, and met a young and aspiring local politician named James Vacca. After graduation, he volunteered to campaign for Vacca in his run for a seat on the City Council. After Vacca was elected, he hired Torres to serve as his housing director to reach out to the community on Vacca's behalf. While doing so, Torres took pictures of the poor conditions in public housing and collected complaints from residents. In 2013, Torres ran for a seat on the City Council himself and won. He remains committed to improving housing for the poor.

Winston Ross, "Ritchie Torres: Gay, Hispanic and Powerful," *Newsweek*, 25 January 2015.


Image A is of Ritchie Torres. Image B is of James Vacca.

Ritchie Torres (a) currently serves alongside his mentor, James Vacca (b), on the New York City Council. Both men represent the Bronx.

Why don't more young people run for local office as Torres did? What changes might they effect in their communities if they were elected to a government position?

FACTORS OF ENGAGEMENT

Many Americans engage in political activity on a regular basis. A survey conducted in 2008 revealed that approximately two-thirds of American adults had participated in some type of political action in the past year. These activities included largely non-personal activities that did not require a great deal of interaction with others, such as signing petitions, contacting elected representatives, or contributing money to campaigns.

Aaron Smith et al., 1 September 2009. "The Current State of Civic Engagement in America," www.pewinternet.org/2009/09/0...nt-in-america/.

Americans aged 18–29 were less likely to become involved in traditional forms of political activity than older Americans. A 2015 poll of more than three thousand young adults by Harvard University's Institute of Politics revealed that only 22 percent claimed to be politically engaged, and fewer than 10 percent said that they belonged to any type of political organization or had volunteered for a political campaign. Only slightly more said that they had gone to political rallies.

Harvard Institute of Politics, "Survey of Young Americans' Attitudes toward Politics and Public Service," Survey, October 30, 2015–November 9, 2015. www.iop.harvard.edu/sites/def...15_Topline.pdf.

However, although Americans under age thirty are less likely than older Americans to engage in traditional types of political participation, many remain engaged in activities on behalf of their communities. One-third reported that they had voluntarily engaged in some form of community service in the past year.

Keller, “Young Americans are Opting Out.”

Why are younger Americans less likely to become involved in traditional political organizations? One answer may be that as American politics become more partisan in nature, young people turn away. Committed partisanship, which is the tendency to identify with and to support (often blindly) a particular political party, alienates some Americans who feel that elected representatives should vote in support of the nation’s best interests instead of voting in the way their party wishes them to. When elected officials ignore all factors other than their party’s position on a particular issue, some voters become disheartened while others may become polarized. However, a recent study reveals that it is a distrust of the opposing party and not an ideological commitment to their own party that is at the heart of most partisanship among voters.

Marc Hetherington and Thomas Rudolph, “Why Don’t Americans Trust the Government?” *The Washington Post*, 30 January 2014.

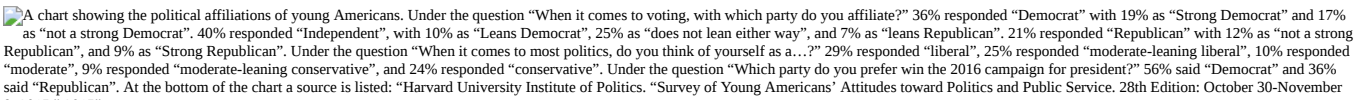
Young Americans are particularly likely to be put off by partisan politics. More Americans under the age of thirty now identify themselves as Independents instead of Democrats or Republicans (Figure). Instead of identifying with a particular political party, young Americans are increasingly concerned about specific issues, such as same-sex marriage.

Keller, “Young Americans are Opting Out.”

People whose votes are determined based on single issues are unlikely to vote according to party affiliation.

The other factor involved in low youth voter turnout in the past was that younger Americans did not feel that candidates generally tackle issues relevant to their lives. When younger voters cannot relate to the issues put forth in a campaign, such as entitlements for seniors, they lose interest. This dynamic changed somewhat in 2016 as Democratic candidate Bernie Sanders made college costs an issue, even promising free college tuition for undergraduates at public institutions. Senator Sanders enjoyed intense support on college campuses across the United States. After his nomination campaign failed, this young voter enthusiasm faded. Despite the fact that Democratic nominee Hillary Clinton eventually took up the free tuition issue, young people did not flock to her as well as they had to Sanders. In the general election, won by Republican nominee Donald Trump, turnout was down and Clinton received a smaller proportion of the youth vote than President Obama had in 2012.

Tami Luhby and Jennifer Agiesta. 8 November 2016. “Exit Polls: Clinton Fails to Energize African-Americans, Latinos and the Young, www.cnn.com/2016/11/08/politi...it-polls-2016/.


A chart showing the political affiliations of young Americans. Under the question “When it comes to voting, with which party do you affiliate?” 36% responded “Democrat” with 19% as “Strong Democrat” and 17% as “not a strong Democrat”. 40% responded “Independent”, with 10% as “Leans Democrat”, 25% as “does not lean either way”, and 7% as “leans Republican”. 21% responded “Republican” with 12% as “not a strong Republican”, and 9% as “Strong Republican”. Under the question “When it comes to most politics, do you think of yourself as a…?” 29% responded “liberal”, 25% responded “moderate-leaning liberal”, 10% responded “moderate”, 9% responded “moderate-leaning conservative”, and 24% responded “conservative”. Under the question “Which party do you prefer win the 2016 campaign for president?” 56% said “Democrat” and 36% said “Republican”. At the bottom of the chart a source is listed: “Harvard University Institute of Politics. “Survey of Young Americans’ Attitudes toward Politics and Public Service. 28th Edition: October 30-November 9, 2015.” 2015”.

Young Americans are likely to identify as an Independent rather than a Democrat or a Republican. However, younger voters are more likely to lean in a liberal direction on issues and therefore favor the Democratic Party at the ballot box.

While some Americans disapprove of partisanship in general, others are put off by the ideology—established beliefs and ideals that help shape political policy—of one of the major parties. This is especially true among the young. As some members of the Republican Party have become more ideologically conservative (e.g., opposing same-sex marriage, legalization of certain drugs, immigration reform, gun control, separation of church and state, and access to abortion), those young people who do identify with one of the major parties have in recent years tended to favor the Democratic Party.

Harvard Institute of Politics, “No Front-Runner among Prospective Republican Candidates,” iop.harvard.edu/no-front-runn...cratic-primary (May 2, 2016).

Of the Americans under age thirty who were surveyed by Harvard in 2015, more tended to hold a favorable opinion of Democrats in Congress than of Republicans, and 56 percent reported that they wanted the Democrats to win the presidency in 2016 (Figure). Even those young Americans who identify themselves as Republicans are more liberal on certain issues, such as being supportive of same-sex marriage and immigration reform, than are older Republicans. The young Republicans also may be more willing to see similarities between themselves and Democrats.

Jocelyn Kiley and Michael Dimock. 25 September 2014. “The GOP’s Millennial Problem Runs Deep,” www.pewresearch.org/fact-tank...lem-runs-deep/.

Once again, support for the views of a particular party does not necessarily mean that someone will vote for members of that party.

Other factors may keep even those college students who do wish to vote away from the polls. Because many young Americans attend colleges and universities outside of their home states, they may find it difficult to register to vote. In places where a state-

issued ID is required, students may not have one or may be denied one if they cannot prove that they paid in-state tuition rates.

"Keeping Students from the Polls," *New York Times*, 26 December 2011.

The likelihood that people will become active in politics also depends not only on age but on such factors as wealth and education. In a 2006 poll, the percentage of people who reported that they were regular voters grew as levels of income and education increased.

18 October 2006. "Who Votes, Who Doesn't, and Why," www.people-press.org/2006/10/...oesnt-and-why/.

Political involvement also depends on how strongly people feel about current political issues. Unfortunately, public opinion polls, which politicians may rely on when formulating policy or deciding how to vote on issues, capture only people's latent preferences or beliefs. Latent preferences are not deeply held and do not remain the same over time. They may not even represent a person's true feelings, since they may be formed on the spot when someone is asked a question about which he or she has no real opinion. Indeed, voting itself may reflect merely a latent preference because even people who do not feel strongly about a particular political candidate or issue vote. On the other hand, intense preferences are based on strong feelings regarding an issue that someone adheres to over time. People with intense preferences tend to become more engaged in politics; they are more likely to donate time and money to campaigns or to attend political rallies. The more money that one has and the more highly educated one is, the more likely that he or she will form intense preferences and take political action.

Jonathan M. Ladd. 11 September 2015. "Don't Worry about Special Interests," https://www.vox.com/mischiefs-of-fac...cial-interests.

Summary

Civic and political engagement allows politicians to know how the people feel. It also improves people's lives and helps them to build connections with others. Individuals can educate themselves on important issues and events, write to their senator or representative, file a complaint at city hall, attend a political rally, or vote. People can also work in groups to campaign or raise funds for a candidate, volunteer in the community, or protest a social injustice or an unpopular government policy. Although wealthier, older, more highly educated citizens are the most likely to be engaged with their government, especially if they have intense preferences about an issue, younger, less wealthy people can do much to change their communities and their country.

Supporting the actions of the Democratic Party simply because one identifies oneself as a member of that party is an example of _____.

1. partisanship
2. ideology
3. latent preference
4. social capital

When a person is asked a question about a political issue that he or she has little interest in and has not thought much about, that person's answer will likely reflect _____.

1. ideology
2. partisanship
3. intense preferences
4. latent preferences

What kinds of people are most likely to become active in politics or community service?

What political activities can people engage in other than running for office?

Is citizen engagement necessary for a democracy to function? Explain.

Which is the more important reason for being engaged: to gain power or improve the quality of life? Why?

Are all Americans equally able to become engaged in government? What factors make it more possible for some people to become engaged than others? What could be done to change this?

Which pathways of engagement in U.S. government do you plan to follow? Why do you prefer these approaches?

Are there any redeeming qualities to elitism and any downsides to pluralism? Are there benefits to having elites rule? Are there problems with allowing interest groups to exercise influence over government? Explain.

Glossary

ideology
the beliefs and ideals that help to shape political opinion and eventually policy

intense preferences
beliefs and preferences based on strong feelings regarding an issue that someone adheres to over time

latent preferences
beliefs and preferences people are not deeply committed to and that change over time

partisanship
strong support, or even blind allegiance, for a particular political party

social capital
connections with others and the willingness to interact and aid them

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CHAPTER OVERVIEW

2: Politics and Power

Topic hierarchy

2.1: Do We Need a Government?

2.2: A (Very) Brief History of Government

2.3: You Don’t Care About Government, and Maybe You Should

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2.1: Do We Need a Government?

Learning Objectives

1. Understand why we might want to have a government.
2. Understand the role of power in politics, and understand the different faces of power.
3. Get an overview about how systems of government developed over time.

You might have gone to a leadership camp or seminar some time. (I did.) The organizers trot out a speaker, often a broken down football coach who can speak a little. The old coach will say something very much like "You know what happens when you assume? You make an ass out of you and me." (My impression at the time was that there really was only one ass in the room.) But there is a bit of point here—we all need to question our assumptions, and try to limit them. Realistically, you can't get through life without some assumptions. (The mathematician and philosopher Kurt Godel proved that even basic arithmetic is founded on some critical assumptions.) If we take that to its logical conclusion, we don't know anything. But let's not go that far. It's not impossible for us to know something, even if we know that our opinion on that something may change as we get more information.

So, with that in mind, the assumption we're making in this book is that we need a government. And that's not an assumption, as we'll see, that's been shared by everyone throughout history. Therefore, we should probably occasionally question that assumption. If nothing else, testing your assumptions helps you strengthen the arguments you use to support them.

Why do we have to do things this way? We don't, necessarily. We could just let everything happen and let everyone choose for themselves. Anarchists have argued for centuries that government makes us worse people; that, left to their own, people will just get along and do what they want. Libertarians, who believe in minimal government, make a very similar argument (perhaps without realizing it).

There are a number of potential problems with the idea that we would be better with no government, however. (And, examined closely, anarchy doesn't really mean no government; it tends to mean a decentralized sort of government that limits the amount of power anybody has.) The first is what we might call the traffic light problem. In a society of any size, it becomes very difficult to predict what everybody will do, like having a lot of drivers at an intersection. Traffic lights help sort out who goes when, which cuts way down on accidents. You don't have to know people to know what each one will do—there's an established order (as long as everyone's watching the light as they approach the intersection). In economics, traffic lights are a classic example of a public or social good—traffic lights won't be provided by normal market activity because nobody can make a profit from them. Without some kind of social organization—government—there will be no traffic lights (or four-way stops or roundabouts or any other way making sense out of an intersection). As annoying as they can be when we're in a hurry, I think we'd actually miss them.

It's not all pretty lights, however. By living in an organized society, we give up some freedom in exchange for predictability and certainty. If society were the 30 or so people in your class or your section, you'd all get to know each other enough that your behaviors would be predictable and understandable. There wouldn't be so much need for written rules, because, generally, everyone would have a sense of what the rules are. But as societies grow, eventually you don't know everyone in the group, and organization becomes more likely as people seek to continue to make life predictable and stable. Human beings don't like change, and yet nothing is probably more certain in our lives. So government is one way we try to keep change at a minimum.

In a small society, say a band of the size of a class—up to 150 people, according to one studyThe late W.L. Gore, the man who brought us Gore-Tex, based on his own observations, demonstrated that the ideal factory size was about 150 people, because then everybody in the plant would know everybody else and that tended to boost efficiency and productivity, as well as workers' contentment. Later studies have tended to support Gore's experience.—you can pretty much know everyone personally, and you can predict their behaviors. Rules get established by custom and tradition, and people will largely get along.

But as societies get bigger, we have a harder time predicting how everyone will behave. Very soon, we don't know everyone, and your custom and tradition might be slightly different than mine. (If you travel overseas, for example, don't flash someone a reversed peace sign [palm facing you], because in many parts of the world, that means something else, and it's not a welcoming gesture.)

Formal politics seems to arise in any society of any size. People begin to make rules, choose leaders, find ways to make decisions, and find ways to exercise power. Because as soon as someone's a "leader," or some person or group of people can make decisions, we're talking about power. Rightly or wrongly, human beings seem to tend to prefer some kind of organization in society. One of the great challenges of being human is that while there's nothing we avoid so much as change (unless we're in charge of the

change), there's nothing so inevitable in our lives. Change is stressful; enough serious change can make you susceptible to illness. And so we build custom and tradition in our lives, because predictability can be comforting, and it's often less work. In economic terms, predictability in social life lowers transaction costs, which are the costs of negotiating and enforcing contracts. Every interaction with other people is not a contract, in a narrow sense, but like walking into a room full of people you don't know, if you couldn't predict anybody else's behavior, life would be a lot of work. Although sometimes we would prefer to do what we want when we want to, life is slightly easier when we know what the rules are, what is expected of us, and that there are formal consequences for our actions. Consequently, living in an organized society means trading some freedom for some level of predictability.

Politics and Power

Custom and tradition thus give rise to rules, and to government. (The fact that some people then try to use all this for their own benefit doesn't change the fact that most people seem to prefer some kind of government.) This formal politics means that some people in any society will be given some portion ofpower. What does that look like? Power takes many shapes:

- The ability to get somebody to do something they wouldn't otherwise do. The government, by threats and rewards, gets you to buckle your seatbelt while driving, to file your income tax return on time, and to not throw your garbage in the street. You might do all those things on your own, but we probably know at least a few people who wouldn't. This is sometimes called coercive power, and government is more likely to have it than anyone else. Aside from self-defense, government tends also to have the sole ability to legally use force.
- The ability to set agendas. Agenda-setting means the ability to decide what gets talked about and what never comes up. This is a big deal in government. If your issue remains "on the back burner," as they say in politics, it won't get attention or resolution. Setting the agenda means that somebody has the power to decide what issues get the state's attention and which don't.
- Access to decision makers. Power can mean that you have somebody's ear. If Bill Gates calls the president, he gets a call back long before you or I get a call from either one of them. Access means you at least have a chance to be heard, often in person, which means you will have greater influence on agendas and outcomes.
- The ability to participate in decision making. Here again, power can be the ability to weigh in on what will be done on issues that have made the public agenda. Elected (and some appointed) officials tend to have the most of this, but that's why we elect, them isn't it?
- Power is also the ability to persuade. For example, when the president speaks, it's news, and if the president speaks well, he or she can rally the nation in one direction or another. An effective president can also push Congress to approve one law or stop another. Part of the skill required to be an effective leader is being able to convince people to do things.

All of this matters to us because whatever our elected officials do will have an impact on us, at home, at school, or at work. Changes in state laws have made it illegal to talk or text on a cell phone while driving, or for young drivers to have too many people in their cars. The federal No Child Left Behind Law pushed states to adopt standardized testing, which, it can be argued, changed the whole direction of education across the country. The people who favored that law had the power to see it enacted into law; the federal government, by tying it to federal funds to education, had the power to make state governments apply it to the schools within their borders. Power is the ability to make things happen and to get things done. Power can be a good thing or a bad thing (if it's used to oppress or kill people), but it's always there.

Models of Power

All of the types of power show up in and around government. But who has power? There are different theories, and all of them have some truth.

- Majoritarian: The majority decides. Elections are typically decided on a majoritarian basis. Whoever gets the most votes wins, so, at least for that election, a majority decided. That presumes, however, that the winner got 50 percent plus one; if we allow multiple candidates, someone can with with a plurality of votes (the most votes among the candidates, but not a majority of the total vote cast). Majorities also tend to be temporary things, and that doesn't tell us much about who might be pushing people to become part of one majority or another.
- Pluralist: Different groups coalesce around different issues at different times, each competing for desired outcomes in decisions made by government. The pluralist model suggests that there are a lot of competing groups, each looking out for their own issues, and, to some extent, helping to keep each other in check. The evidence for pluralism includes the fact that groups do tend to be focused on particular issues while ignoring others. This means that no group is likely to be all-powerful. For

example, a campaign for a school levy may unite disparate groups of people the community, but the same group isn't likely to spend much time on issues that don't relate to local schools.

- Elitist: Elitism says that despite the evidence for a pluralistic division of power, wealthy and powerful elites tend to dominate decision-making, with relatively little meaningful competition among groups. One of the flaws in pluralism might be that even if there are a lot of groups involved in politics, they won't necessarily keep each other in check. And as some groups have more money, those groups likely will be more powerful. So car dealers were able to block a proposed national "lemon" law in part because consumer advocates were less organized and much less well-funded than were the dealers.

As we'll see throughout our exploration of politics, there is evidence for majoritarian, elite and pluralist models. Groups do form around certain issues and compete over them. Elites do exist, and tend to exert greater influence on some issues. Elites, however, are not monolithic, and frequently are in conflict with each other.

Legitimacy and Power

Whatever the form of government, it has to be legitimate in the eyes of its people to survive.Legitimacy is the belief by citizens that their government has the right to rule, that the government's laws should be obeyed. People feel they have a stake in society, which usually means they're getting something from it. It also means that governments must be seen to be fair. If a government treats its citizens unequally, people will become happy. Throughout history, protest movements grow out of inequality, particularly inequality of opportunity but also inequality of achievement. The American Civil Rights movement, which pushed for equal political treatment and equal economic opportunity for people of diverse backgrounds, grew out of 100 years of discrimination that followed the end of slavery and the Civil War.

Every state has to establish its legitimacy, and no state that isn't legitimate in the eyes of its people can be successful for very long, if at all. If the state is seen as legitimate, then people support it, obey its laws, and pay their taxes. At the most basic level, legitimacy has always depended on two things: Keeping people safe, and keeping them fed. If either one of those things fail, a government is likely to fail as people lose faith in it and stop supporting it. Even non-democratic governments face this test.

Most governments therefore try to remain legitimate in the eyes of their citizens. Some governments make appeals to nationalism, a kind of pride in the nation-state. This can be risky; nationalism can lead to anger at foreigners or people who are in some way different. Extreme nationalism pushed people in Nazi Germany to condone the killing of Jews, gypsies and gays. China has pushed nationalism as a substitute for the ideology of communism, but saw anti-Japanese riots break out in 2005 in partial response. China and Japan have a not always happy history, but at the moment they are major trading partners and Japan has been a big investor in China. As the Chinese government's other legitimization tactic is economic growth, riots against a major trading partner might be counterproductive.

Governments also are expected to create the conditions that provide people with an acceptable standard of living. Stagnant living standards helped topple the Soviet Union; poverty in rural China has led to protests even as living standards rise in other parts of the country.

Governments also obtain legitimacy by allowing people to participate in politics—voting, running for office, and having access to people in government. If nothing else, if people get to vote, they are less likely to take up arms and try to overthrow the government. If you participate in something, you're more likely to support it. Perhaps you've done an exercise like this: You break up into groups, and each group is supposed to complete a quick project—make a flag, come up with a motto, something. Usually it doesn't go well; the final product won't get taped to the refrigerator at home. But ask the groups to stand up for their work, and they all cheer heartily. Government is the same way. If you get to participate in any meaningful way, it becomes your government, and a little bit more legitimate.

If governments have legitimacy, they can exercise power. A government with no power is not a government worth discussing. It can't do anything. People sometimes talk as though they want government to have no power, but that would eventually mean government couldn't do the things you might want it to do (and, granted, everybody seems to have their own list of what that would be.)

The State

For our purposes, the institution that collectively holds this kind of power is often called "the state." This doesn't mean the U.S. state that you live in; it means a hypothetical government of a hypothetical nation (like in economics where we talk about "the firm," meaning any typical business). We mean governments in general, so we mean the state in the way we might say, "the car," as an idea, as opposed to that specific car over there. So the state is the government and all the people in it, and even though every

nation is different, they tend to share some similarities. (We should note that a “nation” is also used in the sense of a group of people who share a common culture, language, religion and/or ethnicity, so that a nation isn’t always a state).

A state is said to be sovereign, which means there is no higher power above it. A sovereign state is independent of other states; has defined borders which its neighbors respect; it has ultimate legal authority within those borders.

That means the state has power. If we talk about the power of the state, we’re talking about what the state can do—what it can compel people to do. So the power of the state enforces speeds limits, decides where houses and businesses can be located, and decides what taxes will be and how that money will be spent. If you attend any kind of public school, drive on a public road, or get time-and-a-half if you work more than 40 hours in a week, that’s all, in part, because of the active power of the state.

And yet people in general, and Americans in particular, have mixed feelings about the power of the state. We tend to like the services government can provide, but we aren’t as certain about the limits on individual behavior that come with an organized state. Like people throughout history, we’re less excited about the taxes we pay than we are about the services we receive. So while we’re grateful for a functioning highway system, we have less consensus over speed limits, and motorcycle helmet and seatbelt laws (all of which have been shown to keep people safer on the road). People in general, and Americans in particular, don’t like other folks telling them what to do. But living in an organized society means you probably don’t have complete freedom to do anything at any time or place.

KEY TAKEAWAYS

- Government can provide predictability and stability in daily life.
- A state has to have power to do anything.
- Power shows up in several different ways, and is exercised by different individuals and groups at different times and places.

EXERCISES

1. Who has power in your life? Who do you have power over?
2. Is the government where you live legitimate? What does this government do that preserves its legitimacy in the eyes of its citizens?

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2.2: A (Very) Brief History of Government

Learning Objectives

1. Understand the historical path of the development of governments.
2. Understand historical events and forces that shaped the development of those governments

One piece of evidence that would suggest that humans prefer an organized government is that for thousands of years, we've always had them. For much of human history, people seem to prefer to live in organized groups. These groups took different forms in different times and places, but generally there seems always to have been a process by which people made decisions. We know a little about the earliest states, which ranged from democracies and republics in ancient Greece and Rome, to early kingdoms and empires all over the world, to ancient states in China where everybody who wasn't the king was, in effect, a slave.

Tribal societies tend to be somewhat egalitarian—everyone tends to have more of an equal say. Native American tribes and tribes in ancient Europe might have had a king or a chief, but that person was often elected and had limited power (with no guarantee that you'd be succeeded by your son or daughter). Some tribes, such as the Commanches of the American Southwest, chose separate war and peace chiefs, who even then had authority only to the extent that they were successful in the ventures they organized. The state has always had to provide something to people to be legitimate, and even the kings and emperors of antiquity weren't immune to public pressure. Governments continued (and still continue) to rule as long as they provided some combination of stability, safety and prosperity.

Many ancient kingdoms and empires made religious appeals, even going so far as to say that the king or emperor was a god and therefore had to be obeyed. We don't know to what extent people believed this, even among the people who said it. And it was a dicey proposition—if you're a god, and you make it rain, and then one year it doesn't rain, people might begin to doubt. An El Nino weather event resulted in droughts in Egypt that toppled the Old Kingdom around 2150 BCE. Succeeding pharaohs in the Middle and New Kingdom eras were a little more careful about claiming to be rainmakers after that.

States and rulers didn't give up entirely as a basis for religion. Kings and emperors around the world, from Japan and China to Europe, frequently claimed to be either chosen by god or, in some instances, gods themselves. In ancient Greece and Rome, religion was an important part of civic life. Elected officials in the Roman republic had to perform ceremonial religious duties as part of their jobs. Roman emperors often claimed to be gods themselves, but then adopted Christianity as a way of maintaining authority and legitimacy as the empire came under increasing pressure from within and without.

The Greeks and Romans

Not every state was ruled by a king or an emperor. Studies have shown that if societies become wealthy enough, they tend to become more democratic.Minxin Pei, Economic Institutions, Democracy and Development, carnegieendowment.org/1999/02...velopment/2uv0 This appears to be because having satisfied their basic needs, people can turn to other pursuits, and are less likely to surrender quite so much liberty in exchange for security. So, city-states (states not much bigger than a city, but sovereign nations nonetheless) in Greece and nearby lands evolved into something like democracies. Ancient Athens was a democracy, in that a lot of people voted directly on the affairs of state. However, that voting population was limited to free, property-owning males, so that women, foreigners and slaves (which may have been as much as two-thirds of the population of Athens) didn't get to vote. And even in this democracy, the citizens elected less-numerous councils above them to make important decisions. So they were also somewhat likerepublics, in which people elect other people to make decisions on their behalf.

Greece was never a very big country, and even when Alexander the Great conquered a good chunk of the world he knew about, his empire didn't outlive his death at age of 33. But the Greeks are very important to the history of politics. They wrote—a lot—and a lot of their work survives. The multiplicity of Greek city-states meant they experimented with a variety of governments. The work of Plato and especially Aristotle invented political science as the formalized study of governments. What they did and wrote had a huge impact on the western world, and eventually on the globe.

Rome was also a city-state, and the Romans were very impressed with the culture and learning of the Greeks. The Roman state was much more enduring, and Roman political practice and law also had a huge impact on the development of government through the ages. Rome, which grew from a city-state to an empire, evolved from rule by a king to a republic in about 508 BCE. The Roman republic featured a series of elected officials, each with specific duties, and a senate, where elected citizens would also weigh in on

the tasks and issues of the day. Roman government was noted for its checks and balances—it wasn't difficult for one part of government to block action by another part. The Roman republic had so many checks and balances that it was in fact hard to get anything done, so that needed changes to the law, such as land reform and tax reform, never happened. In the end, the richest empire in the western world couldn't afford to defend itself, and attempted to rule an empire with what amounted to a government designed to run a city.

When Octavius, (Julius Caesar's nephew) became emperor in 27 BCE, it meant that somebody could finally make a decision, and the Roman Empire lasted nearly another 500 years. But a system of government that relies on continually finding just the right guy to be in charge is an iffy proposition.

The Eastern Roman (Byzantine) Empire, based in Constantinople (now Istanbul) lasted another 1,000 years. In the west, however, what survived the empire was what we now think of as the Catholic Church, and it was to dominate European politics for the next 1,000 years. The church, as the one institution that survived the fall of Rome (conquered, sacked and then finally occupied by invading peoples from the north and east), created order, preserved learning, and exercised some influence and authority over the many kingdoms that divided up Europe and the old Roman world.

Meanwhile, the Islamic empire that grew out of Saudi Arabia around 700 CE also was heavily influenced by faith, so that the two competing sides in the western world were significantly faith-based states. This led to a lot of debate about the role of the church in secular (everyday) affairs, a debate that never quite seems to leave us, even today.

After the Roman Empire

This era in Europe, from 500–1,000 CE, is sometimes called the Dark Ages, which scholars have more recently decried as an incorrect characterization of life at the time. But it is true that life was less safe; the old Roman order had broken down. Travel became more difficult, trade dried up, and people again traded liberty for security. This led to the development of a system called feudalism, in which common people bound themselves to powerful rulers who offered security in exchange for labor and goods. The legitimacy of the feudal state was, to some extent, based on this mutual obligation—feed me and I'll keep the bad guys away. Some scholars say feudalism flourished between 900 and 1500 CE, part of which (around 900–1200 CE) is often referred to as the Middle Ages. At its best, it meant a safer life; at its worst, it meant economic exploitation and a lack of freedom. A peasant classified as a serf, for example, was bound to the land and the person who owned it—not quite a slave, but certainly not a free person.

Feudalism was not very economically efficient. Being self-sufficient is an attractive idea, but you generally get better stuff at better prices if you can shop around. And not every part of every country is as good at producing things as some other places—it would be very expensive to grow oranges in the Dakotas, and they probably wouldn't taste as good as oranges from California and Florida. But with trade limited by the uncertain conditions at the time, people's living standards were sometimes lower than they had been than during the Pax Romana (the Roman peace).

This wasn't to last, however. Feudalism helped create order out of chaos. This system held together, somewhat roughly, for 500 years or so. Order created safety, which made travel and trade possible again, and that meant more wealth. As Karl Marx once observed, by creating security, feudalism sowed the seeds of its own demise. From small, self-sustaining political units, empires and kingdoms grew. Travel and trade became possible again, people's lives got better, and suddenly the guy with the big muscles and the pointed stick wasn't quite as important as the guy with all the gold. Increasingly, urban areas grew and cities began to clamor for freedom if not outright independence from kings, queens and the duke of whatever.

The Renaissance

The return of stability and order helped create Renaissance. From an old French word meaning "to be reborn," the Renaissance (14th-17th centuries) saw an increase in arts and literature as well as trade and material wealth, and, inevitably, more participatory forms of government. Italian city-states such as Florence and Venice became republics; people in what is now Switzerland and the Netherlands fought for and won their independence from the descendants of the feudal lords of Europe.

Along the way a couple of remarkable events occurred that had great impact on the later history of governments. In the middle of a dispute with a group of unhappy barons, in 1215 King John of England was forced to sign a document we now refer to as the Magna Carta, "the Great Charter." (They didn't call it that. It was later referred to as Magna Carta so as to distinguish it from another charter.) The Magna Carta talked about a lot of things that involved particular disputes between John and the feudal lords underneath him. But of particular importance to us, it established that justice had to be applied evenly to all, as opposed to the king

just throwing you in jail. As with a lot of good ideas from antiquity, this didn't apply to you if you were a serf, but it was a start. (A serf was a half-step above a slave but below a true citizen; serfs were bound to the land and the people who owned it.)

Magna Carta formalized the council of feudal lords and churchmen who had advised English kings since William the Conqueror, although it would be a mistake to call this a parliament. And, in fact, King John didn't make much use of it despite signing the Magna Carta (and he died in 1216). But his grandson, Edward I, called Parliament into formal session in 1295, including the barons, earls and dukes of the kingdom, church officials, but also knights and burgesses (free citizens who were leaders of local communities) from every shire and borough. The knights and burgesses eventually became the commons, which today is called the House of Commons, in effect the community of the state.

Why would a king call a parliament into session? Edward, like rulers before and after, wanted money with which to fight wars. He wanted more land; and his neighbors wanted to take land from him. Having the parliament raise money took pressure off the king and legitimized the raising of taxes. But it also gave this early legislative body a power that would eventually make it far more durably powerful than any king. Eventually members of this parliament were elected, although it would take another 500 years before ordinary citizens were allowed to vote and a century after that for women to gain that right. But as with the legal rights prescribed in the Magna Carta, it was a start.

The other big event that was to echo down the hallways of history was the Reformation. In 1517, in Wittenberg, Germany, a professor and priest named Martin Luther walked up the church door and nailed a series of statements (the "Ninety-five Theses") that were to change the western world. (While this may sound like an act of defiance, in fact it was the 16th century equivalent of posting something on Facebook to see how people will react.) Luther's arguments weren't about politics; in his mind, he only hoped to reform the church. The church, dominated by popes and cardinals in Rome, was raising money for wars and monuments by promising salvation to people who paid enough money. From what Luther observed, that wasn't what the Bible said, and consequently people who couldn't afford it were giving up money for a promise the church couldn't keep. Neither the pope nor Luther would back down in this dispute. Some German princes, eager to be out from under the thumb of both the church and the Holy Roman emperor (who was elected by the princes and affirmed by the pope), protected Luther and helped him start a new flavor of Christianity, Protestantism.

This matters for politics because Luther argued that everyone was equal in the eyes of God. And while Luther was not a terribly progressive thinker when it came to politics, he had let the genie out of the bottle with his argument. If we are equal before God, it's not a huge leap to begin arguing that we should also be equal in the eyes of the state.

The American Experiment

For the country that became the United States, this was all very important. It meant that the Europeans who came to the New World after Columbus bumped into it in 1492 brought traditions with them that led to the founding of the United States. Americans sometime grow up with the romantic notion that the revolution was a battle against tyranny and taxation, but that isn't quite the story. The colonists in British North America elected their own legislatures and levied their own taxes and enjoyed as much liberty as any people in the world. So it's not immediately obvious why the colonists decided to revolt.

The usual story is about taxes, but that's a relatively small part of it. Following what Americans call the French and Indian War (1754–1763, which the British refer to as the Seven Years War), the cost of defending the colonies caused the British government to raise taxes on the North American colonies. While the colonists had in fact levied taxes on themselves, they were less keen on taxes imposed from elsewhere. But the bigger issues were economic. Parliament had banned the export of manufacturing equipment to the colonies; trade of many goods had to move on British ships through Britain on its way to North America.

Take, for example, the Boston Tea Party. In more recent times, a political movement calling itself the Tea Party has complained about taxes and a somewhat mixed list of other issues (such as the remarkably frequent calls to "Keep the government out of my Medicare." Think that one through). But, in fact, the original tea party had nothing to do with taxes and everything to do with tea. Tea was a big deal when it arrived in the western world from the east. It can only be grown in certain places, so transplanting the crop is difficult. Before tea, people drank alcohol as a way of drinking water that wouldn't kill you. Water otherwise had to be boiled. Making tea means boiling water, and tea has the opposite effect of alcohol. So when the British government arranged to dump a lot of tea on the North American tea market, to help bail out the East India Company, Boston tea merchants responded by dressing up as Native Americans, climbing aboard three ships, and dumping a lot of tea in the harbor. Parliament backed off on some laws, particularly taxes, but not on others, and the Americans became increasingly concerned that their economic futures were in doubt.Ben Baack, The Economics of the American Revolutionary War, eh.net/encyclopedia/article/b...volutionary.us

Another interesting thing to note about the American Revolution is that while the Declaration of Independence goes on at some length about the sins of King George, by that point in history the king was on his way to being a bit player in British politics. The revolutionaries' real beef was with Parliament, and there was no real check on the power of Parliament.

And so the Americans sought political and economic independence from the most politically liberal state on earth. It wasn't a direct road from revolution to functioning republic, however. The war ended in 1783; briefly, the 13 colonies toyed with the idea of becoming 13 separate states. Instead, they stayed united under the Articles of Confederation. This didn't work well. Congress had no power over the states and no authority to raise money. Money borrowed during the war wasn't being paid back; the states threatened to go to war with each other; and the fledgling nation stood in danger of being cherry picked by the Europeans.

In 1787, a subset of the folks we think of as the Founding Fathers met in Philadelphia at what became known as the Constitutional Convention. They faced an uphill slog. They distrusted centralized power, but they knew that government needed some power in order to get anything done. Under a total news blackout, they hammered out the document that became known as the Constitution, which was eventually approved by all 13 states. It attempted to balance power between different branches and levels of government, and it gave Congress the power to tax and spend, and to regulate commerce that travels between the states. The Founding Fathers were by no means perfect, and there are no perfect governments. But the depth and breadth of their experiment, which has had a large impact on the practice of politics all over the world, still is worth thinking about and admiring.

The result was the United States of America. While not the first republic, it was certainly the largest ever attempted. Previous attempts at participatory government tended to be small, homogenous states, and the degree of participation was limited. You will sometimes hear that the United States is the world's oldest democracy. In fact, it's neither a democracy (it's a republic) nor the world's oldest republic. (It does have the world's oldest constitution that remains in use.) Voting as part of government long predates the American Revolution. Electing kings and chiefs was common in many ancient cultures. The Icelandic parliament, the Allthing, is nearly 1,000 years old, and the world's oldest republic, San Marino (an independent enclave surrounded by Italy) got its start when it was founded in the year 301.Its current constitution was adopted in 1600, although some observers argue that the documents of 1600 weren't really a constitution. The Faeroe Islands' Logting may be older than the Icelandic Allthing, and the parliament of the Isle of Man, a self-governing part of the British state, dates to at least the 1500s. All this being said, the American experiment was ground-breaking.

A Full House of Commons Beats a Pair of Kings

History did not stop with the U.S. Constitution. Subsequent experiments in government have had a record no less mixed, and perhaps more uneven, than has the American one. Slowly, over the last two centuries, more states have adopted participatory forms of government—allowing more and more people to vote. As the world moved into the 1800s, more and more states added legislative bodies such as parliaments to their governments. So even where kings and emperors still ruled, they were increasingly aided by legislatures. The pressure for this came from citizens of all types, including business people and nobles. Civil unrest and outright revolutions occurred across Europe during the 1800s, and pressure for a state that offered more to all people began to grow.

Nonetheless, this was actually a relatively stable period for the Europeans, who used that stability and advances in military technology to conquer and subjugate most of Africa and large parts of Asia. Africa had been home to a long series of substantial kingdoms and empires, some of which were greatly damaged by the slave trade that followed the conquest of the New World. (African states went to war with each other to capture slaves to sell to Europeans, to the extent that all were weaker when the Europeans showed up with guns and a hunger for land.) The British, Portuguese and French carved up and conquered the several states of India, and the Chinese empire, once the world's most advanced, had so turned inward on the world that it was nearly helpless when Europeans began to rip off chunks of the country to rule as their own. So, it was a profitable time for some Europeans, but not such a good time for many other people around the world.

The years around World War I saw the end of monarchy as a legitimate form of government. The last few major monarchic states fell apart, from the Qing Dynasty in China to the collapse of the German and Austro-Hungarian empires at the end of World War I in 1918. Nonetheless, it wasn't all an inevitable road to progress. The side trips from what we loosely call democracy have been significant. Many European and Asian nations tried to become participatory—governments based on voting and elections. Sometimes it worked, and sometimes these fledgling republics were overwhelmed by strong men who became dictators. Republican Russia lasted all of six months until the government was toppled by the Bolsheviks, who became the Communists and, after World War II ushered in a half-century of experimenting in dictatorial socialism. Those governments eventually lost legitimacy too. They were economically inefficient and politically closed and unfair. As there was no check on the power of the state, the state could go haywire and often did. The Soviet dictator Josef Stalin killed perhaps seven and 20 million of his own

people (estimates vary widely) while attempting to create a communist paradise. Germany and Italy experimented with fascism in the middle of the 20th century, and multiple states tried out socialism as an economic system and communism as a political and economic system up until the 1990s. The results, as you probably know, ranged from inefficient (moribund economies that never seemed to produce enough goods and services) all the way to catastrophic—war, repression, millions of people killed over their beliefs and refusal to cooperate with ideas that they disagreed with.

Governments today remain diverse in their approaches to governing, but democratic-style governments have been on the rise. By one account, 121 of 192 sovereign states rely on elections for choosing governments, up from only 76 in the 1980s.Karatnycky, Adrian and Piano, Aili and Puddington, Arch, Editors, *Freedom in the World 2003: The Annual Survey of Political Rights and Civil Liberties*, Rowman & Littlefield Publishers, 2003 This is important, if only because Americans sometimes get the impression that they live in the only country with political liberty. Meanwhile, the 21st century world features very few actual monarchies, which was the dominant form of government for much of the last 2,000 years. Communist states have shrunk to two—Cuba and North Korea—while many states remain dictatorships with limited political participation outside of an inner circle of rulers. Increasingly, states have to prove their legitimacy by letting people participate meaningfully in government. That can range from a parliament in a monarchy such as Kuwait, to a theocratic (church-based) republic such as Iran (also called a theocracy, but that doesn't have to be a republic). The Arab spring has seen states from Tunisia to Libya to Egypt overthrow dictators and replace them with elected governments, although it's too early to tell how successful they will be.

We appear to live in an age dominated by market economics and, in some small way, by more participatory government. You'll have to decide how that's working. Hopefully, how it works will make more sense as we go along.

KEY TAKEAWAYS

- Systems of government have evolved over time.
- The American Revolution was as much about economic issues as it was about political issues.
- The United States is not the only republic, or the only place where people enjoy political liberty.

EXERCISES

1. Where did your ancestors come from? What was the government like when they left there, and what is it like now?
2. If history doesn't stop happening, what could government be like in the future? For example, how might technology affect the way we govern ourselves?

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2.3: You Don’t Care About Government, and Maybe You Should

Learning Objectives

1. Understand why people don’t like politics
2. Understand the meaning of politics
3. Understand why politics matters

You might have said this. Some of your classmates have said this. A lot of people say this:

“I don’t care about politics.”

Many Americans have said this for a long time. Why? In a country founded on a great political experiment—in a country where we are sometimes so proud of ourselves that we annoy the heck out of foreigners—many Americans say they don’t like politics, and sometimes appear to have only the dimmest notion of how the country works. Or how politics work at all. (For example, in one recent survey, more than half the people receiving some kind of government assistance did not understand that their assistance came from the government.)

Why don’t we like politics? Talking about politics can help you start a bar fight, and easily turn you into flame-bait on Facebook. An old maxim states that the two things you shouldn’t talk about are politics and religion (because those are good ways to start an argument). And many of us don’t like to argue that much.

But as a professor of mine once said, those are precisely the two things we should talk about: How we live now, and how we might live in the hereafter. In this book, we’re going to talk about how we live now. And how we live now is all about politics, because much of life is politics.

Our job is to cut through all the smoke and mirrors and understand how things are supposed to work and how they do work. Politics is a pretty good story—it’s the history of the world, the news this week, and a window on the future all once. Like a good movie, it’s got heroes and villains, romance and passion, action and adventure—and it’s all true. Together, we can tell that story and know more at the end than we did at the beginning.

What Is Politics?

What do we mean when we say politics? The dictionary definition is usually something along the lines of the art and practice of government. Unpack that definition, and you get all the things people do by way of defining, organizing and regulating society, from campaigns and elections to making laws, taxing and spending, regulating behavior and managing the economy. Politics is the art of the possible: How do you get people to agree to do something that you want to do, in a way that they won’t want to hurt you after you’ve achieved your objective?

The 20th century American political scientist Harold Lasswell offered a tighter (and insightful definition): “Who gets what, when, and how.” A similar definition comes from another heavy hitter of that era, political scientist David Easton, who called politics “the authoritative allocation of value.” If you work through this definition, it makes some sense.

“Authoritative” refers to some group of people with authority—the ability to make decisions and do something. Like a coach at a football game, political authority means that someone can call the shots. Things may not always work out as planned, but authority means someone can set a direction. “Allocation” means dividing things up—who gets what. At any given moment, the pie is one size, and “authoritative allocation” means somebody is deciding how it should be sliced. (The size of the pie regularly changes, another place where politics can have a great influence.) Finally, “value” is stuff that we want—food, shelter, money (retirement programs, health care assistance, support for business), public facilities (such as colleges, stadiums and airports), or even space (such as state and national parks and forests). So, as we said before, politics is how we make these kinds of decisions: Who gets what and who’s going to pay for it?

What Is Political Science?

Political science is the study of politics (which is actually more interesting than it sounds, although the kinds of things that get political scientists excited might not make most people run for the video camera). It is a social science as it involves the study of people and how they behave, and therefore in the same family as psychology, sociology, history, anthropology and economics (apologies to anyone I’ve left out). Because it deals with real people, we have to observe people, ask them questions and collect

data on what really happens, as opposed to doing live experiments on folks. For our purposes, political science will help us study how government works (and when it doesn't), so that we understand politics better.

And we should want to understand it better. Politics is all around us, from the purely personal level all the way to the global economy. I used to hear people say, "that's just politics" to explain why something had happened or why someone got promoted over somebody else. And then, at last, it dawned on me: All life is politics. We are social creatures by nature, not naturally solitary, and what we do and why we do it has much to do with the networks of people we know, the cultural expectations we have of each other, and conditions in which we all live. People also sometimes say, "it's who you know, not what you know," and there's a lot of truth to that. (Successful players in politics at all levels know a lot of people, including the right people.)

Politics: Hate the Player, Not the Game

But if politics is so important, why don't people like politics? First, politics is not pretty. This is not dancing with the (fading) stars; this isn't a beauty contest (although it never hurts a political candidate to be considered good-looking). Politics is often partisan—people take sides, and try to win elections to get into power, and in the process say nasty things about the people running against them. Negative campaigning tends to make people dislike politics,Stephen Ansolabehere and Shanto Iyengar, "Going Negative," http://pcl.stanford.edu/common/docs/research/iyengar/1996/goingneg.html yet it's an accepted article of campaign faith that you can't nice your way to victory.

Meanwhile, many recent political candidates are fond of saying things like "The system is broken." The unstated subtext is that the candidate is the person we need to fix the system, but the message that may be getting through to voters is that government doesn't work, so why bother? It's no more broken then it ever was, and largely works like always has. Only the arguments have changed. As Pete Townsend said in "Won't Get Fooled Again," (the greatest rock'n'roll song ever written about politics), "The party on the left, is now the party on the right, and the beards have all grown longer overnight." (Really, nothing much changes in terms of human nature and how we attempt to make things work in society.) But telling people that it's broken has the counterintuitive effect of making them not care. People feel powerless in the face of problems they don't feel they can fix.

Politics, because it's often about conflict, is messy. As the 19th century American poet John Godfrey Saxe once said, people who like laws and sausages shouldn't watch either being made.The actual quote is "Laws, like sausages, cease to inspire respect in proportion as we know how they are made." The quote is often mis-attributed to the 19th century German political leader Otto von Bismarck. But that thought in itself gives us a reason to get over the less-pleasant parts of politics and focus on what matters: If how we live is determined, in part, by the laws of the country where we live, then it doesn't matter what happened on the way to those laws. For example, when I worked in a state Legislature, back in the day, I was amazed at the people who were there. And I mean the legislators. They were not all very nice, or very smart, and a lot of them had no taste in clothes (seriously). But eventually, it dawned on me that a law is a good law or a bad law irrespective of the personalities of the people who passed it. What really matters for most of us is how does the law work? And we should care about that, because those laws say something about how fast you can drive, what taxes will be, or what kinds of mind-altering substances it is legal to use.

One more reason why people don't like politics could be the parties and politicians themselves. In the United States, neither Republicans nor Democrats, conservatives nor liberals do a very good job of explaining what is that they believe. Part of that is because we seem to be living through an era of negative campaigning—parties and candidates spend more time attacking each other than they do explaining what they believe. And when they do explain, it's not always very clear. Neither side, to my mind, builds a very good case for one approach to government or another, and both sides have some logic behind their positions. I'm not always sure that candidates of any stripe have a clear understanding of why they believe what they say they believe, and as a consequence, they don't do a very good job of explaining it to you, the voter and citizen whose job it is to decide if that's the way the country should go. Meanwhile, as we've already noted, negative campaigning tends to turn people off when it comes to politics, so that doesn't help.

How Politics Affects You

Which brings us to another reason people don't like politics. People—and some younger people—sometimes say they don't like politics because it doesn't affect them. An ordinary person is quite busy with her or his life—working a job, going to school, taking care of family members, trying to have a little fun now and then. So it's easy to lose sight of why your local city council, the state Legislature, or even Congress should matter. Unfortunately, perhaps, in the United States, this has gotten to the point where many people don't seem to grasp how it all works (and, as we'll see, American government in particular can be a bit complicated).

Odds are, as you go through life, you're going to care more about politics. People do tend to care more about politics as they get older. In the United States, voter turnout is higher among older groups and lowest for the youngest voters. In Norway, for example, there's a senior citizens party. Senior citizens share many things in common, but one of them is they won't live forever. You might think, then, that the party would go the way of the dinosaur and eventually fade from view. But as people get older there, their viewpoints about what matters change, and the senior citizens party gets new members to replace the old ones.

Why would it be that people care more about politics as they get older? (And voting statistics show us that they do.) When you finish college and get a job, suddenly laws about behavior in the workplace and taxes are suddenly much more important. If you move away from home, and especially when you buy a house, you have more of a stake in your neighborhood and community, if only because your house value depends in part on what shape the neighborhood's in. And you're paying property taxes directly now, and maybe you have kids of your own, and suddenly the local school district and its governance is more important to you than when you were a student there yourself. So, as we say in politics, where you stand depends upon where you sit. And when it's your chair, that changes something about where you stand on politics and government in general.

But take it as an article of faith that, whatever your age, government affects you in a lot of ways (and I mean all of you). Even if you're still living with your parents and not even old enough to vote, politics affects your life in many ways, from rules for younger drivers to requirements for standardized testing in high school. Every decision such as those is made in government, which means it was decided in a political process that involved people from all over the nation.

Politics decides if we go to war, and whether you'll be sent overseas to fight. Politics decides how high taxes are, and what programs get funded, and whether one drug is legal but another is not. Politics is how we sort through what you want and what I want. Politics is how we divide up the pie, and change its size and shape. Politics is how much public college tuition costs and how much that tuition is subsidized by the state.

Take that one example: Across the country, most public colleges are state-run institutions. (You're at a private college? Financial aid is often financed by federal and state governments. Student loan rates can be determined by Congress.) They have boards of trustees or regents who oversee the operation, and those trustees often are appointed by governors and legislators. State legislatures often decide how much tuition can be raised, and usually decide how much state tax money will go to support higher education. And governors and state legislatures will also set tax rates to determine how much money states will have available. Those governors and state legislators all are elected by citizens. And many of those citizens may be more concerned about issues that affect their legislative districts than they are about the state as a whole. And all of that happens in the middle of a lot of competing interests—business groups, public employee unions, health care professionals, economic development advocates, transportation interests (which includes the people who build, maintain and manage the roads you travel on to get to school or work), social service providers, park and outdoor recreation users, and K-12 teachers, and people with kids. Every year, people with an interest in all of those areas push legislators to spend more on them, which may mean less spent on something else.

Politics—the push and pull, the negotiations, the arguments—are how we decide who gets what. And who gets what has an effect on every person in this country, whether they know it or not.

People also say, "Government doesn't do anything for me" (students regularly tell me they hear this from their parents). And yet government organizes and pays for roads, bridges, airports, seaports, mass transit, schools, public hospitals, health care, retirement programs, police and fire services, parks, economic development, and national defense, among a lot of other things. Some people argue that many things on that list shouldn't be part of government. Whatever you think about that, the fact of the matter is that government does do a lot of things, and how those things are done is a matter of politics. If nothing else, who gets elected will change the nature and operation of government services and that will affect you.

KEY TAKEAWAYS

- Politics is about who gets what, and how.
- Political science is the study of government, including policymaking, campaigns and elections, institutions, and people's behavior with regard to politics
- Politics has a great impact on your life.

EXERCISES

1. List some of the ways politics and government affect your life right now.
2. Think of a law you'd like to see passed. What would it take for that to happen?

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CHAPTER OVERVIEW

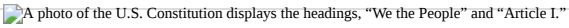
3: The Constitution and Its Origins

Topic hierarchy

3.1: Introduction
3.2: The Pre-Revolutionary Period and the Roots of the American Political Tradition
3.3: The Articles of Confederation
3.4: The Development of the Constitution
3.5: The Ratification of the Constitution
3.6: Constitutional Change

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3.1: Introduction


A photo of the U.S. Constitution displays the headings, “We the People” and “Article I.”

Written in 1787 and amended twenty-seven times, the U.S. Constitution is a living document that has served as the basis for U.S. government for more than two hundred years. (credit: modification of work by National Archives and Records Administration)

The U.S. Constitution, see Figure, is one of the world’s most enduring symbols of democracy. It is also the oldest, and shortest, written constitutions of the modern era still in existence. Its writing was by no means inevitable, however. Indeed, in many ways the Constitution was not the beginning but rather the culmination of American (and British) political thought about government power as well as a blueprint for the future.

It is tempting to think of the framers of the Constitution as a group of like-minded men aligned in their lofty thinking regarding rights and freedoms. This assumption makes it hard to oppose constitutional principles in modern-day politics because people admire the longevity of the Constitution and like to consider its ideals above petty partisan politics. However, the Constitution was designed largely out of necessity following the failure of the first revolutionary government, and it featured a series of pragmatic compromises among its disparate stakeholders. It is therefore quite appropriate that more than 225 years later the U.S. government still requires compromise to function properly.

How did the Constitution come to be written? What compromises were needed to ensure the ratification that made it into law? This chapter addresses these questions and also describes why the Constitution remains a living, changing document.

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3.2: The Pre-Revolutionary Period and the Roots of the American Political Tradition

Learning Objectives

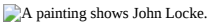
By the end of this section, you will be able to:

- Identify the origins of the core values in American political thought, including ideas regarding representational government
- Summarize Great Britain's actions leading to the American Revolution

American political ideas regarding liberty and self-government did not suddenly emerge full-blown at the moment the colonists declared their independence from Britain. The varied strands of what became the American republic had many roots, reaching far back in time and across the Atlantic Ocean to Europe. Indeed, it was not new ideas but old ones that led the colonists to revolt and form a new nation.

POLITICAL THOUGHT IN THE AMERICAN COLONIES

The beliefs and attitudes that led to the call for independence had long been an important part of colonial life. Of all the political thinkers who influenced American beliefs about government, the most important is surely John Locke (Figure). The most significant contributions of Locke, a seventeenth-century English philosopher, were his ideas regarding the relationship between government and natural rights, which were believed to be God-given rights to life, liberty, and property.



John Locke was one of the most influential thinkers of the Enlightenment. His writings form the basis for many modern political ideas.

Locke was not the first Englishman to suggest that people had rights. The British government had recognized its duty to protect the lives, liberties, and property of English citizens long before the settling of its North American colonies. In 1215, King John signed Magna Carta—a promise to his subjects that he and future monarchs would refrain from certain actions that harmed, or had the potential to harm, the people of England. Prominent in Magna Carta's many provisions are protections for life, liberty, and property. For example, one of the document's most famous clauses promises, "No freemen shall be taken, imprisoned . . . or in any way destroyed . . . except by the lawful judgment of his peers or by the law of the land." Although it took a long time for modern ideas regarding due process to form, this clause lays the foundation for the Fifth and Sixth Amendments to the U.S. Constitution. While Magna Carta was intended to grant protections only to the English barons who were in revolt against King John in 1215, by the time of the American Revolution, English subjects, both in England and in North America, had come to regard the document as a cornerstone of liberty for men of all stations—a right that had been recognized by King John I in 1215, but the people had actually possessed long before then.

The rights protected by Magna Carta had been granted by the king, and, in theory, a future king or queen could take them away. The natural rights Locke described, however, had been granted by God and thus could never be abolished by human beings, even royal ones, or by the institutions they created.

So committed were the British to the protection of these natural rights that when the royal Stuart dynasty began to intrude upon them in the seventeenth century, Parliament removed King James II, already disliked because he was Roman Catholic, in the Glorious Revolution and invited his Protestant daughter and her husband to rule the nation. Before offering the throne to William and Mary, however, Parliament passed the English Bill of Rights in 1689. A bill of rights is a list of the liberties and protections possessed by a nation's citizens. The English Bill of Rights, heavily influenced by Locke's ideas, enumerated the rights of English citizens and explicitly guaranteed rights to life, liberty, and property. This document would profoundly influence the U.S. Constitution and Bill of Rights.

American colonists also shared Locke's concept of property rights. According to Locke, anyone who invested labor in the *commons*—the land, forests, water, animals, and other parts of nature that were free for the taking—might take as much of these as needed, by cutting trees, for example, or building a fence around a field. The only restriction was that no one could take so much that others were deprived of their right to take from the commons as well. In the colonists' eyes, all free white males should have the right to acquire property, and once it had been acquired, government had the duty to protect it. (The rights of women remained greatly limited for many more years.)

Perhaps the most important of Locke's ideas that influenced the British settlers of North America were those regarding the origins and purpose of government. Most Europeans of the time believed the institution of monarchy had been created by God, and kings and queens had been divinely appointed to rule. Locke, however, theorized that human beings, not God, had created government. People sacrificed a small portion of their freedom and consented to be ruled in exchange for the government's protection of their lives, liberty, and property. Locke called this implicit agreement between a people and their government the social contract. Should government deprive people of their rights by abusing the power given to it, the contract was broken and the people were no longer bound by its terms. The people could thus withdraw their consent to obey and form another government for their protection.

The belief that government should not deprive people of their liberties and should be restricted in its power over citizens' lives was an important factor in the controversial decision by the American colonies to declare independence from England in 1776. For Locke, withdrawing consent to be ruled by an established government and forming a new one meant replacing one monarch with another. For those colonists intent on rebelling, however, it meant establishing a new nation and creating a new government, one that would be greatly limited in the power it could exercise over the people.

The desire to limit the power of government is closely related to the belief that people should govern themselves. This core tenet of American political thought was rooted in a variety of traditions. First, the British government did allow for a degree of self-government. Laws were made by Parliament, and property-owning males were allowed to vote for representatives to Parliament. Thus, Americans were accustomed to the idea of representative government from the beginning. For instance, Virginia established its House of Burgesses in 1619. Upon their arrival in North America a year later, the English Separatists who settled the Plymouth Colony, commonly known as the Pilgrims, promptly authored the Mayflower Compact, an agreement to govern themselves according to the laws created by the male voters of the colony.

Nathaniel Philbrick. 2006. *Mayflower: A Story of Courage, Community, and War*. New York: Penguin, 41.

By the eighteenth century, all the colonies had established legislatures to which men were elected to make the laws for their fellow colonists. When American colonists felt that this longstanding tradition of representative self-government was threatened by the actions of Parliament and the King, the American Revolution began.

THE AMERICAN REVOLUTION

The American Revolution began when a small and vocal group of colonists became convinced the king and Parliament were abusing them and depriving them of their rights. By 1776, they had been living under the rule of the British government for more than a century, and England had long treated the thirteen colonies with a degree of benign neglect. Each colony had established its own legislature. Taxes imposed by England were low, and property ownership was more widespread than in England. People readily proclaimed their loyalty to the king. For the most part, American colonists were proud to be British citizens and had no desire to form an independent nation.

All this began to change in 1763 when the Seven Years War between Great Britain and France came to an end, and Great Britain gained control of most of the French territory in North America. The colonists had fought on behalf of Britain, and many colonists expected that after the war they would be allowed to settle on land west of the Appalachian Mountains that had been taken from France. However, their hopes were not realized. Hoping to prevent conflict with Indian tribes in the Ohio Valley, Parliament passed the Proclamation of 1763, which forbade the colonists to purchase land or settle west of the Appalachian Mountains.

François Furstenberg. 2008. "The Significance of the Trans-Appalachian Frontier in Atlantic History," *The American Historical Review* 113 (3): 654.

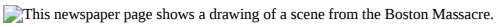
To pay its debts from the war and maintain the troops it left behind to protect the colonies, the British government had to take new measures to raise revenue. Among the acts passed by Parliament were laws requiring American colonists to pay British merchants with gold and silver instead of paper currency and a mandate that suspected smugglers be tried in vice-admiralty courts, without jury trials. What angered the colonists most of all, however, was the imposition of direct taxes: taxes imposed on individuals instead of on transactions.

Because the colonists had not consented to direct taxation, their primary objection was that it reduced their status as free men. The right of the people or their representatives to consent to taxation was enshrined in both Magna Carta and the English Bill of Rights. Taxes were imposed by the House of Commons, one of the two houses of the British Parliament. The North American colonists, however, were not allowed to elect representatives to that body. In their eyes, taxation by representatives they had not voted for was a denial of their rights. Members of the House of Commons and people living in England had difficulty understanding this argument. All British subjects had to obey the laws passed by Parliament, including the requirement to pay taxes. Those who were

not allowed to vote, such as women and blacks, were considered to have virtual representation in the British legislature; representatives elected by those who could vote made laws on behalf of those who could not. Many colonists, however, maintained that anything except direct representation was a violation of their rights as English subjects.

The first such tax to draw the ire of colonists was the Stamp Act, passed in 1765, which required that almost all paper goods, such as diplomas, land deeds, contracts, and newspapers, have revenue stamps placed on them. The outcry was so great that the new tax was quickly withdrawn, but its repeal was soon followed by a series of other tax acts, such as the Townshend Acts(1767), which imposed taxes on many everyday objects such as glass, tea, and paint.

The taxes imposed by the Townshend Acts were as poorly received by the colonists as the Stamp Act had been. The Massachusetts legislature sent a petition to the king asking for relief from the taxes and requested that other colonies join in a boycott of British manufactured goods. British officials threatened to suspend the legislatures of colonies that engaged in a boycott and, in response to a request for help from Boston's customs collector, sent a warship to the city in 1768. A few months later, British troops arrived, and on the evening of March 5, 1770, an altercation erupted outside the customs house. Shots rang out as the soldiers fired into the crowd (Figure). Several people were hit; three died immediately. Britain had taxed the colonists without their consent. Now, British soldiers had taken colonists' lives.

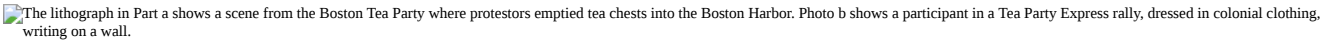


The Sons of Liberty circulated this sensationalized version of the events of March 5, 1770, in order to promote the rightness of their cause; it depicts British soldiers firing on unarmed civilians in the event that became known as the Boston Massacre. Later portrayals would more prominently feature Crispus Attucks, an African American who was one of the first to die. Eight British soldiers were tried for murder as a result of the confrontation.

Following this event, later known as the Boston Massacre, resistance to British rule grew, especially in the colony of Massachusetts. In December 1773, a group of Boston men boarded a ship in Boston harbor and threw its cargo of tea, owned by the British East India Company, into the water to protest British policies, including the granting of a monopoly on tea to the British East India Company, which many colonial merchants resented.

Bernhard Knollenberg. 1975. *Growth of the American Revolution: 1766-1775*. New York: Free Press, 95-96.

This act of defiance became known as the Boston Tea Party. Today, many who do not agree with the positions of the Democratic or the Republican Party have organized themselves into an oppositional group dubbed the Tea Party (Figure).



Members of the modern Tea Party movement claim to represent the same spirit as their colonial forebears in the iconic lithograph *The Destruction of Tea at Boston Harbor* (a) and protest against what they perceive as government's interference with people's rights. In April 2010, members of a Tea Party Express rally on the Boston Common signed a signature wall to record their protest (b). (credit b: modification of work by Tim Pierce)

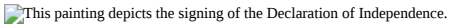
In the early months of 1774, Parliament responded to this latest act of colonial defiance by passing a series of laws called the Coercive Acts, intended to punish Boston for leading resistance to British rule and to restore order in the colonies. These acts virtually abolished town meetings in Massachusetts and otherwise interfered with the colony's ability to govern itself. This assault on Massachusetts and its economy enraged people throughout the colonies, and delegates from all the colonies except Georgia formed the First Continental Congress to create a unified opposition to Great Britain. Among other things, members of the institution developed a declaration of rights and grievances.

In May 1775, delegates met again in the Second Continental Congress. By this time, war with Great Britain had already begun, following skirmishes between colonial militiamen and British troops at Lexington and Concord, Massachusetts. Congress drafted a Declaration of Causes explaining the colonies' reasons for rebellion. On July 2, 1776, Congress declared American independence from Britain and two days later signed the Declaration of Independence.

Drafted by Thomas Jefferson, the Declaration of Independence officially proclaimed the colonies' separation from Britain. In it, Jefferson eloquently laid out the reasons for rebellion. God, he wrote, had given everyone the rights of life, liberty, and the pursuit of happiness. People had created governments to protect these rights and consented to be governed by them so long as government functioned as intended. However, "whenever any Form of Government becomes destructive of these ends, it is the Right of the People to alter or to abolish it, and to institute new Government." Britain had deprived the colonists of their rights. The king had

“establish[ed] . . . an absolute Tyranny over these States.” Just as their English forebears had removed King James II from the throne in 1689, the colonists now wished to establish a new rule.

Jefferson then proceeded to list the many ways in which the British monarch had abused his power and failed in his duties to his subjects. The king, Jefferson charged, had taxed the colonists without the consent of their elected representatives, interfered with their trade, denied them the right to trial by jury, and deprived them of their right to self-government. Such intrusions on their rights could not be tolerated. With their signing of the Declaration of Independence (Figure), the founders of the United States committed themselves to the creation of a new kind of government.



The presentation of the Declaration of Independence is commemorated in a painting by John Trumbull in 1817. It was commissioned to hang in the Capitol in Washington, DC.

Thomas Jefferson explains in the Declaration of Independence why many colonists felt the need to form a new nation. His evocation of the natural rights of man and his list of grievances against the king also served as the model for the Declaration of Sentiments that was written in 1848 in favor of giving women in the United States rights equal to those of men. View both documents and compare.

For many years the British colonists in North America had peacefully accepted rule by the king and Parliament. They were proud to be Englishmen. Much of their pride, however, stemmed from their belief that they were heirs to a tradition of limited government and royal acknowledgement of the rights of their subjects.

Colonists’ pride in their English liberties gave way to dismay when they perceived that these liberties were being abused. People had come to regard life, liberty, and property not as gifts from the monarch but as natural rights no government could take away. A chain of incidents—the Proclamation of 1763, the trial of smugglers in courts without juries, the imposition of taxes without the colonists’ consent, and the attempted interference with self-government in the colonies—convinced many colonists that the social contract between the British government and its citizens had been broken. In 1776, the Second Continental Congress declared American independence from Great Britain.

British colonists in North America in the late seventeenth century were greatly influenced by the political thought of _____.

1. King James II
2. Thomas Jefferson
3. John Locke
4. James Madison

The agreement that citizens will consent to be governed so long as government protects their natural rights is called _____.

1. the divine right of kings
2. the social contract
3. a bill of rights
4. due process

What key tenets of American political thought were influential in the decision to declare independence from Britain?

What actions by the British government convinced the colonists that they needed to declare their independence?

Glossary

Declaration of Independence

a document written in 1776 in which the American colonists proclaimed their independence from Great Britain and listed their grievances against the British king

natural rights

the right to life, liberty, and property; believed to be given by God; no government may take away

social contract

an agreement between people and government in which citizens consent to be governed so long as the government protects their natural rights

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3.3: The Articles of Confederation

Learning Objectives

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

- Describe the steps taken during and after the American Revolution to create a government
- Identify the main features of the Articles of Confederation
- Describe the crises resulting from key features of the Articles of Confederation

Waging a successful war against Great Britain required that the individual colonies, now sovereign states that often distrusted one another, form a unified nation with a central government capable of directing the country's defense. Gaining recognition and aid from foreign nations would also be easier if the new United States had a national government able to borrow money and negotiate treaties. Accordingly, the Second Continental Congress called upon its delegates to create a new government strong enough to win the country's independence but not so powerful that it would deprive people of the very liberties for which they were fighting.

PUTTING A NEW GOVERNMENT IN PLACE

The final draft of the Articles of Confederation, which formed the basis of the new nation's government, was accepted by Congress in November 1777 and submitted to the states for ratification. It would not become the law of the land until all thirteen states had approved it. Within two years, all except Maryland had done so. Maryland argued that all territory west of the Appalachians, to which some states had laid claim, should instead be held by the national government as public land for the benefit of all the states. When the last of these states, Virginia, relinquished its land claims in early 1781, Maryland approved the Articles.

Stuart Bruchey. 1990. Enterprise: *The Dynamic Economy of a Free People*. Cambridge, MA: Harvard University Press, 223.

A few months later, the British surrendered.

Americans wished their new government to be a republic, a regime in which the people, not a monarch, held power and elected representatives to govern according to the rule of law. Many, however, feared that a nation as large as the United States could not be ruled effectively as a republic. Many also worried that even a government of representatives elected by the people might become too powerful and overbearing. Thus, a confederation was created—an entity in which independent, self-governing states form a union for the purpose of acting together in areas such as defense. Fearful of replacing one oppressive national government with another, however, the framers of the Articles of Confederation created an alliance of sovereign states held together by a weak central government.

View the Articles of Confederation at the National Archives. The timeline for drafting and ratifying the Articles of Confederation is available at the Library of Congress.

Following the Declaration of Independence, each of the thirteen states had drafted and ratified a constitution providing for a republican form of government in which political power rested in the hands of the people, although the right to vote was limited to free (white) men, and the property requirements for voting differed among the states. Each state had a governor and an elected legislature. In the new nation, the states remained free to govern their residents as they wished. The central government had authority to act in only a few areas, such as national defense, in which the states were assumed to have a common interest (and would, indeed, have to supply militias). This arrangement was meant to prevent the national government from becoming too powerful or abusing the rights of individual citizens. In the careful balance between power for the national government and liberty for the states, the Articles of Confederation favored the states.

Thus, powers given to the central government were severely limited. The Confederation Congress, formerly the Continental Congress, had the authority to exchange ambassadors and make treaties with foreign governments and Indian tribes, declare war, coin currency and borrow money, and settle disputes between states. Each state legislature appointed delegates to the Congress; these men could be recalled at any time. Regardless of its size or the number of delegates it chose to send, each state would have only one vote. Delegates could serve for no more than three consecutive years, lest a class of elite professional politicians develop. The nation would have no independent chief executive or judiciary. Nine votes were required before the central government could act, and the Articles of Confederation could be changed only by unanimous approval of all thirteen states.

WHAT WENT WRONG WITH THE ARTICLES?

The Articles of Confederation satisfied the desire of those in the new nation who wanted a weak central government with limited power. Ironically, however, their very success led to their undoing. It soon became apparent that, while they protected the sovereignty of the states, the Articles had created a central government too weak to function effectively.

One of the biggest problems was that the national government had no power to impose taxes. To avoid any perception of "taxation without representation," the Articles of Confederation allowed only state governments to levy taxes. To pay for its expenses, the national government had to request money from the states, which were required to provide funds in proportion to the value of the land within their borders. The states, however, were often negligent in this duty, and the national government was underfunded. Without money, it could not pay debts owed from the Revolution and had trouble conducting foreign affairs. For example, the inability of the U.S. government to raise sufficient funds to compensate colonists who had remained loyal to Great Britain for their property losses during and after the American Revolution was one of the reasons the British refused to evacuate the land west of the Appalachians. The new nation was also unable to protect American ships from attacks by the Barbary pirates.

Joseph J. Ellis. 2015. *The Quartet: Orchestrating the Second American Revolution, 1783-1789*. New York: Knopf, 92.

Foreign governments were also, understandably, reluctant to loan money to a nation that might never repay it because it lacked the ability to tax its citizens.

The fiscal problems of the central government meant that the currency it issued, called the Continental, was largely worthless and people were reluctant to use it. Furthermore, while the Articles of Confederation had given the national government the power to coin money, they had not prohibited the states from doing so as well. As a result, numerous state banks issued their own banknotes, which had the same problems as the Continental. People who were unfamiliar with the reputation of the banks that had issued the banknotes often refused to accept them as currency. This reluctance, together with the overwhelming debts of the states, crippled the young nation's economy.

The country's economic woes were made worse by the fact that the central government also lacked the power to impose tariffs on foreign imports or regulate interstate commerce. Thus, it was unable to prevent British merchants from flooding the U.S. market with low-priced goods after the Revolution, and American producers suffered from the competition. Compounding the problem, states often imposed tariffs on items produced by other states and otherwise interfered with their neighbors' trade.

The national government also lacked the power to raise an army or navy. Fears of a standing army in the employ of a tyrannical government had led the writers of the Articles of Confederation to leave defense largely to the states. Although the central government could declare war and agree to peace, it had to depend upon the states to provide soldiers. If state governors chose not to honor the national government's request, the country would lack an adequate defense. This was quite dangerous at a time when England and Spain still controlled large portions of North America (Table).

The Articles of Confederation suffered from many problems that could not be easily repaired. The biggest problem was the lack of power given to the national government.

Problems with the Articles of Confederation	
Weakness of the Articles of Confederation	Why Was This a Problem?
The national government could not impose taxes on citizens. It could only request money from the states.	Requests for money were usually not honored. As a result, the national government did not have money to pay for national defense or fulfill its other responsibilities.
The national government could not regulate foreign trade or interstate commerce.	The government could not prevent foreign countries from hurting American competitors by shipping inexpensive products to the United States. It could not prevent states from passing laws that interfered with domestic trade.
The national government could not raise an army. It had to request the states to send men.	State governments could choose not to honor Congress's request for troops. This would make it hard to defend the nation.
Each state had only one vote in Congress regardless of its size.	Populous states were less well represented.
The Articles could not be changed without a unanimous vote to do so.	Problems with the Articles could not be easily fixed.

Problems with the Articles of Confederation	
Weakness of the Articles of Confederation	Why Was This a Problem?
There was no national judicial system.	Judiciaries are important enforcers of national government power.

The weaknesses of the Articles of Confederation, already recognized by many, became apparent to all as a result of an uprising of Massachusetts farmers, led by Daniel Shays. Known as Shays' Rebellion, the incident panicked the governor of Massachusetts, who called upon the national government for assistance. However, with no power to raise an army, the government had no troops at its disposal. After several months, Massachusetts crushed the uprising with the help of local militias and privately funded armies, but wealthy people were frightened by this display of unrest on the part of poor men and by similar incidents taking place in other states.

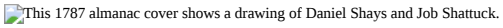
David P. Szatmary. 1980. *Shays' Rebellion: The Making of an Agrarian Insurrection*. Amherst, MA: University of Massachusetts Press, 84-86, 102-104.

To find a solution and resolve problems related to commerce, members of Congress called for a revision of the Articles of Confederation.

SHAYS' REBELLION: SYMBOL OF DISORDER AND IMPETUS TO ACT

In the summer of 1786, farmers in western Massachusetts were heavily in debt, facing imprisonment and the loss of their lands. They owed taxes that had gone unpaid while they were away fighting the British during the Revolution. The Continental Congress had promised to pay them for their service, but the national government did not have sufficient money. Moreover, the farmers were unable to meet the onerous new tax burden Massachusetts imposed in order to pay its own debts from the Revolution.

Led by Daniel Shays (Figure), the heavily indebted farmers marched to a local courthouse demanding relief. Faced with the refusal of many Massachusetts militiamen to arrest the rebels, with whom they sympathized, Governor James Bowdoin called upon the national government for aid, but none was available. The uprising was finally brought to an end the following year by a privately funded militia after the protestors' unsuccessful attempt to raid the Springfield Armory.



This contemporary depiction of Continental Army veteran Daniel Shays (left) and Job Shattuck (right), who led an uprising of Massachusetts farmers in 1786–1787 that prompted calls for a stronger national government, appeared on the cover of *Bickerstaff's Genuine Boston Almanack for 1787*.

Were Shays and his followers justified in their attacks on the government of Massachusetts? What rights might they have sought to protect?

Fearful of creating a system so powerful that it might abuse its citizens, the men who drafted the Articles of Confederation deliberately sought to limit the powers of the national government. The states maintained the right to govern their residents, while the national government could declare war, coin money, and conduct foreign affairs but little else. Its inability to impose taxes, regulate commerce, or raise an army hindered its ability to defend the nation or pay its debts. A solution had to be found.

What important power did the national government lack under the Articles of Confederation?

1. It could not coin money.
2. It could not declare war.
3. It could not impose taxes.
4. It could not conduct foreign affairs.

In what ways did Shays' Rebellion reveal the weaknesses of the Articles of Confederation?

Glossary

Articles of Confederation

the first basis for the new nation’s government; adopted in 1781; created an alliance of sovereign states held together by a weak central government

confederation

a highly decentralized form of government; sovereign states form a union for purposes such as mutual defense

republic

a form of government in which political power rests in the hands of the people, not a monarch, and is exercised by elected representatives

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3.4: The Development of the Constitution

Learning Objectives

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

- Identify the conflicts present and the compromises reached in drafting the Constitution
- Summarize the core features of the structure of U.S. government under the Constitution

In 1786, Virginia and Maryland invited delegates from the other eleven states to meet in Annapolis, Maryland, for the purpose of revising the Articles of Confederation. However, only five states sent representatives. Because all thirteen states had to agree to any alteration of the Articles, the convention in Annapolis could not accomplish its goal. Two of the delegates, Alexander Hamilton and James Madison, requested that all states send delegates to a convention in Philadelphia the following year to attempt once again to revise the Articles of Confederation. All the states except Rhode Island chose delegates to send to the meeting, a total of seventy men in all, but many did not attend. Among those not in attendance were John Adams and Thomas Jefferson, both of whom were overseas representing the country as diplomats. Because the shortcomings of the Articles of Confederation proved impossible to overcome, the convention that met in Philadelphia in 1787 decided to create an entirely new government.

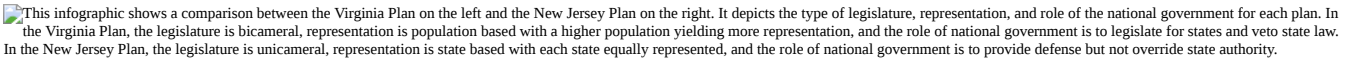
POINTS OF CONTENTION

Fifty-five delegates arrived in Philadelphia in May 1787 for the meeting that became known as the Constitutional Convention. Many wanted to strengthen the role and authority of the national government but feared creating a central government that was too powerful. They wished to preserve state autonomy, although not to a degree that prevented the states from working together collectively or made them entirely independent of the will of the national government. While seeking to protect the rights of individuals from government abuse, they nevertheless wished to create a society in which concerns for law and order did not give way in the face of demands for individual liberty. They wished to give political rights to all free men but also feared mob rule, which many felt would have been the result of Shays' Rebellion had it succeeded. Delegates from small states did not want their interests pushed aside by delegations from more populous states like Virginia. And everyone was concerned about slavery. Representatives from southern states worried that delegates from states where it had been or was being abolished might try to outlaw the institution. Those who favored a nation free of the influence of slavery feared that southerners might attempt to make it a permanent part of American society. The only decision that all could agree on was the election of George Washington, the former commander of the Continental Army and hero of the American Revolution, as the president of the convention.

The Question of Representation: Small States vs. Large States

One of the first differences among the delegates to become clear was between those from large states, such as New York and Virginia, and those who represented small states, like Delaware. When discussing the structure of the government under the new constitution, the delegates from Virginia called for a bicameral legislature consisting of two houses. The number of a state's representatives in each house was to be based on the state's population. In each state, representatives in the lower house would be elected by popular vote. These representatives would then select their state's representatives in the upper house from among candidates proposed by the state's legislature. Once a representative's term in the legislature had ended, the representative could not be reelected until an unspecified amount of time had passed.

Delegates from small states objected to this Virginia Plan. Another proposal, the New Jersey Plan, called for a unicameral legislature with one house, in which each state would have one vote. Thus, smaller states would have the same power in the national legislature as larger states. However, the larger states argued that because they had more residents, they should be allotted more legislators to represent their interests (Figure).


This infographic shows a comparison between the Virginia Plan on the left and the New Jersey Plan on the right. It depicts the type of legislature, representation, and role of the national government for each plan. In the Virginia Plan, the legislature is bicameral, representation is population based with a higher population yielding more representation, and the role of national government is to legislate for states and veto state law. In the New Jersey Plan, the legislature is unicameral, representation is state based with each state equally represented, and the role of national government is to provide defense but not override state authority.

The Virginia Plan called for a two-house legislature. Representation in both houses would be based on population. A state's representatives in one house would be elected by the state's voters. These representatives would then appoint representatives to the second house from among candidates chosen by the state's legislature. The New Jersey Plan favored maintaining a one-house Congress with each state being equally represented.

Slavery and Freedom

Another fundamental division separated the states. Following the Revolution, some of the northern states had either abolished slavery or instituted plans by which slaves would gradually be emancipated. Pennsylvania, for example, had passed the Act for the Gradual Abolition of Slavery in 1780. All people born in the state to enslaved mothers after the law's passage would become indentured servants to be set free at age twenty-eight. In 1783, Massachusetts had freed all enslaved people within the state. Many Americans believed slavery was opposed to the ideals stated in the Declaration of Independence. Others felt it was inconsistent with the teachings of Christianity. Some feared for the safety of the country's white population if the number of slaves and white Americans' reliance on them increased. Although some southerners shared similar sentiments, none of the southern states had abolished slavery and none wanted the Constitution to interfere with the institution. In addition to supporting the agriculture of the South, slaves could be taxed as property and counted as population for purposes of a state's representation in the government.

Federal Supremacy vs. State Sovereignty

Perhaps the greatest division among the states split those who favored a strong national government and those who favored limiting its powers and allowing states to govern themselves in most matters. Supporters of a strong central government argued that it was necessary for the survival and efficient functioning of the new nation. Without the authority to maintain and command an army and navy, the nation could not defend itself at a time when European powers still maintained formidable empires in North America. Without the power to tax and regulate trade, the government would not have enough money to maintain the nation's defense, protect American farmers and manufacturers from foreign competition, create the infrastructure necessary for interstate commerce and communications, maintain foreign embassies, or pay federal judges and other government officials. Furthermore, other countries would be reluctant to loan money to the United States if the federal government lacked the ability to impose taxes in order to repay its debts. Besides giving more power to populous states, the Virginia Plan also favored a strong national government that would legislate for the states in many areas and would have the power to veto laws passed by state legislatures.

Others, however, feared that a strong national government might become too powerful and use its authority to oppress citizens and deprive them of their rights. They advocated a central government with sufficient authority to defend the nation but insisted that other powers be left to the states, which were believed to be better able to understand and protect the needs and interests of their residents. Such delegates approved the approach of the New Jersey Plan, which retained the unicameral Congress that had existed under the Articles of Confederation. It gave additional power to the national government, such as the power to regulate interstate and foreign commerce and to compel states to comply with laws passed by Congress. However, states still retained a lot of power, including power over the national government. Congress, for example, could not impose taxes without the consent of the states. Furthermore, the nation's chief executive, appointed by the Congress, could be removed by Congress if state governors demanded it.

Individual Liberty vs. Social Stability

The belief that the king and Parliament had deprived colonists of their liberties had led to the Revolution, and many feared the government of the United States might one day attempt to do the same. They wanted and expected their new government to guarantee the rights of life, liberty, and property. Others believed it was more important for the national government to maintain order, and this might require it to limit personal liberty at times. All Americans, however, desired that the government not intrude upon people's rights to life, liberty, and property without reason.

COMPROMISE AND THE CONSTITUTIONAL DESIGN OF AMERICAN GOVERNMENT

Beginning in May 1787 and throughout the long, hot Philadelphia summer, the delegations from twelve states discussed, debated, and finally—after compromising many times—by September had worked out a new blueprint for the nation. The document they created, the U.S. Constitution, was an ingenious instrument that allayed fears of a too-powerful central government and solved the problems that had beleaguered the national government under the Articles of Confederation. For the most part, it also resolved the conflicts between small and large states, northern and southern states, and those who favored a strong federal government and those who argued for state sovereignty.

The closest thing to minutes of the Constitutional Convention is the collection of James Madison's letters and notes about the proceedings in Philadelphia. Several such letters and notes may be found at the Library of Congress's American Memory project.

The Great Compromise

The Constitution consists of a preamble and seven articles. The first three articles divide the national government into three branches—Congress, the executive branch, and the federal judiciary—and describe the powers and responsibilities of each. In Article I, ten sections describe the structure of Congress, the basis for representation and the requirements for serving in Congress, the length of Congressional terms, and the powers of Congress. The national legislature created by the article reflects the compromises reached by the delegates regarding such issues as representation, slavery, and national power.

After debating at length over whether the Virginia Plan or the New Jersey Plan provided the best model for the nation's legislature, the framers of the Constitution had ultimately arrived at what is called the Great Compromise, suggested by Roger Sherman of Connecticut. Congress, it was decided, would consist of two chambers: the Senate and the House of Representatives. Each state, regardless of size, would have two senators, making for equal representation as in the New Jersey Plan. Representation in the House would be based on population. Senators were to be appointed by state legislatures, a variation on the Virginia Plan. Members of the House of Representatives would be popularly elected by the voters in each state. Elected members of the House would be limited to two years in office before having to seek reelection, and those appointed to the Senate by each state's political elite would serve a term of six years.

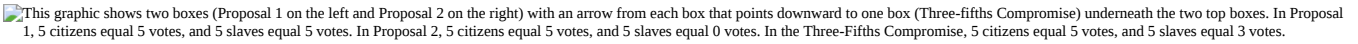
Congress was given great power, including the power to tax, maintain an army and a navy, and regulate trade and commerce. Congress had authority that the national government lacked under the Articles of Confederation. It could also coin and borrow money, grant patents and copyrights, declare war, and establish laws regulating naturalization and bankruptcy. While legislation could be proposed by either chamber of Congress, it had to pass both chambers by a majority vote before being sent to the president to be signed into law, and all bills to raise revenue had to begin in the House of Representatives. Only those men elected by the voters to represent them could impose taxes upon them. There would be no more taxation without representation.

The Three-Fifths Compromise and the Debates over Slavery

The Great Compromise that determined the structure of Congress soon led to another debate, however. When states took a census of their population for the purpose of allotting House representatives, should slaves be counted? Southern states were adamant that they should be, while delegates from northern states were vehemently opposed, arguing that representatives from southern states could not represent the interests of enslaved people. If slaves were not counted, however, southern states would have far fewer representatives in the House than northern states did. For example, if South Carolina were allotted representatives based solely on its free population, it would receive only half the number it would have received if slaves, who made up approximately 43 percent of the population, were included.

U.S. Department of Commerce. Bureau of the Census. 1790. *Statistical Abstract of the United States*. Washington, DC: Department of Commerce.

The Three-Fifths Compromise, illustrated in Figure, resolved the impasse, although not in a manner that truly satisfied anyone. For purposes of Congressional apportionment, slaveholding states were allowed to count all their free population, including free African Americans and 60 percent (three-fifths) of their enslaved population. To mollify the north, the compromise also allowed counting 60 percent of a state's slave population for federal taxation, although no such taxes were ever collected. Another compromise regarding the institution of slavery granted Congress the right to impose taxes on imports in exchange for a twenty-year prohibition on laws attempting to ban the importation of slaves to the United States, which would hurt the economy of southern states more than that of northern states. Because the southern states, especially South Carolina, had made it clear they would leave the convention if abolition were attempted, no serious effort was made by the framers to abolish slavery in the new nation, even though many delegates disapproved of the institution.



This graphic shows two boxes (Proposal 1 on the left and Proposal 2 on the right) with an arrow from each box that points downward to one box (Three-fifths Compromise) underneath the two top boxes. In Proposal 1, 5 citizens equal 5 votes, and 5 slaves equal 5 votes. In Proposal 2, 5 citizens equal 5 votes, and 5 slaves equal 0 votes. In the Three-Fifths Compromise, 5 citizens equal 5 votes, and 5 slaves equal 3 votes.

This infographic shows the methods proposed for counting slave populations and the resulting Three-Fifths Compromise.

Indeed, the Constitution contained two protections for slavery. Article I postponed the abolition of the foreign slave trade until 1808, and in the interim, those in slaveholding states were allowed to import as many slaves as they wished.

U.S. Const. art. I, § 9.

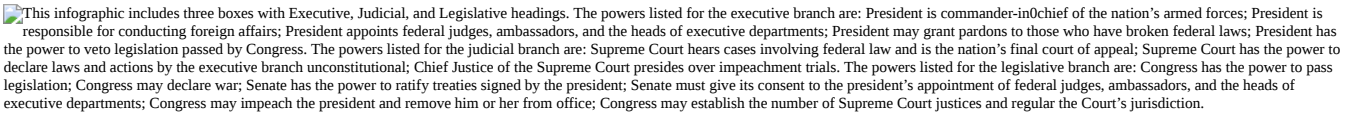
Furthermore, the Constitution placed no restrictions on the domestic slave trade, so residents of one state could still sell enslaved people to other states. Article IV of the Constitution—which, among other things, required states to return fugitives to the states where they had been charged with crimes—also prevented slaves from gaining their freedom by escaping to states where slavery

had been abolished. Clause 3 of Article IV (known as the fugitive slave clause) allowed slave owners to reclaim their human property in the states where slaves had fled.

U.S. Const. art. IV, § 2.

Separation of Powers and Checks and Balances

Although debates over slavery and representation in Congress occupied many at the convention, the chief concern was the challenge of increasing the authority of the national government while ensuring that it did not become too powerful. The framers resolved this problem through a separation of powers, dividing the national government into three separate branches and assigning different responsibilities to each one, as shown in Figure. They also created a system of checks and balances by giving each of three branches of government the power to restrict the actions of the others, thus requiring them to work together.


This infographic includes three boxes with Executive, Judicial, and Legislative headings. The powers listed for the executive branch are: President is commander-in0chief of the nation's armed forces; President is responsible for conducting foreign affairs; President appoints federal judges, ambassadors, and the heads of executive departments; President may grant pardons to those who have broken federal laws; President has the power to veto legislation passed by Congress. The powers listed for the judicial branch are: Supreme Court hears cases involving federal law and is the nation's final court of appeal; Supreme Court has the power to declare laws and actions by the executive branch unconstitutional; Chief Justice of the Supreme Court presides over impeachment trials. The powers listed for the legislative branch are: Congress has the power to pass legislation; Congress may declare war; Senate has the power to ratify treaties signed by the president; Senate must give its consent to the president's appointment of federal judges, ambassadors, and the heads of executive departments; Congress may impeach the president and remove him or her from office; Congress may establish the number of Supreme Court justices and regular the Court's jurisdiction.

To prevent the national government, or any one group within it, from becoming too powerful, the Constitution divided the government into three branches with different powers. No branch could function without the cooperation of the others, and each branch could restrict the powers of the others.

Congress was given the power to make laws, but the executive branch, consisting of the president and the vice president, and the federal judiciary, notably the Supreme Court, were created to, respectively, enforce laws and try cases arising under federal law. Neither of these branches had existed under the Articles of Confederation. Thus, Congress can pass laws, but its power to do so can be checked by the president, who can veto potential legislation so that it cannot become a law. Later, in the 1803 case of *Marbury* v. *Madison*, the U.S. Supreme Court established its own authority to rule on the constitutionality of laws, a process called judicial review.

Other examples of checks and balances include the ability of Congress to limit the president's veto. Should the president veto a bill passed by both houses of Congress, the bill is returned to Congress to be voted on again. If the bill passes both the House of Representatives and the Senate with a two-thirds vote in its favor, it becomes law even though the president has refused to sign it.

Congress is also able to limit the president's power as commander-in-chief of the armed forces by refusing to declare war or provide funds for the military. To date, the Congress has never refused a president's request for a declaration of war. The president must also seek the advice and consent of the Senate before appointing members of the Supreme Court and ambassadors, and the Senate must approve the ratification of all treaties signed by the president. Congress may even remove the president from office. To do this, both chambers of Congress must work together. The House of Representatives impeaches the president by bringing formal charges against him or her, and the Senate tries the case in a proceeding overseen by the Chief Justice of the Supreme Court. The president is removed from office if found guilty.

According to political scientist Richard Neustadt, the system of separation of powers and checks and balances does not so much allow one part of government to control another as it encourages the branches to cooperate. Instead of a true separation of powers, the Constitutional Convention "created a government of separated institutions *sharing* powers."

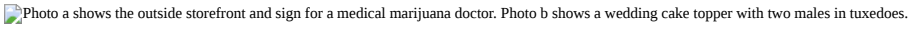
R. E. Neustadt. 1960. *Presidential Power and the Politics of Leadership*. New York: Wiley, 33.

For example, knowing the president can veto a law he or she disapproves, Congress will attempt to draft a bill that addresses the president's concerns before sending it to the White House for signing. Similarly, knowing that Congress can override a veto, the president will use this power sparingly.

Federal Power vs. State Power

The strongest guarantee that the power of the national government would be restricted and the states would retain a degree of sovereignty was the framers' creation of a federal system of government. In a federal system, power is divided between the federal (or national) government and the state governments. Great or explicit powers, called enumerated powers, were granted to the federal government to declare war, impose taxes, coin and regulate currency, regulate foreign and interstate commerce, raise and maintain an army and a navy, maintain a post office, make treaties with foreign nations and with Native American tribes, and make laws regulating the naturalization of immigrants.

All powers not expressly given to the national government, however, were intended to be exercised by the states. These powers are known as reserved powers(Figure). Thus, states remained free to pass laws regarding such things as intrastate commerce (commerce within the borders of a state) and marriage. Some powers, such as the right to levy taxes, were given to both the state and federal governments. Both the states and the federal government have a chief executive to enforce the laws (a governor and the president, respectively) and a system of courts.


Photo a shows the outside storefront and sign for a medical marijuana doctor. Photo b shows a wedding cake topper with two males in tuxedoes.

Reserve powers allow the states to pass intrastate legislation, such as laws on commerce, drug use, and marriage (a). However, sometimes judicial rulings at the federal level may supersede such legislation, as happened in *Obergefell* v. *Hodges* (2015), the recent Supreme Court case regarding marriage equality (b). (credit a: modification of work by Damian Gadal; credit b: modification of work by Ludovic Bertron)

Although the states retained a considerable degree of sovereignty, the supremacy clause in Article VI of the Constitution proclaimed that the Constitution, laws passed by Congress, and treaties made by the federal government were “the supreme Law of the Land.” In the event of a conflict between the states and the national government, the national government would triumph. Furthermore, although the federal government was to be limited to those powers enumerated in the Constitution, Article I provided for the expansion of Congressional powers if needed. The “necessary and proper” clause of Article I provides that Congress may “make all Laws which shall be necessary and proper for carrying into Execution the foregoing [enumerated] Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof.”

The Constitution also gave the federal government control over all “Territory or other Property belonging to the United States.” This would prove problematic when, as the United States expanded westward and population growth led to an increase in the power of the northern states in Congress, the federal government sought to restrict the expansion of slavery into newly acquired territories.

A growing number of institutes and study centers focus on the Constitution and the founding of the republic. Examples such as the Institute for the American Constitutional Heritage and the Bill of Rights Institute have informative public websites with documents and videos. Another example is the National Constitution Center that also holds programs related to aspects of the enduring U.S. Constitution.

Realizing that flaws in the Articles of Confederation could harm the new country and recognizing that the Articles could not easily be revised as originally intended, delegates from the states who met in Philadelphia from May through September 1787 set about drafting a new governing document. The United States that emerged from the Constitutional Convention in September was not a confederation, but it was a republic whose national government had been strengthened greatly. Congress had been transformed into a bicameral legislature with additional powers, and a national judicial system had been created. Most importantly, a federal system had been established with the power to govern the new country.

To satisfy the concerns of those who feared an overly strong central government, the framers of the Constitution created a system with separation of powers and checks and balances. Although such measures satisfied many, concerns still lingered that the federal government remained too powerful.

According to the Great Compromise, how would representation in Congress be apportioned?

1. Each state would have equal representation in both the House of Representatives and the Senate.
2. Congress would be a unicameral legislature with each state receiving equal representation.
3. Representation in the House of Representatives would be based on each state’s population and every state would have two senators.
4. Representation in both the House of Representatives and the Senate would be based on a state’s population.

How did the delegates to the Constitutional Convention resolve their disagreement regarding slavery?

1. It was agreed that Congress would abolish slavery in 1850.
2. It was agreed that a state’s slave population would be counted for purposes of representation but not for purposes of taxation.
3. It was agreed that a state’s slave population would be counted for purposes of taxation but not for purposes of representation.
4. It was agreed that 60 percent of a state’s slave population would be counted for purposes of both representation and taxation.

What does separation of powers mean?

Glossary

bicameral legislature
a legislature with two houses, such as the U.S. Congress

checks and balances
a system that allows one branch of government to limit the exercise of power by another branch; requires the different parts of government to work together

enumerated powers
the powers given explicitly to the federal government by the Constitution (Article I, Section 8); power to regulate interstate and foreign commerce, raise and support armies, declare war, coin money, and conduct foreign affairs

federal system
a form of government in which power is divided between state governments and a national government

Great Compromise
a compromise between the Virginia Plan and the New Jersey Plan that created a two-house Congress; representation based on population in the House of Representatives and equal representation of states in the Senate

New Jersey Plan
a plan that called for a one-house national legislature; each state would receive one vote

reserved powers
any powers not prohibited by the Constitution or delegated to the national government; powers reserved to the states and denied to the federal government

separation of powers
the sharing of powers among three separate branches of government

supremacy clause
the statement in Article VI of the Constitution that federal law is superior to laws passed by state legislatures

Three-Fifths Compromise
a compromise between northern and southern states that called for counting of all a state's free population and 60 percent of its slave population for both federal taxation and representation in Congress

unicameral legislature
a legislature with only one house, like the Confederation Congress or the legislature proposed by the New Jersey Plan

veto
the power of the president to reject a law proposed by Congress

Virginia Plan
a plan for a two-house legislature; representatives would be elected to the lower house based on each state's population; representatives for the upper house would be chosen by the lower house

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3.5: The Ratification of the Constitution

Learning Objectives

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

- Identify the steps required to ratify the Constitution
- Describe arguments the framers raised in support of a strong national government and counterpoints raised by the Anti-Federalists

On September 17, 1787, the delegates to the Constitutional Convention in Philadelphia voted to approve the document they had drafted over the course of many months. Some did not support it, but the majority did. Before it could become the law of the land, however, the Constitution faced another hurdle. It had to be ratified by the states.

THE RATIFICATION PROCESS

Article VII, the final article of the Constitution, required that before the Constitution could become law and a new government could form, the document had to be ratified by nine of the thirteen states. Eleven days after the delegates at the Philadelphia convention approved it, copies of the Constitution were sent to each of the states, which were to hold ratifying conventions to either accept or reject it.

This approach to ratification was an unusual one. Since the authority inherent in the Articles of Confederation and the Confederation Congress had rested on the consent of the states, changes to the nation's government should also have been ratified by the state legislatures. Instead, by calling upon state legislatures to hold ratification conventions to approve the Constitution, the framers avoided asking the legislators to approve a document that would require them to give up a degree of their own power. The men attending the ratification conventions would be delegates elected by their neighbors to represent their interests. They were not being asked to relinquish their power; in fact, they were being asked to place limits upon the power of their state legislators, whom they may not have elected in the first place. Finally, because the new nation was to be a republic in which power was held by the people through their elected representatives, it was considered appropriate to leave the ultimate acceptance or rejection of the Constitution to the nation's citizens. If convention delegates, who were chosen by popular vote, approved it, then the new government could rightly claim that it ruled with the consent of the people.

The greatest sticking point when it came to ratification, as it had been at the Constitutional Convention itself, was the relative power of the state and federal governments. The framers of the Constitution believed that without the ability to maintain and command an army and navy, impose taxes, and force the states to comply with laws passed by Congress, the young nation would not survive for very long. But many people resisted increasing the powers of the national government at the expense of the states. Virginia's Patrick Henry, for example, feared that the newly created office of president would place excessive power in the hands of one man. He also disapproved of the federal government's new ability to tax its citizens. This right, Henry believed, should remain with the states.

Other delegates, such as Edmund Randolph of Virginia, disapproved of the Constitution because it created a new federal judicial system. Their fear was that the federal courts would be too far away from where those who were tried lived. State courts were located closer to the homes of both plaintiffs and defendants, and it was believed that judges and juries in state courts could better understand the actions of those who appeared before them. In response to these fears, the federal government created federal courts in each of the states as well as in Maine, which was then part of Massachusetts, and Kentucky, which was part of Virginia.

Pauline Maier. 2010. *Ratification: The People Debate the Constitution*, 1787-1788. New York: Simon & Schuster, 464.

Perhaps the greatest source of dissatisfaction with the Constitution was that it did not guarantee protection of individual liberties. State governments had given jury trials to residents charged with violating the law and allowed their residents to possess weapons for their protection. Some had practiced religious tolerance as well. The Constitution, however, did not contain reassurances that the federal government would do so. Although it provided for habeas corpus and prohibited both a religious test for holding office and granting noble titles, some citizens feared the loss of their traditional rights and the violation of their liberties. This led many of the Constitution's opponents to call for a bill of rights and the refusal to ratify the document without one. The lack of a bill of rights was especially problematic in Virginia, as the Virginia Declaration of Rights was the most extensive rights-granting document among the states. The promise that a bill of rights would be drafted for the Constitution persuaded delegates in many states to support ratification.

Maier, *Ratification*, 431.

THOMAS JEFFERSON ON THE BILL OF RIGHTS

John Adams and Thomas Jefferson carried on a lively correspondence regarding the ratification of the Constitution. In the following excerpt (reproduced as written) from a letter dated March 15, 1789, after the Constitution had been ratified by nine states but before it had been approved by all thirteen, Jefferson reiterates his previously expressed concerns that a bill of rights to protect citizens' freedoms was necessary and should be added to the Constitution:

""In the arguments in favor of a declaration of rights, . . . I am happy to find that on the whole you are a friend to this amendment. The Declaration of rights is like all other human blessings alloyed with some inconveniences, and not accomplishing fully it's object. But the good in this instance vastly overweighs the evil. . . . This instrument [the Constitution] forms us into one state as to certain objects, and gives us a legislative & executive body for these objects. It should therefore guard us against their abuses of power. . . . Experience proves the inefficacy of a bill of rights. True. But tho it is not absolutely efficacious under all circumstances, it is of great potency always, and rarely inefficacious. . . . There is a remarkeable difference between the . . . Inconveniences which attend a Declaration of rights, & those which attend the want of it. . . . The inconveniences of the want of a Declaration are permanent, afflicting & irreparable: they are in constant progression from bad to worse.""

"Letter from Thomas Jefferson to James Madison, March 15, 1789, https://www.gwu.edu/~ffcp/exhibit/p7/p7_1text.html."

What were some of the inconveniences of not having a bill of rights that Jefferson mentioned? Why did he decide in favor of having one?

It was clear how some states would vote. Smaller states, like Delaware, favored the Constitution. Equal representation in the Senate would give them a degree of equality with the larger states, and a strong national government with an army at its command would be better able to defend them than their state militias could. Larger states, however, had significant power to lose. They did not believe they needed the federal government to defend them and disliked the prospect of having to provide tax money to support the new government. Thus, from the very beginning, the supporters of the Constitution feared that New York, Massachusetts, Pennsylvania, and Virginia would refuse to ratify it. That would mean all nine of the remaining states would have to, and Rhode Island, the smallest state, was unlikely to do so. It had not even sent delegates to the convention in Philadelphia. And even if it joined the other states in ratifying the document and the requisite nine votes were cast, the new nation would not be secure without its largest, wealthiest, and most populous states as members of the union.

THE RATIFICATION CAMPAIGN

On the question of ratification, citizens quickly separated into two groups: Federalists and Anti-Federalists. The Federalists supported it. They tended to be among the elite members of society—wealthy and well-educated landowners, businessmen, and former military commanders who believed a strong government would be better for both national defense and economic growth. A national currency, which the federal government had the power to create, would ease business transactions. The ability of the federal government to regulate trade and place tariffs on imports would protect merchants from foreign competition. Furthermore, the power to collect taxes would allow the national government to fund internal improvements like roads, which would also help businessmen. Support for the Federalists was especially strong in New England.

Opponents of ratification were called Anti-Federalists. Anti-Federalists feared the power of the national government and believed state legislatures, with which they had more contact, could better protect their freedoms. Although some Anti-Federalists, like Patrick Henry, were wealthy, most distrusted the elite and believed a strong federal government would favor the rich over those of "the middling sort." This was certainly the fear of Melancton Smith, a New York merchant and landowner, who believed that power should rest in the hands of small, landowning farmers of average wealth who "are more temperate, of better morals and less ambitious than the great."

Isaac Krannick. 1999. "The Great National Discussion: The Discourse of Politics in 1787." In *What Did the Constitution Mean to Early Americans?* ed. Edward Countryman. Boston: Bedford/St. Martins, 52.

Even members of the social elite, like Henry, feared that the centralization of power would lead to the creation of a political aristocracy, to the detriment of state sovereignty and individual liberty.

Related to these concerns were fears that the strong central government Federalists advocated for would levy taxes on farmers and planters, who lacked the hard currency needed to pay them. Many also believed Congress would impose tariffs on foreign imports

that would make American agricultural products less welcome in Europe and in European colonies in the western hemisphere. For these reasons, Anti-Federalist sentiment was especially strong in the South.

Some Anti-Federalists also believed that the large federal republic that the Constitution would create could not work as intended. Americans had long believed that virtue was necessary in a nation where people governed themselves (i.e., the ability to put self-interest and petty concerns aside for the good of the larger community). In small republics, similarities among members of the community would naturally lead them to the same positions and make it easier for those in power to understand the needs of their neighbors. In a larger republic, one that encompassed nearly the entire Eastern Seaboard and ran west to the Appalachian Mountains, people would lack such a strong commonality of interests.

Krannick, *Great National Discussion*, 42-43.

Likewise, Anti-Federalists argued, the diversity of religion tolerated by the Constitution would prevent the formation of a political community with shared values and interests. The Constitution contained no provisions for government support of churches or of religious education, and Article VI explicitly forbade the use of religious tests to determine eligibility for public office. This caused many, like Henry Abbot of North Carolina, to fear that government would be placed in the hands of "pagans . . . and Mahometans [Muslims]."

Krannick, *Great National Discussion*, 42.

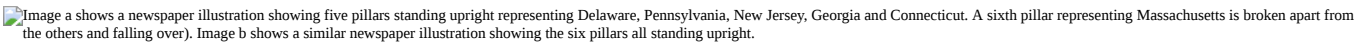
It is difficult to determine how many people were Federalists and how many were Anti-Federalists in 1787. The Federalists won the day, but they may not have been in the majority. First, the Federalist position tended to win support among businessmen, large farmers, and, in the South, plantation owners. These people tended to live along the Eastern Seaboard. In 1787, most of the states were divided into voting districts in a manner that gave more votes to the eastern part of the state than to the western part.

Evelyn C. Fink and William H. Riker. 1989. "The Strategy of Ratification." In *The Federalist Papers and the New Institutionalism*, eds. Bernard Grofman and Donald Wittman. New York: Agathon, 229.

Thus, in some states, like Virginia and South Carolina, small farmers who may have favored the Anti-Federalist position were unable to elect as many delegates to state ratification conventions as those who lived in the east. Small settlements may also have lacked the funds to send delegates to the convention.

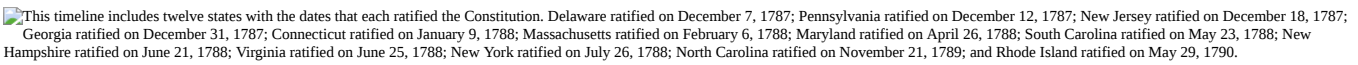
Fink and Riker, *Strategy of Ratification*, 221.

In all the states, educated men authored pamphlets and published essays and cartoons arguing either for or against ratification (Figure). Although many writers supported each position, it is the Federalist essays that are now best known. The arguments these authors put forth, along with explicit guarantees that amendments would be added to protect individual liberties, helped to sway delegates to ratification conventions in many states.



This *Massachusetts Sentinel* cartoon (a) encourages the state's voters to join Georgia and neighboring Connecticut in ratifying the Constitution. Less than a month later, on February 6, 1788, Massachusetts became the sixth member of the newly formed federal union (b).

For obvious reasons, smaller, less populous states favored the Constitution and the protection of a strong federal government. As shown in Figure, Delaware and New Jersey ratified the document within a few months after it was sent to them for approval in 1787. Connecticut ratified it early in 1788. Some of the larger states, such as Pennsylvania and Massachusetts, also voted in favor of the new government. New Hampshire became the ninth state to ratify the Constitution in the summer of 1788.



This timeline shows the order in which states ratified the new Constitution. Small states that would benefit from the protection of a larger union ratified the Constitution fairly quickly, such as Delaware and Connecticut. Larger, more populous states like Virginia and New York took longer. The last state to ratify was Rhode Island, a state that had always proven reluctant to act alongside the others.

Although the Constitution went into effect following ratification by New Hampshire, four states still remained outside the newly formed union. Two were the wealthy, populous states of Virginia and New York. In Virginia, James Madison's active support and the intercession of George Washington, who wrote letters to the convention, changed the minds of many. Some who had initially

opposed the Constitution, such as Edmund Randolph, were persuaded that the creation of a strong union was necessary for the country's survival and changed their position. Other Virginia delegates were swayed by the promise that a bill of rights similar to the Virginia Declaration of Rights would be added after the Constitution was ratified. On June 25, 1788, Virginia became the tenth state to grant its approval.

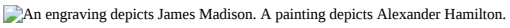
The approval of New York was the last major hurdle. Facing considerable opposition to the Constitution in that state, Alexander Hamilton, James Madison, and John Jay wrote a series of essays, beginning in 1787, arguing for a strong federal government and support of the Constitution (Figure). Later compiled as *The Federalist*and now known as *The Federalist Papers*, these eighty-five essays were originally published in newspapers in New York and other states under the name of Publius, a supporter of the Roman Republic.


This image shows an advertisement for The Federalist papers.

From 1787 to 1788, Alexander Hamilton, James Madison, and John Jay authored a series of essays intended to convince Americans, especially New Yorkers, to support the new Constitution. These essays, which originally appeared in newspapers, were collected and published together under the title *The Federalist* in 1788. They are now known as *The Federalist Papers*.

The essays addressed a variety of issues that troubled citizens. For example, in *Federalist* No. 51, attributed to James Madison (Figure), the author assured readers they did not need to fear that the national government would grow too powerful. The federal system, in which power was divided between the national and state governments, and the division of authority within the federal government into separate branches would prevent any one part of the government from becoming too strong. Furthermore, tyranny could not arise in a government in which "the legislature necessarily predominates." Finally, the desire of office holders in each branch of government to exercise the powers given to them, described as "personal motives," would encourage them to limit any attempt by the other branches to overstep their authority. According to Madison, "Ambition must be made to counteract ambition."

Other essays countered different criticisms made of the Constitution and echoed the argument in favor of a strong national government. In *Federalist* No. 35, for example, Hamilton (Figure) argued that people's interests could in fact be represented by men who were not their neighbors. Indeed, Hamilton asked rhetorically, would American citizens best be served by a representative "whose observation does not travel beyond the circle of his neighbors and his acquaintances" or by someone with more extensive knowledge of the world? To those who argued that a merchant and land-owning elite would come to dominate Congress, Hamilton countered that the majority of men currently sitting in New York's state senate and assembly were landowners of moderate wealth and that artisans usually chose merchants, "their natural patron[s] and friend[s]," to represent them. An aristocracy would not arise, and if it did, its members would have been chosen by lesser men. Similarly, Jayreminded New Yorkers in *Federalist* No. 2 that union had been the goal of Americans since the time of the Revolution. A desire for union was natural among people of such "similar sentiments" who "were united to each other by the strongest ties," and the government proposed by the Constitution was the best means of achieving that union.


An engraving depicts James Madison. A painting depicts Alexander Hamilton.

James Madison (a) played a vital role in the formation of the Constitution. He was an important participant in the Constitutional Convention and authored many of *The Federalist Papers*. Despite the fact that he did not believe that a Bill of Rights was necessary, he wrote one in order to allay the fears of those who believed the federal government was too powerful. He also served as Thomas Jefferson's vice president and was elected president himself in 1808. Alexander Hamilton (b) was one of the greatest political minds of the early United States. He authored the majority of *The Federalist Papers* and served as Secretary of the Treasury in George Washington's administration.

Objections that an elite group of wealthy and educated bankers, businessmen, and large landowners would come to dominate the nation's politics were also addressed by Madison in *Federalist* No. 10. Americans need not fear the power of factions or special interests, he argued, for the republic was too big and the interests of its people too diverse to allow the development of large, powerful political parties. Likewise, elected representatives, who were expected to "possess the most attractive merit," would protect the government from being controlled by "an unjust and interested [biased in favor of their own interests] majority."

For those who worried that the president might indeed grow too ambitious or king-like, Hamilton, in *Federalist*No. 68, provided assurance that placing the leadership of the country in the hands of one person was not dangerous. Electors from each state would select the president. Because these men would be members of a "transient" body called together only for the purpose of choosing the president and would meet in separate deliberations in each state, they would be free of corruption and beyond the influence of the "heats and ferments" of the voters. Indeed, Hamilton argued in *Federalist* No. 70, instead of being afraid that the president

would become a tyrant, Americans should realize that it was easier to control one person than it was to control many. Furthermore, one person could also act with an “energy” that Congress did not possess. Making decisions alone, the president could decide what actions should be taken faster than could Congress, whose deliberations, because of its size, were necessarily slow. At times, the “decision, activity, secrecy, and dispatch” of the chief executive might be necessary.

The Library of Congress has *The Federalist Papers* on their website. The Anti-Federalists also produced a body of writings, less extensive than *The Federalists Papers*, which argued against the ratification of the Constitution. However, these were not written by one small group of men as *The Federalist Papers* had been. A collection of the writings that are unofficially called The Anti-Federalist Papers is also available online.

The arguments of the Federalists were persuasive, but whether they actually succeeded in changing the minds of New Yorkers is unclear. Once Virginia ratified the Constitution on June 25, 1788, New York realized that it had little choice but to do so as well. If it did not ratify the Constitution, it would be the last large state that had not joined the union. Thus, on July 26, 1788, the majority of delegates to New York’s ratification convention voted to accept the Constitution. A year later, North Carolina became the twelfth state to approve. Alone and realizing it could not hope to survive on its own, Rhode Island became the last state to ratify, nearly two years after New York had done so.

TERM LIMITS

One of the objections raised to the Constitution’s new government was that it did not set term limits for members of Congress or the president. Those who opposed a strong central government argued that this failure could allow a handful of powerful men to gain control of the nation and rule it for as long as they wished. Although the framers did not anticipate the idea of career politicians, those who supported the Constitution argued that reelecting the president and reappointing senators by state legislatures would create a body of experienced men who could better guide the country through crises. A president who did not prove to be a good leader would be voted out of office instead of being reelected. In fact, presidents long followed George Washington’s example and limited themselves to two terms. Only in 1951, after Franklin Roosevelt had been elected four times, was the Twenty-Second Amendment passed to restrict the presidency to two terms.

Are term limits a good idea? Should they have originally been included in the Constitution? Why or why not? Are there times when term limits might not be good?

Summary

Anti-Federalists objected to the power the Constitution gave the federal government and the absence of a bill of rights to protect individual liberties. The Federalists countered that a strong government was necessary to lead the new nation and promised to add a bill of rights to the Constitution. *The Federalist Papers*, in particular, argued in favor of ratification and sought to convince people that the new government would not become tyrannical. Finally, in June 1788, New Hampshire became the ninth state to approve the Constitution, making it the law of the land. The large and prosperous states of Virginia and New York followed shortly thereafter, and the remaining states joined as well.

Why were *The Federalist Papers* written?

1. To encourage states to oppose the Constitution.
2. To encourage New York to ratify the Constitution.
3. To oppose the admission of slaveholding states to the federal union.
4. To encourage people to vote for George Washington as the nation’s first president.

What argument did Alexander Hamilton use to convince people that it was not dangerous to place power in the hands of one man?

1. That man would have to pass a religious test before he could become president; thus, citizens could be sure that he was of good character.
2. One man could respond to crises more quickly than a group of men like Congress.
3. It was easier to control the actions of one man than the actions of a group.
4. both B and C

Why did so many people oppose ratification of the Constitution, and how was their opposition partly overcome?

Glossary

Anti-Federalists

those who did not support ratification of the Constitution

Federalists

those who supported ratification of the Constitution

The Federalist Papers

a collection of eighty-five essays written by Alexander Hamilton, James Madison, and John Jay in support of ratification of the Constitution

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3.6: Constitutional Change

Learning Objectives

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

- Describe how the Constitution can be formally amended
- Explain the contents and significance of the Bill of Rights
- Discuss the importance of the Thirteenth, Fourteenth, Fifteenth, and Nineteenth Amendments

A major problem with the Articles of Confederation had been the nation's inability to change them without the unanimous consent of all the states. The framers learned this lesson well. One of the strengths they built into the Constitution was the ability to amend it to meet the nation's needs, reflect the changing times, and address concerns or structural elements they had not anticipated.

THE AMENDMENT PROCESS

Since ratification in 1789, the Constitution has been amended only twenty-seven times. The first ten amendments were added in 1791. Responding to charges by Anti-Federalists that the Constitution made the national government too powerful and provided no protections for the rights of individuals, the newly elected federal government tackled the issue of guaranteeing liberties for American citizens. James Madison, a member of Congress from Virginia, took the lead in drafting nineteen potential changes to the Constitution.

Madison followed the procedure outlined in Article V that says amendments can originate from one of two sources. First, they can be proposed by Congress. Then, they must be approved by a two-thirds majority in both the House and the Senate before being sent to the states for potential ratification. States have two ways to ratify or defeat a proposed amendment. First, if three-quarters of state legislatures vote to approve an amendment, it becomes part of the Constitution. Second, if three-quarters of state-ratifying conventions support the amendment, it is ratified. A second method of proposal of an amendment allows for the petitioning of Congress by the states: Upon receiving such petitions from two-thirds of the states, Congress must call a convention for the purpose of proposing amendments, which would then be forwarded to the states for ratification by the required three-quarters. All the current constitutional amendments were created using the first method of proposal (via Congress).

Having drafted nineteen proposed amendments, Madison submitted them to Congress. Only twelve were approved by two-thirds of both the Senate and the House of Representatives and sent to the states for ratification. Of these, only ten were accepted by three-quarters of the state legislatures. In 1791, these first ten amendments were added to the Constitution and became known as the Bill of Rights.

The ability to change the Constitution has made it a flexible, living document that can respond to the nation's changing needs and has helped it remain in effect for more than 225 years. At the same time, the framers made amending the document sufficiently difficult that it has not been changed repeatedly; only seventeen amendments have been added since the ratification of the first ten (one of these, the Twenty-Seventh Amendment, was among Madison's rejected nine proposals).

KEY CONSTITUTIONAL CHANGES

The Bill of Rights was intended to quiet the fears of Anti-Federalists that the Constitution did not adequately protect individual liberties and thus encourage their support of the new national government. Many of these first ten amendments were based on provisions of the English Bill of Rights and the Virginia Declaration of Rights. For example, the right to bear arms for protection (Second Amendment), the right not to have to provide shelter and provision for soldiers in peacetime (Third Amendment), the right to a trial by jury (Sixth and Seventh Amendments), and protection from excessive fines and from cruel and unusual punishment (Eighth Amendment) are taken from the English Bill of Rights. The Fifth Amendment, which requires among other things that people cannot be deprived of their life, liberty, or property except by a legal proceeding, was also greatly influenced by English law as well as the protections granted to Virginians in the Virginia Declaration of Rights.

Learn more about the formal process of amending the Constitution and view exhibits related to the passage of specific amendments at the National Archives website.

Other liberties, however, do not derive from British precedents. The protections for religion, speech, the press, and assembly that are granted by the First Amendment did not exist under English law. (The right to petition the government did, however.) The prohibition in the First Amendment against the establishment of an official church by the federal government differed significantly

from both English precedent and the practice of several states that had official churches. The Fourth Amendment, which protects Americans from unwarranted search and seizure of their property, was also new.

The Ninth and Tenth Amendments were intended to provide yet another assurance that people's rights would be protected and that the federal government would not become too powerful. The Ninth Amendmentguarantees that liberties extend beyond those described in the preceding documents. This was an important acknowledgment that the protected rights were extensive, and the government should not attempt to interfere with them. The Supreme Court, for example, has held that the Ninth Amendment protects the right to privacy even though none of the preceding amendments explicitly mentions this right. The Tenth Amendment, one of the first submitted to the states for ratification, ensures that states possess all powers not explicitly assigned to the federal government by the Constitution. This guarantee protects states' reserved powers to regulate such things as marriage, divorce, and intrastate transportation and commerce, and to pass laws affecting education and public health and safety.

Of the later amendments only one, the Twenty-First, repealed another amendment, the Eighteenth, which had prohibited the manufacture, import, export, distribution, transportation, and sale of alcoholic beverages. Other amendments rectify problems that have arisen over the years or that reflect changing times. For example, the Seventeenth Amendment, ratified in 1913, gave voters the right to directly elect U.S. senators. The Twentieth Amendment, which was ratified in 1933 during the Great Depression, moved the date of the presidential inauguration from March to January. In a time of crisis, like a severe economic depression, the president needed to take office almost immediately after being elected, and modern transportation allowed the new president to travel to the nation's capital quicker than before. The Twenty-Second Amendment, added in 1955, limits the president to two terms in office, and the Twenty-Seventh Amendment, first submitted for ratification in 1789, regulates the implementation of laws regarding salary increases or decreases for members of Congress.

Of the remaining amendments, four are of especially great significance. The Thirteenth, Fourteenth, and Fifteenth Amendments, ratified at the end of the Civil War, changed the lives of African Americans who had been held in slavery. The Thirteenth Amendment abolished slavery in the United States. The Fourteenth Amendment granted citizenship to African Americans and equal protection under the law regardless of race or color. It also prohibited states from depriving their residents of life, liberty, or property without a legal proceeding. Over the years, the Fourteenth Amendment has been used to require states to protect most of the same federal freedoms granted by the Bill of Rights.

The Fifteenth and Nineteenth Amendments extended the right to vote. The Constitution had given states the power to set voting requirements, but the states had used this authority to deny women the right to vote. Most states before the 1830s had also used this authority to deny suffrage to property-less men and often to African American men as well. When states began to change property requirements for voters in the 1830s, many that had allowed free, property-owning African American men to vote restricted the suffrage to white men. The Fifteenth Amendment gave men the right to vote regardless of race or color, but women were still prohibited from voting in most states. After many years of campaigns for suffrage, as shown in Figure, the Nineteenth Amendment finally gave women the right to vote in 1920.

Subsequent amendments further extended the suffrage. The Twenty-Third Amendment (1961) allowed residents of Washington, DC to vote for the president. The Twenty-Fourth Amendment (1964) abolished the use of poll taxes. Many southern states had used a poll tax, a tax placed on voting, to prevent poor African Americans from voting. Thus, the states could circumvent the Fifteenth Amendment; they argued that they were denying African American men and women the right to vote not because of their race but because of their inability to pay the tax. The last great extension of the suffrage occurred in 1971 in the midst of the Vietnam War. The Twenty-Sixth Amendment reduced the voting age from twenty-one to eighteen. Many people had complained that the young men who were fighting in Vietnam should have the right to vote for or against those making decisions that might literally mean life or death for them. Many other amendments have been proposed over the years, including an amendment to guarantee equal rights to women, but all have failed.



This photo shows several women outside of the Woman Suffrage Headquarters. A large sign reads "Woman Suffrage Headquarters. Men of Ohio! Give the Women a Square Deal. Vote for Amendment No. 23 on September 3, 1912." A second sign reads, "Come in and learn why women ought to vote."

Suffragists encourage Ohio men to support votes for women. Before the Nineteenth Amendment was added to the Constitution in 1920, only a few western states such as Wyoming gave women the right to vote. These women seem to be attracting a primarily female audience to hear their cause.

GUARANTEEING YOUR FIRST AMENDMENT RIGHTS

The liberties of U.S. citizens are protected by the Bill of Rights, but potential or perceived threats to these freedoms arise constantly. This is especially true regarding First Amendment rights. Read about some of these threats at the American Civil

Liberties Union (ACLU) website and let people know how you feel about these issues.

What issue regarding First Amendment protections causes you the most concern?

One of the problems with the Articles of Confederation was the difficulty of changing it. To prevent this difficulty from recurring, the framers provided a method for amending the Constitution that required a two-thirds majority in both houses of Congress and in three-quarters of state legislatures to approve a change.

The possibility of amending the Constitution helped ensure its ratification, although many feared the powerful federal government it created would deprive them of their rights. To allay their anxieties, the framers promised that a Bill of Rights safeguarding individual liberties would be added following ratification. These ten amendments were formally added to the document in 1791 and other amendments followed over the years. Among the most important were those ending slavery, granting citizenship to African Americans, and giving the right to vote to Americans regardless of race, color, or sex.

How many states must ratify an amendment before it becomes law?

1. all
2. three-fourths
3. two-thirds
4. one-half

What is the Bill of Rights?

1. first ten amendments to the Constitution that protect individual freedoms
2. powers given to Congress in Article I of the Constitution
3. twenty-seven amendments added to the Constitution over the years
4. document authored by Thomas Jefferson that details the rights of the citizens

What did the Fourteenth Amendment achieve?

What core values and beliefs led to the American Revolution and the writing of the Articles of Confederation? How do these values and beliefs affect American politics today?

Was Britain truly depriving colonists of their natural rights? Explain your reasoning.

Do the Constitution and the Bill of Rights protect the life, liberty, and property of all Americans? Why or why not?

Was the Bill of Rights a necessary addition to the Constitution? Defend your answer.

One of the chief areas of compromise at the Constitutional Convention was the issue of slavery. Should delegates who opposed slavery have been willing to compromise? Why or why not?

Is the federal government too powerful? Should states have more power? If so, what specific power(s) should states have?

What new amendments should be added to the Constitution? Why?

Glossary

Bill of Rights

the first ten amendments to the U.S. Constitution; most were designed to protect fundamental rights and liberties

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CHAPTER OVERVIEW

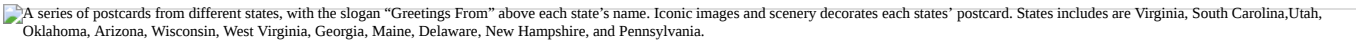
4: American Federalism

Topic hierarchy

4.1: Introduction
4.2: The Divisions of Power
4.3: The Evolution of American Federalism
4.4: Intergovernmental Relationships
4.5: Competitive Federalism Today
4.6: Advantages and Disadvantages of Federalism

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4.1: Introduction


A series of postcards from different states, with the slogan “Greetings From” above each state’s name. Iconic images and scenery decorates each states’ postcard. States includes are Virginia, South Carolina,Utah, Oklahoma, Arizona, Wisconsin, West Virginia, Georgia, Maine, Delaware, New Hampshire, and Pennsylvania.

Your first encounter with differences across states may have come from a childhood experience—perhaps visiting relatives in another state or going on a cross-country trip with your parents during summer vacation. The distinct postcard images of different states that come to your mind are symbolic of American federalism. (credit: modification of work by Boston Public Library)

Federalism figures prominently in the U.S. political system. Specifically, the federal design spelled out in the Constitution divides powers between two levels of government—the states and the federal government—and creates a mechanism for them to check and balance one another. As an institutional design, federalism both safeguards state interests and creates a strong union led by a capable central government.

American federalism also seeks to balance the forces of decentralization and centralization. We see decentralization when we cross state lines and encounter different taxation levels, welfare eligibility requirements, and voting regulations, to name just a few. Centralization is apparent in the fact that the federal government is the only entity permitted to print money, to challenge the legality of state laws, or to employ money grants and mandates to shape state actions. Colorful billboards with simple messages may greet us at state borders (Figure), but behind them lies a complex and evolving federal design that has structured relationships between states and the federal government since the late 1700s.

What specific powers and responsibilities are granted to the federal and state governments? How does our process of government keep these separate governing entities in balance? To answer these questions and more, this chapter traces the origins, evolution, and functioning of the American system of federalism, as well as its advantages and disadvantages for citizens.

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4.2: The Divisions of Power

Learning Objectives

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

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

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

FEDERALISM DEFINED AND CONTRASTED

Federalism is an institutional arrangement that creates two relatively autonomous levels of government, each possessing the capacity to act directly on behalf of the people with the authority granted to it by the national constitution.

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

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

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

Garry Willis, ed. 1982. *The Federalist Papers by Alexander Hamilton, James Madison and John Jay*. New York: Bantam Books, 237.

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

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

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

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

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

Arizona v. United States, 567 U.S. __ (2012).

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

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

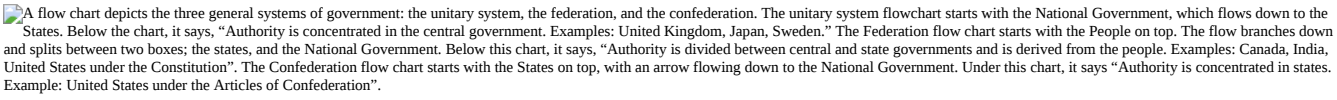
Finally, subnational governments are always represented in the upper house of the national legislature, enabling regional interests to influence national lawmaking.

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

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

The governmental design of the United States is unusual; most countries do not have a federal structure. Aside from the United States, how many other countries have a federal system?

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



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

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

FEDERALISM AND THE CONSTITUTION

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

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

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

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

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

However, when it came time to ratify the Constitution, a number of states requested that an amendment be added explicitly identifying the reserved powers of the states. What these Anti-Federalists sought was further assurance that the national government's capacity to act directly on behalf of the people would be restricted, which the first ten amendments (Bill of Rights) provided. The Tenth Amendment affirms the states' reserved powers: "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people." Indeed, state constitutions had bills of rights, which the first Congress used as the source for the first ten amendments to the Constitution.

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

Elton E. Richter. 1929. "Exclusive and Concurrent Powers in the Federal Constitution," *Notre Dame Law Review* 4, No. 8: 513–542. scholarship.law.nd.edu/cgi/vi...6&context=ndlr


This chart lists the powers of the federal government, the state government, and the concurrent powers they share. Under the Federal Government, the enumerated powers listed are coin money, regulate interstate and foreign commerce, conduct foreign affairs, establish rules of naturalization, punish counterfeiting, establish copyright/patent laws, regulate postal system, establish courts inferior to Supreme court, declare war, raise and support armies, make all laws "necessary and proper" to carry out responsibilities. The powers denied under the federal government are tax state exports, change state boundaries, and violate the Bill of Rights. Under the State Government, the reserved powers listed are regulate intrastate commerce, conduct elections, provide for public health, safety, welfare, and morals, establish local governments, maintain militia (National Guard), and ratify amendments to the constitution. Under powers denied, the chart lists tax imports and exports, coin money, enter into treaties, impair obligation of contracts, abridge the privileges or immunities of citizens or deny due process and equal protection of the laws. Under concurrent powers, the chart lists levy and collect taxes, borrow money, make and enforce laws, establish courts, charter banks and corporations, and take property for public purpose with just compensation (eminent domain).

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

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

The states are also constrained by the Constitution. Article I, Section 10, prohibits the states from entering into treaties with other countries, coining money, and levying taxes on imports and exports. Like the federal government, the states cannot violate personal freedoms by suspending the writ of habeas corpus, passing bills of attainder, or enacting ex post facto laws. Furthermore, the Fourteenth Amendment, ratified in 1868, prohibits the states from denying citizens the rights to which they are entitled by the Constitution, due process of law, or the equal protection of the laws. Lastly, three civil rights amendments—the Fifteenth,

Nineteenth, and Twenty-Sixth—prevent both the states and the federal government from abridging citizens' right to vote based on race, sex, and age. This topic remains controversial because states have not always ensured equal protection.

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

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

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

To address this concern, Congress passed and President Clinton signed the Defense of Marriage Act(DOMA) in 1996. The law declared that "No state (or other political subdivision within the United States) need recognize a marriage between persons of the same sex, even if the marriage was concluded or recognized in another state." The law also barred federal benefits for same-sex partners.

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

United States v. Windsor, 570 U.S. __ (2013).

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

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

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

Obergefell v. Hodges, 576 U.S. ___ (2015).

The privileges and immunities clause of Article IV asserts that states are prohibited from discriminating against out-of-staters by denying them such guarantees as access to courts, legal protection, property rights, and travel rights. The clause has not been interpreted to mean there cannot be *any* difference in the way a state treats residents and non-residents. For example, individuals cannot vote in a state in which they do not reside, tuition at state universities is higher for out-of-state residents, and in some cases individuals who have recently become residents of a state must wait a certain amount of time to be eligible for social welfare benefits. Another constitutional provision prohibits states from establishing trade restrictions on goods produced in other states. However, a state can tax out-of-state goods sold within its borders as long as state-made goods are taxed at the same level.

THE DISTRIBUTION OF FINANCES

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

Data reported by http://www.usgovernmentrevenue.com/federal_revenue. State and local government figures are estimated.

Two important developments have fundamentally changed the allocation of revenue since the early 1900s. First, the ratification of the Sixteenth Amendment in 1913 authorized Congress to impose income taxes without apportioning it among the states on the basis of population, a burdensome provision that Article I, Section 9, had imposed on the national government.

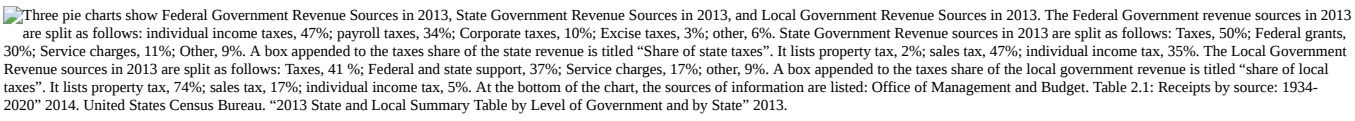
Pollock v. Farmers' Loan & Trust Co., 158 U.S. 601 (1895).

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

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

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

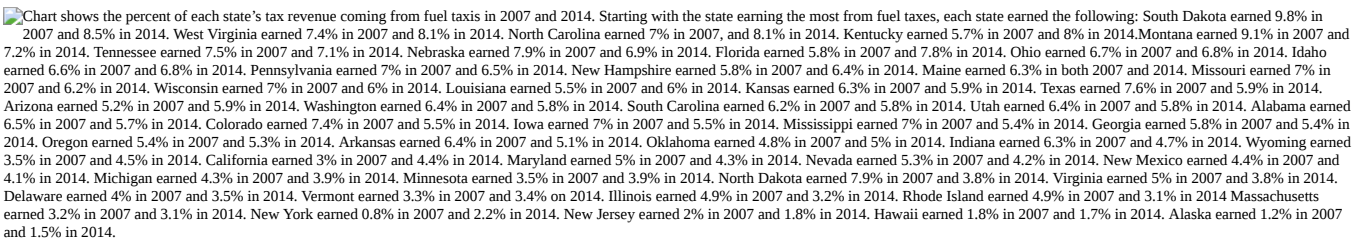
The sources of revenue for federal, state, and local governments are detailed in Figure. Although the data reflect 2013 results, the patterns we see in the figure give us a good idea of how governments have funded their activities in recent years. For the federal government, 47 percent of 2013 revenue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


Three pie charts show Federal Government Revenue Sources in 2013, State Government Revenue Sources in 2013, and Local Government Revenue Sources in 2013. The Federal Government revenue sources in 2013 are split as follows: individual income taxes, 47%; payroll taxes, 34%; Corporate taxes, 10%; Excise taxes, 3%; other, 6%. State Government Revenue sources in 2013 are split as follows: Taxes, 50%; Federal grants, 30%; Service charges, 11%; Other, 9%. A box appended to the taxes share of the state revenue is titled "Share of state taxes". It lists property tax, 2%; sales tax, 47%; individual income tax, 35%. The Local Government Revenue sources in 2013 are split as follows: Taxes, 41 %; Federal and state support, 37%; Service charges, 17%; other, 9%. A box appended to the taxes share of the local government revenue is titled "share of local taxes". It lists property tax, 74%; sales tax, 17%; individual income tax, 5%. At the bottom of the chart, the sources of information are listed: Office of Management and Budget. Table 2.1: Receipts by source: 1934-2020" 2014. United States Census Bureau. "2013 State and Local Summary Table by Level of Government and by State" 2013.

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

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

The tax structure of states varies. Alaska, Florida, Nevada, South Dakota, Texas, Washington, and Wyoming do not have individual income taxes. Figure illustrates yet another difference: Fuel tax as a percentage of total tax revenue is much higher in South Dakota and West Virginia than in Alaska and Hawaii. However, most states have done little to prevent the erosion of the fuel tax's share of their total tax revenue between 2007 and 2014 (notice that for many states the dark blue dots for 2014 are to the *left* of the light blue numbers for 2007). Fuel tax revenue is typically used to finance state highway transportation projects, although some states do use it to fund non-transportation projects.


Chart shows the percent of each state's tax revenue coming from fuel taxis in 2007 and 2014. Starting with the state earning the most from fuel taxes, each state earned the following: South Dakota earned 9.8% in 2007 and 8.5% in 2014. West Virginia earned 7.4% in 2007 and 8.1% in 2014. North Carolina earned 7% in 2007, and 8.1% in 2014. Kentucky earned 5.7% in 2007 and 8% in 2014.Montana earned 9.1% in 2007 and 7.2% in 2014. Tennessee earned 7.5% in 2007 and 7.1% in 2014. Nebraska earned 7.9% in 2007 and 6.9% in 2014. Florida earned 5.8% in 2007 and 7.8% in 2014. Ohio earned 6.7% in 2007 and 6.8% in 2014. Idaho earned 6.6% in 2007 and 6.8% in 2014. Pennsylvania earned 7% in 2007 and 6.5% in 2014. New Hampshire earned 5.8% in 2007 and 6.4% in 2014. Maine earned 6.3% in both 2007 and 2014. Missouri earned 7% in 2007 and 6.2% in 2014. Wisconsin earned 7% in 2007 and 6% in 2014. Louisiana earned 5.5% in 2007 and 6% in 2014. Kansas earned 6.3% in 2007 and 5.9% in 2014. Texas earned 7.6% in 2007 and 5.9% in 2014. Arizona earned 5.2% in 2007 and 5.9% in 2014. Washington earned 6.4% in 2007 and 5.8% in 2014. South Carolina earned 6.2% in 2007 and 5.8% in 2014. Utah earned 6.4% in 2007 and 5.8% in 2014. Alabama earned 6.5% in 2007 and 5.7% in 2014. Colorado earned 7.4% in 2007 and 5.5% in 2014. Iowa earned 7% in 2007 and 5.5% in 2014. Mississippi earned 7% in 2007 and 5.4% in 2014. Georgia earned 5.8% in 2007 and 5.4% in 2014. Oregon earned 5.4% in 2007 and 5.3% in 2014. Arkansas earned 6.4% in 2007 and 5.1% in 2014. Oklahoma earned 4.8% in 2007 and 5% in 2014. Indiana earned 6.3% in 2007 and 4.7% in 2014. Wyoming earned 3.5% in 2007 and 4.5% in 2014. California earned 3% in 2007 and 4.4% in 2014. Maryland earned 5% in 2007 and 4.3% in 2014. Nevada earned 5.3% in 2007 and 4.2% in 2014. New Mexico earned 4.4% in 2007 and 4.1% in 2014. Michigan earned 4.3% in 2007 and 3.9% in 2014. Minnesota earned 3.5% in 2007 and 3.9% in 2014. North Dakota earned 7.9% in 2007 and 3.8% in 2014. Virginia earned 5% in 2007 and 3.8% in 2014. Delaware earned 4% in 2007 and 3.5% in 2014. Vermont earned 3.3% in 2007 and 3.4% on 2014. Illinois earned 4.9% in 2007 and 3.2% in 2014. Rhode Island earned 4.9% in 2007 and 3.1% in 2014 Massachusetts earned 3.2% in 2007 and 3.1% in 2014. New York earned 0.8% in 2007 and 2.2% in 2014. New Jersey earned 2% in 2007 and 1.8% in 2014. Hawaii earned 1.8% in 2007 and 1.7% in 2014. Alaska earned 1.2% in 2007 and 1.5% in 2014.

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

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

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

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

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

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

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

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

How are the revenues generated by our tax dollars, fees we pay to use public services and obtain licenses, and monies from other sources put to use by the different levels of government? A good starting point to gain insight on this question as it relates to the federal government is Article I, Section 8, of the Constitution. Recall, for instance, that the Constitution assigns the federal government various powers that allow it to affect the nation as a whole. A look at the federal budget in 2014 (Figure) shows that the three largest spending categories were Social Security (24 percent of the total budget); Medicare, Medicaid, the Children's Health Insurance Program, and marketplace subsidies under the Affordable Care Act (24 percent); and defense and international security assistance (18 percent). The rest was divided among categories such as safety net programs (11 percent), including the Earned Income Tax Credit and Child Tax Credit, unemployment insurance, food stamps, and other low-income assistance programs; interest on federal debt (7 percent); benefits for federal retirees and veterans (8 percent); and transportation infrastructure (3 percent).

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

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


A pie chart shows the division of the Federal Budget of 2014. The chart is divided as follows: defense and international security assistance, 18%; social security, 24%; medicare, medicaid, CHIP, and marketplace subsidies, 24%; non-security international, 1%; education, 2%; science and medical research, 2%; other, 2%; transportation infrastructure, 3%; interest on debt, 7%; benefits for federal retirees, 8%, safety net programs, 11%. The bottom of the chart lists its source as "Office of Management and Budget. "Fiscal Year 2016 Historical Tables." February 2, 2015.

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

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



This chart lists State and Local Government Expenditures in 2014. On utilities, state expenditures were around 20 million dollars while local expenditures were around 180 million dollars. Judicial state and local expenditures were both around 20 million dollars. State spending on solid waste is 0, while local spending is around 20 million dollars. State spending on sewerage is 0, while local spending is around 50 million dollars. Housing expenditures are about 10 million by the state and 50 million by local government. Corrections expenditures are around 50 million by the state and 25 million by the local government. Fire expenditures are 0 in state and around 50 million by the local government. Police expenditures are around 10 million by the state and around 90 million by the local government. Highway expenditures are around 100 million by the state and 60 million by the local government. Public welfare expenditures are around 430 million dollars by the state and around 50 million dollars by the local government. K-12 education expenditures are around 5 million dollars by the state and around 550 million dollars by the local governemnt. Higher education expenditures are around 210 million dollars by the state and around 600 million dollars by the local government. At the bottom of the chart, a source is cited: "U.S. Census Bureau. Appendix Table A-1: "State and local government finances by level of government in 2012" in "2012 Census of Governments: Finance—State and local government summary report." December 17, 2014.

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

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

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

Which statement about federal and unitary systems is most accurate?

1. In a federal system, power is concentrated in the states; in a unitary system, it is concentrated in the national government.
2. In a federal system, the constitution allocates powers between states and federal government; in a unitary system, powers are lodged in the national government.
3. Today there are more countries with federal systems than with unitary systems.
4. The United States and Japan have federal systems, while Great Britain and Canada have unitary systems.

Which statement is most accurate about the sources of revenue for local and state governments?

1. Taxes generate well over one-half the total revenue of local and state governments.
2. Property taxes generate the most tax revenue for both local and state governments.
3. Between 30 and 40 percent of the revenue for local and state governments comes from grant money.
4. Local and state governments generate an equal amount of revenue from issuing licenses and certificates.

What key constitutional provisions define the scope of authority of the federal and state governments?

What are the main functions of federal and state governments?

Glossary

bill of attainder

a legislative action declaring someone guilty without a trial; prohibited under the Constitution

concurrent powers

shared state and federal powers that range from taxing, borrowing, and making and enforcing laws to establishing court systems

devolution

a process in which powers from the central government in a unitary system are delegated to subnational units

elastic clause

the last clause of Article I, Section 8, which enables the national government "to make all Laws which shall be necessary and proper for carrying" out all its constitutional responsibilities

ex post facto law

a law that criminalizes an act retroactively; prohibited under the Constitution

federalism

an institutional arrangement that creates two relatively autonomous levels of government, each possessing the capacity to act directly on the people with authority granted by the national constitution

full faith and credit clause

found in Article IV, Section 1, of the Constitution, this clause requires states to accept court decisions, public acts, and contracts of other states; also referred to as the comity provision

privileges and immunities clause

found in Article IV, Section 2, of the Constitution, this clause prohibits states from discriminating against out-of-staters by denying such guarantees as access to courts, legal protection, and property and travel rights

unitary system

a centralized system of government in which the subnational government is dependent on the central government, where substantial authority is concentrated

writ of habeas corpus

a petition that enables someone in custody to petition a judge to determine whether that person’s detention is legal

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4.3: The Evolution of American Federalism

Learning Objectives

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

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

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

THE STRUGGLE BETWEEN NATIONAL POWER AND STATE POWER

As George Washington's secretary of the treasury from 1789 to 1795, Alexander Hamilton championed legislative efforts to create a publicly chartered bank. For Hamilton, the establishment of the Bank of the United States was fully within Congress's authority, and he hoped the bank would foster economic development, print and circulate paper money, and provide loans to the government. Although Thomas Jefferson, Washington's secretary of state, staunchly opposed Hamilton's plan on the constitutional grounds that the national government had no authority to create such an instrument, Hamilton managed to convince the reluctant president to sign the legislation.

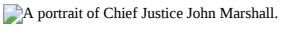
The Lehrman Institute. "The Founding Trio: Washington, Hamilton and Jefferson." http://lehrmaninstitute.org/history/FoundingTrio.asp

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

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

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

Under the necessary and proper clause of Article I, Section 8, the Supreme Court asserted that Congress could establish "all means which are appropriate" to fulfill "the legitimate ends" of the Constitution. In other words, the bank was an appropriate instrument that enabled the national government to carry out several of its enumerated powers, such as regulating interstate commerce, collecting taxes, and borrowing money.



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

This ruling established the doctrine of implied powers, granting Congress a vast source of discretionary power to achieve its constitutional responsibilities. The Supreme Court also sided with the federal government on the issue of whether states could tax federal property. Under the supremacy clause of Article VI, legitimate national laws trump conflicting state laws. As the court observed, "the government of the Union, though limited in its powers, is supreme within its sphere of action and its laws, when made in pursuance of the constitution, form the supreme law of the land." Maryland's action violated national supremacy because "the power to tax is the power to destroy." This second ruling established the principle of national supremacy, which prohibits states from meddling in the lawful activities of the national government.

Defining the scope of national power was the subject of another landmark Supreme Court decision in 1824. In *Gibbons v. Ogden*, the court had to interpret the commerce clause of Article I, Section 8; specifically, it had to determine whether the federal government had the sole authority to regulate the licensing of steamboats operating between New York and New Jersey.

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

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

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

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

W. Kirk Wood. 2008. *Nullification, A Constitutional History, 1776–1833*. Lanham, MD: University Press of America.

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

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

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

But the election of President Abraham Lincoln in 1860 led eleven southern states to secede from the United States because they believed the new president would challenge the institution of slavery. What was initially a conflict to preserve the Union became a conflict to end slavery when Lincoln issued the Emancipation Proclamation in 1863, freeing all slaves in the rebellious states. The defeat of the South had a huge impact on the balance of power between the states and the national government in two important ways. First, the Union victory put an end to the right of states to secede and to challenge legitimate national laws. Second, Congress imposed several conditions for readmitting former Confederate states into the Union; among them was ratification of the Fourteenth and Fifteenth Amendments. In sum, after the Civil War the power balance shifted toward the national government, a movement that had begun several decades before with *McCulloch v. Maryland* (1819) and *Gibbons v. Odgen* (1824).

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

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

DUAL FEDERALISM

The late 1870s ushered in a new phase in the evolution of U.S. federalism. Under dual federalism, the states and national government exercise exclusive authority in distinctly delineated spheres of jurisdiction. Like the layers of a cake, the levels of

government do not blend with one another but rather are clearly defined. Two factors contributed to the emergence of this conception of federalism. First, several Supreme Court rulings blocked attempts by both state and federal governments to step outside their jurisdictional boundaries. Second, the prevailing economic philosophy at the time loathed government interference in the process of industrial development.

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

Marc Allen Eisner. 2014. *The American Political Economy: Institutional Evolution of Market and State*. New York: Routledge.

To curtail widespread anticompetitive practices in the railroad industry, Congress passed the Interstate Commerce Act in 1887, which created the Interstate Commerce Commission. Three years later, national regulatory capacity was broadened by the Sherman Antitrust Act of 1890, which made it illegal to monopolize or attempt to monopolize and conspire in restraining commerce (Figure 03_02_Commerce). In the early stages of industrial capitalism, federal regulations were focused for the most part on promoting market competition rather than on addressing the social dislocations resulting from market operations, something the government began to tackle in the 1930s.

Eisner, *The American Political Economy*; Stephen Skowronek. 1982. *Building a New American State: The Expansion of National Administrative Capacities, 1877–1920*. Cambridge, MA: Cambridge University Press.


Image A is an illustration of a large fly with a man's face. The fly is stuck in a web labeled "The Law". In the center of the web is a spider labeled "Interstate Commerce Commission". Under the image, a caption states "Will you walk into my parlor?" The Puck magazine title runs across the top of the image. In image B, President William Howard Taft stands behind his attorney general George W. Wickersham as Wickersham tries to beat a "Monopoly", depicted as a round bottomed statue of a top hat and tuxedo wearing man, with a stick labeled "Sherman Law". The caption under the illustration says "Why doesn't it stay down when I hit it?"

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

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

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

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

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

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

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

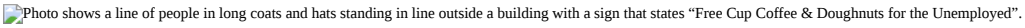
Hammer v. Dagenhart, 247 U.S. 251 (1918).

COOPERATIVE FEDERALISM

The Great Depression of the 1930s brought economic hardships the nation had never witnessed before (Figure). Between 1929 and 1933, the national unemployment rate reached 25 percent, industrial output dropped by half, stock market assets lost more than half their value, thousands of banks went out of business, and the gross domestic product shrunk by one-quarter.

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

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



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

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

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

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

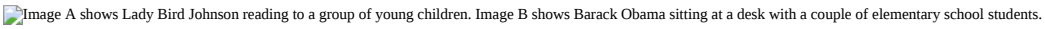
Jeff Shesol. 2010. *Supreme Power: Franklin Roosevelt vs. The Supreme Court*. New York: W. W. Norton.

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

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

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

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



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

While the era of cooperative federalism witnessed a broadening of federal powers in concurrent and state policy domains, it is also the era of a deepening coordination between the states and the federal government in Washington. Nowhere is this clearer than with respect to the social welfare and social insurance programs created during the New Deal and Great Society eras, most of which are

administered by both state and federal authorities and are jointly funded. The Social Security Act of 1935, which created federal subsidies for state-administered programs for the elderly; people with handicaps; dependent mothers; and children, gave state and local officials wide discretion over eligibility and benefit levels. The unemployment insurance program, also created by the Social Security Act, requires states to provide jobless benefits, but it allows them significant latitude to decide the level of tax to impose on businesses in order to fund the program as well as the duration and replacement rate of unemployment benefits. A similar multilevel division of labor governs Medicaid and Children's Health Insurance.

Lawrence R. Jacobs and Theda Skocpol. 2014. "Progressive Federalism and the Contested Implemented of Obama's Health Reform," In *The Politics of Major Policy Reform in Postwar America*, eds. Jeffrey A. Jenkins and Sidney M. Milkis. New York: Cambridge University Press.

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

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

NEW FEDERALISM

During the administrations of Presidents Richard Nixon (1969–1974) and Ronald Reagan (1981–1989), attempts were made to reverse the process of nationalization—that is, to restore states' prominence in policy areas into which the federal government had moved in the past. New federalism is premised on the idea that the decentralization of policies enhances administrative efficiency, reduces overall public spending, and improves policy outcomes. During Nixon's administration, general revenue sharing programs were created that distributed funds to the state and local governments with minimal restrictions on how the money was spent. The election of Ronald Reagan heralded the advent of a "devolution revolution" in U.S. federalism, in which the president pledged to return authority to the states according to the Constitution. In the Omnibus Budget Reconciliation Act of 1981, congressional leaders together with President Reagan consolidated numerous federal grant programs related to social welfare and reformulated them in order to give state and local administrators greater discretion in using federal funds.

Allen Schick. 2007. *The Federal Budget*, 3rd ed. Washington, DC: The Brookings Institution.

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

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

Several Supreme Court rulings also promoted new federalism by hemming in the scope of the national government's power, especially under the commerce clause. For example, in *United States v. Lopez*, the court struck down the Gun-Free School Zones Act of 1990, which banned gun possession in school zones.

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

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

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

However, many would say that the years since the 9/11 attacks have swung the pendulum back in the direction of central federal power. The creation of the Department of Homeland Security federalized disaster response power in Washington, and the Transportation Security Administration was created to federalize airport security. Broad new federal policies and mandates have

also been carried out in the form of the Faith-Based Initiative and No Child Left Behind (during the George W. Bush administration) and the Affordable Care Act (during Barack Obama's administration).

COOPERATIVE FEDERALISM VERSUS NEW FEDERALISM

Morton Grodzins coined the cake analogy of federalism in the 1950s while conducting research on the evolution of American federalism. Until then most scholars had thought of federalism as a layer cake, but according to Grodzins the 1930s ushered in "marble-cake federalism" (Figure): "The American form of government is often, but erroneously, symbolized by a three-layer cake. A far more accurate image is the rainbow or marble cake, characterized by an inseparable mingling of differently colored ingredients, the colors appearing in vertical and diagonal strands and unexpected whirls. As colors are mixed in the marble cake, so functions are mixed in the American federal system."

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



Image depicts federalism as two different types of cake. The first is labeled "Past: Layer Cake Federalism". The cake has three cleary defined horizontal layers. A label states "programs and authority are clearly divided among the national, state, and local governments". The second cake is labeled "Present: Marble Cake Federalism". The cake has layers that are all swirled together instead of being cleanly defined by layers. A label states "programs and authority are mixed among the national, state, and local governments".

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

Cooperative federalism has several merits:

- Because state and local governments have varying fiscal capacities, the national government's involvement in state activities such as education, health, and social welfare is necessary to ensure some degree of uniformity in the provision of public services to citizens in richer and poorer states.
- The problem of collective action, which dissuades state and local authorities from raising regulatory standards for fear they will be disadvantaged as others lower theirs, is resolved by requiring state and local authorities to meet minimum federal standards (e.g., minimum wage and air quality).
- Federal assistance is necessary to ensure state and local programs (e.g., water and air pollution controls) that generate positive externalities are maintained. For example, one state's environmental regulations impose higher fuel prices on its residents, but the externality of the cleaner air they produce benefits neighboring states. Without the federal government's support, this state and others like it would underfund such programs.

New federalism has advantages as well:

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

Which model of federalism do you think works best for the United States? Why?

The leading international journal devoted to the practical and theoretical study of federalism is called *Publius: The Journal of Federalism*. Find out where its name comes from.

Federalism in the United States has gone through several phases of evolution during which the relationship between the federal and state governments has varied. In the era of dual federalism, both levels of government stayed within their own jurisdictional spheres. During the era of cooperative federalism, the federal government became active in policy areas previously handled by the states. The 1970s ushered in an era of new federalism and attempts to decentralize policy management.

In *McCulloch v. Maryland*, the Supreme Court invoked which provisions of the constitution?

1. Tenth Amendment and spending clause
2. commerce clause and supremacy clause
3. necessary and proper clause and supremacy clause
4. taxing power and necessary and proper clause

Which statement about new federalism is *not* true?

1. New federalism was launched by President Nixon and continued by President Reagan.
2. New federalism is based on the idea that decentralization of responsibility enhances administrative efficiency.
3. *United States v. Lopez* is a Supreme Court ruling that advanced the logic of new federalism.
4. President Reagan was able to promote new federalism consistently throughout his administration.

Which is *not* a merit of cooperative federalism?

1. Federal cooperation helps mitigate the problem of collective action among states.
2. Federal assistance encourages state and local governments to generate positive externalities.
3. Cooperative federalism respects the traditional jurisdictional boundaries between states and federal government.
4. Federal assistance ensures some degree of uniformity of public services across states.

What are the main differences between cooperative federalism and dual federalism?

What were the implications of *McCulloch v. Maryland* for federalism?

Glossary

cooperative federalism

a style of federalism in which both levels of government coordinate their actions to solve national problems, leading to the blending of layers as in a marble cake

dual federalism

a style of federalism in which the states and national government exercise exclusive authority in distinctly delineated spheres of jurisdiction, creating a layer-cake view of federalism

general revenue sharing

a type of federal grant that places minimal restrictions on how state and local governments spend the money

new federalism

a style of federalism premised on the idea that the decentralization of policies enhances administrative efficiency, reduces overall public spending, and improves outcomes

nullification

a doctrine promoted by John Calhoun of South Carolina in the 1830s, asserting that if a state deems a federal law unconstitutional, it can nullify it within its borders

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4.4: Intergovernmental Relationships

Learning Objectives

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

- Explain how federal intergovernmental grants have evolved over time
- Identify the types of federal intergovernmental grants
- Describe the characteristics of federal unfunded mandates

The national government's ability to achieve its objectives often requires the participation of state and local governments. Intergovernmental grants offer positive financial inducements to get states to work toward selected national goals. A grant is commonly likened to a "carrot" to the extent that it is designed to entice the recipient to do something. On the other hand, unfunded mandates impose federal requirements on state and local authorities. Mandates are typically backed by the threat of penalties for non-compliance and provide little to no compensation for the costs of implementation. Thus, given its coercive nature, a mandate is commonly likened to a "stick."

GRANTS

The national government has used grants to influence state actions as far back as the Articles of Confederation when it provided states with land grants. In the first half of the 1800s, land grants were the primary means by which the federal government supported the states. Millions of acres of federal land were donated to support road, railroad, bridge, and canal construction projects, all of which were instrumental in piecing together a national transportation system to facilitate migration, interstate commerce, postal mail service, and movement of military people and equipment. Numerous universities and colleges across the country, such as Ohio State University and the University of Maine, are land-grant institutions because their campuses were built on land donated by the federal government. At the turn of the twentieth century, cash grants replaced land grants as the main form of federal intergovernmental transfers and have become a central part of modern federalism.

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

Federal cash grants do come with strings attached; the national government has an interest in seeing that public monies are used for policy activities that advance national objectives. Categorical grants are federal transfers formulated to limit recipients' discretion in the use of funds and subject them to strict administrative criteria that guide project selection, performance, and financial oversight, among other things. These grants also often require some commitment of matching funds. Medicaid and the food stamp program are examples of categorical grants. Block grants come with less stringent federal administrative conditions and provide recipients more flexibility over how to spend grant funds. Examples of block grants include the Workforce Investment Act program, which provides state and local agencies money to help youths and adults obtain skill sets that will lead to better-paying jobs, and the Surface Transportation Program, which helps state and local governments maintain and improve highways, bridges, tunnels, sidewalks, and bicycle paths. Finally, recipients of general revenue sharing faced the least restrictions on the use of federal grants. From 1972 to 1986, when revenue sharing was abolished, upwards of $85 billion of federal money was distributed to states, cities, counties, towns, and villages.

John Mikesell. 2014. *Fiscal Administration*, 9th ed. Boston: Wadsworth Publishing.

During the 1960s and 1970s, funding for federal grants grew significantly, as the trend line shows in Figure. Growth picked up again in the 1990s and 2000s. The upward slope since the 1990s is primarily due to the increase in federal grant money going to Medicaid. Federally funded health-care programs jumped from $43.8 billion in 1990 to $320 billion in 2014.

Dilger, "Federal Grants to State and Local Governments," 5.

Health-related grant programs such as Medicaid and the Children's Health Insurance Program (CHIP) represented more than half of total federal grant expenses.



These two graphs show the federal grants to the state and local government from 1960-2014. The first graph in the shape of a thermometer shows the increase of federal grants. In 1960, grants were around 7,019 dollars. In 1970, grants were around 24,065 dollars. In 1980, grants were around 91,385 dollars. In 1990, grants were around 135,325. In 2000, grants were around 285,874 dollars. In 2005, grants were around 428,018 dollars. In 2010, grants were around 544,569 dollars. In 2014, grants were around 608,390 dollars. The pie chart next to this graph shows the breakdown of the 2014 Federal grant of 608,390 dollars. Health received 55%, income security received 17%, transportation received 11%, Education, training, employment and social services received 11%, community and regional development received 2%. Other departments had received around 4%. At the bottom of the chart, a source is cited: "Congressional Research Service. Table 2 in Federal Grants to State and Local Governments: A Historic Perspective on Contemporary Issues. March 5, 2015.

As the thermometer shows, federal grants to state and local governments have steadily increased since the 1960s. The pie chart shows how federal grants are allocated among different functional categories today.

The federal government uses grants and other tools to achieve its national policy priorities. Take a look at the National Priorities Project to find out more.

The national government has greatly preferred using categorical grants to transfer funds to state and local authorities because this type of grant gives them more control and discretion in how the money is spent. In 2014, the federal government distributed 1,099 grants, 1,078 of which were categorical, while only 21 were block grants.

——, "Federal Grants to State and Local Governments," Table 4.

In response to the terrorist attack on the United States on September 11, 2001, more than a dozen new federal grant programs relating to homeland security were created, but as of 2011, only three were block grants.

There are a couple of reasons that categorical grants are more popular than block grants despite calls to decentralize public policy. One reason is that elected officials who sponsor these grants can take credit for their positive outcomes (e.g., clean rivers, better-performing schools, healthier children, a secure homeland) since elected officials, not state officials, formulate the administrative standards that lead to the results. Another reason is that categorical grants afford federal officials greater command over grant program performance. A common criticism leveled against block grants is that they lack mechanisms to hold state and local administrators accountable for outcomes, a reproach the Obama administration has made about the Community Services Block Grant program. Finally, once categorical grants have been established, vested interests in Congress and the federal bureaucracy seek to preserve them. The legislators who enact them and the federal agencies that implement them invest heavily in defending them, ensuring their continuation.

Schick, *The Federal Budget*.

Reagan's "devolution revolution" contributed to raising the number of block grants from six in 1981 to fourteen in 1989. Block grants increased to twenty-four in 1999 during the Clinton administration and to twenty-six during Obama's presidency, but by 2014 the total had dropped to twenty-one, accounting for 10 percent of total federal grant outlay.

Robert Jay Dilger and Eugene Boyd, "Block Grants: Perspectives and Controversies," *Congressional Research Service*, Report R40486, 15 July 2014, 1–3.

In 1994, the Republican-controlled Congress passed legislation that called for block-granting Medicaid, which would have capped federal Medicaid spending. President Clinton vetoed the legislation. However, congressional efforts to convert Aid to Families with Dependent Children (AFDC) to a block grant succeeded. The Temporary Assistance for Needy Families (TANF) block grant replaced the AFDC in 1996, marking the first time the federal government transformed an entitlement program (which guarantees individual rights to benefits) into a block grant. Under the AFDC, the federal government had reimbursed states a portion of the costs they bore for running the program without placing a ceiling on the amount. In contrast, the TANF block grant caps annual federal funding at $16.489 billion and provides a yearly lump sum to each state, which it can use to manage its own program.

Block grants have been championed for their cost-cutting effects. By eliminating uncapped federal funding, as the TANF issue illustrates, the national government can reverse the escalating costs of federal grant programs. This point has not been lost on Speaker of the House Paul Ryan (R-WI), former chair of the House Budget Committee and the House Ways and Means Committee, who has tried multiple times but without success to convert Medicaid into a block grant, a reform he estimates could save the federal government upwards of $732 billion over ten years.

Jonathan Weisman, "Ryan's Budget Would Cut $5 trillion in Spending Over a Decade," *New York Times*, 1 April 2014.

Another noteworthy characteristic of block grants is that their flexibility has been undermined over time as a result of creeping categorization, a process in which the national government places new administrative requirements on state and local governments or supplants block grants with new categorical grants.

Kenneth Finegold, Laura Wherry, and Stephanie Schardin. 2014. "Block Grants: Historical Overview and Lessons Learned," *New Federalism: Issues and Options for States* Series A, No A-63: 1–7.

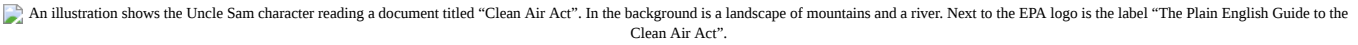
Among the more common measures used to restrict block grants' programmatic flexibility are set-asides (i.e., requiring a certain share of grant funds to be designated for a specific purpose) and cost ceilings (i.e., placing a cap on funding other purposes).

UNFUNDED MANDATES

Unfunded mandates are federal laws and regulations that impose obligations on state and local governments without fully compensating them for the administrative costs they incur. The federal government has used mandates increasingly since the 1960s to promote national objectives in policy areas such as the environment, civil rights, education, and homeland security. One type of mandate threatens civil and criminal penalties for state and local authorities that fail to comply with them across the board in all programs, while another provides for the suspension of federal grant money if the mandate is not followed. These types of mandates are commonly referred to as *crosscutting* mandates. Failure to fully comply with crosscutting mandates can result in punishments that normally include reduction of or suspension of federal grants, prosecution of officials, fines, or some combination of these penalties. If only one requirement is not met, state or local governments may not get any money at all.

For example, Title VI of the Civil Rights Act of 1964 authorizes the federal government to withhold federal grants as well as file lawsuits against state and local officials for practicing racial discrimination. Finally, some mandates come in the form of partial preemption regulations, whereby the federal government sets national regulatory standards but delegates the enforcement to state and local governments. For example, the Clean Air Act sets air quality regulations but instructs states to design implementation plans to achieve such standards (Figure).

Martha Derthick. 1987. "American Federalism: Madison's Middle Ground in the 1980s," *Public Administration Review* 47, No. 1: 66–74.



The Clean Air Act is an example of an unfunded mandate. The Environmental Protection Agency sets federal standards regarding air and water quality, but it is up to each state to implement plans to achieve these standards.

The widespread use of federal mandates in the 1970s and 1980s provoked a backlash among state and local authorities, which culminated in the Unfunded Mandates Reform Act (UMRA) in 1995. The UMRA's main objective has been to restrain the national government's use of mandates by subjecting rules that impose unfunded requirements on state and local governments to greater procedural scrutiny. However, since the act's implementation, states and local authorities have obtained limited relief. A new piece of legislation aims to take this approach further. The 2015 Unfunded Mandates and Information Transparency Act, HR 50, passed the House early in 2015 before being referred to the Senate, where it waits committee consideration.

U.S. Congress. Senate. 2015–2016. H. R. 50 – *Unfunded Mandates Information and Transparency Act of 2015* H. Rept. 114-11. https://www.congress.gov/bill/114th-.../house-bill/50

The number of mandates has continued to rise, and some have been especially costly to states and local authorities. Consider the Real ID Act of 2005, a federal law designed to beef up homeland security. The law requires driver's licenses and state-issued identification cards (DL/IDs) to contain standardized anti-fraud security features, specific data, and machine-readable technology. It also requires states to verify the identity of everyone being reissued DL/IDs. The Department of Homeland Security announced a phased enforcement of the law in 2013, which requires individuals to present compliant DL/IDs to board commercial airlines starting in 2016. The cost to states of re-issuing DL/IDs, implementing new identity verification procedures, and redesigning DL/IDs is estimated to be $11 billion, and the federal government stands to reimburse only a small fraction.

National Governors Association, National Conference of State Legislatures, and American Association of Motor Vehicle Administrators. 2006. *The Real ID Act: National Impact Analysis*. http://www.ncsl.org/print/statefed/r...nal_sept19.pdf

Compliance with the federal law has been onerous for many states; only twenty-two were in full compliance with Real ID in 2015.

Homeland Security. "REAL ID Enforcement in Brief." http://www.dhs.gov/real-id-enforcement-brief# (June 12, 2015); National Conference of State Legislatures. "Countdown to REAL ID." http://www.ncsl.org/research/transpo...o-real-id.aspx (June 12, 2015).

The continued use of unfunded mandates clearly contradicts new federalism's call for giving states and local governments more flexibility in carrying out national goals. The temptation to use them appears to be difficult for the federal government to resist, however, as the UMRA's poor track record illustrates. This is because mandates allow the federal government to fulfill its national priorities while passing most of the cost to the states, an especially attractive strategy for national lawmakers trying to cut federal spending.

Robert Jay Dilger and Richard S. Beth, "Unfunded Mandates Reform Act: History, Impact, and Issues," *Congressional Research Service*, Report 7-5700, 17 November 2014.

Some leading federalism scholars have used the term *coercive federalism* to capture this aspect of contemporary U.S. federalism.

John Kincaid. 1990. "From Cooperative Federalism to Coercive Federalism," *Annals of the American Academy of Political and Social Science* 509: 139–152.

In other words, Washington has been as likely to use the stick of mandates as the carrot of grants to accomplish its national objectives. As a result, there have been more instances of confrontational interactions between the states and the federal government.

THE CLERY ACT

The Clery Act of 1990, formally the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, requires public and private colleges and universities that participate in federal student aid programs to disclose information about campus crime. The Act is named after Jeanne Clery, who in 1986 was raped and murdered by a fellow student in her Lehigh University dorm room.

The U.S. Department of Education's Clery Act Compliance Division is responsible for enforcing the 1990 Act. Specifically, to remain eligible for federal financial aid funds and avoid penalties, colleges and universities must comply with the following provisions:

- Publish an annual security report and make it available to current and prospective students and employees;
- Keep a public crime log that documents each crime on campus and is accessible to the public;
- Disclose information about incidents of criminal homicide, sex offenses, robbery, aggravated assault, burglary, motor vehicle theft, arson, and hate crimes that occurred on or near campus;
- Issue warnings about Clery Act crimes that pose a threat to students and employees;
- Develop a campus community emergency response and notification strategy that is subject to annual testing;
- Gather and report fire data to the federal government and publish an annual fire safety report;
- Devise procedures to address reports of missing students living in on-campus housing.

For more about the Clery Act, see Clery Center for Security on Campus, http://clerycenter.org.

Were you made aware of your campus's annual security report before you enrolled? Do you think reporting about campus security is appropriately regulated at the federal level under the Clery Act? Why or why not?

To accomplish its policy priorities, the federal government often needs to elicit the cooperation of states and local governments, using various strategies. Block and categorical grants provide money to lower government levels to subsidize the cost of implementing policy programs fashioned in part by the federal government. This strategy gives state and local authorities some degree of flexibility and discretion as they coordinate with the federal government. On the other hand, mandate compels state and local governments to abide by federal laws and regulations or face penalties.

Which statement about federal grants in recent decades is most accurate?

1. The federal government allocates the most grant money to income security.
2. The amount of federal grant money going to states has steadily increased since the 1960s.
3. The majority of federal grants are block grants.
4. Block grants tend to gain more flexibility over time.

Which statement about unfunded mandates is *false?*

1. The Unfunded Mandates Reform Act has prevented Congress from using unfunded mandates.
2. The Clean Air Act is a type of federal partial preemptive regulation.
3. Title VI of the Civil Rights Act establishes crosscutting requirements.
4. New federalism does not promote the use of unfunded mandates.

What does it mean to refer to the carrot of grants and the stick of mandates?

Glossary

block grant

a type of grant that comes with less stringent federal administrative conditions and provide recipients more latitude over how to spend grant funds

categorical grant

a federal transfer formulated to limit recipients' discretion in the use of funds and subject them to strict administrative criteria

creeping categorization

a process in which the national government attaches new administrative requirements to block grants or supplants them with new categorical grants

unfunded mandates

federal laws and regulations that impose obligations on state and local governments without fully compensating them for the costs of implementation

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4.5: Competitive Federalism Today

Learning Objectives

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

- Explain the dynamic of competitive federalism
- Analyze some issues over which the states and federal government have contended

Certain functions clearly belong to the federal government, the state governments, and local governments. National security is a federal matter, the issuance of licenses is a state matter, and garbage collection is a local matter. One aspect of competitive federalism today is that some policy issues, such as immigration and the marital rights of gays and lesbians, have been redefined as the roles that states and the federal government play in them have changed. Another aspect of competitive federalism is that interest groups seeking to change the status quo can take a policy issue up to the federal government or down to the states if they feel it is to their advantage. Interest groups have used this strategy to promote their views on such issues as abortion, gun control, and the legal drinking age.

CONTENDING ISSUES

Immigration and marriage equality have not been the subject of much contention between states and the federal government until recent decades. Before that, it was understood that the federal government handled immigration and states determined the legality of same-sex marriage. This understanding of exclusive responsibilities has changed; today both levels of government play roles in these two policy areas.

Immigration federalism describes the gradual movement of states into the immigration policy domain.

Carol M. Swain and Virgina M. Yetter. (2014). “Federalism and the Politics of Immigration Reform.” In *The Politics of Major Policy Reform in Postwar America*, eds. Jeffery A. Jenkins and Sidney M. Milkis. New York: Cambridge University Press.

Since the late 1990s, states have asserted a right to make immigration policy on the grounds that they are enforcing, not supplanting, the nation’s immigration laws, and they are exercising their jurisdictional authority by restricting illegal immigrants’ access to education, health care, and welfare benefits, areas that fall under the states’ responsibilities. In 2005, twenty-five states had enacted a total of thirty-nine laws related to immigration; by 2014, forty-three states and Washington, DC, had passed a total of 288 immigration-related laws and resolutions.

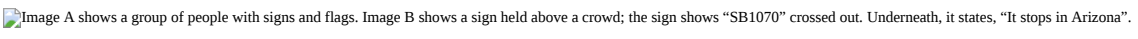
National Conference of State Legislatures. “State Laws Related to Immigration and Immigrants.” http://www.ncsl.org/research/immigra...mmigrants.aspx (June 23, 2015).

Arizona has been one of the states at the forefront of immigration federalism. In 2010, it passed Senate Bill 1070, which sought to make it so difficult for illegal immigrants to live in the state that they would return to their native country, a strategy referred to as “attrition by enforcement.”

Michele Waslin. 2012. “Discrediting ‘Self Deportation’ as Immigration Policy,” February 6. www.immigrationpolicy.org/spe...gration-policy

The federal government filed suit to block the Arizona law, contending that it conflicted with federal immigration laws. Arizona’s law has also divided society, because some groups, like the Tea Partymovement, have supported its tough stance against illegal immigrants, while other groups have opposed it for humanitarian and human-rights reasons (Figure). According to a poll of Latino voters in the state by Arizona State University researchers, 81 percent opposed this bill.

Daniel González. 2010. “SB 1070 Backlash Spurs Hispanics to Join Democrats,” June 8. http://archive.azcentral.com/arizona...-backlash.html



Tea Party members in St. Paul, Minnesota, protest amnesty and illegal immigration on November 14, 2009 (a). Following the adoption of Senate Bill 1070 in Arizona, which took a tough stance on illegal immigration, supporters of immigration reform demonstrated across the country in opposition to the bill, including in Lafayette Park (b), located across the street from the White House in Washington, DC. (credit a: modification of work by “Fibonacci Blue”/Flickr; credit b: modification of work by Nevele Otseog)

In 2012, in *Arizona v. United States*, the Supreme Court affirmed federal supremacy on immigration.

Arizona v. United States, 567 U.S. __ (2012).

The court struck down three of the four central provisions of the Arizona law—namely, those allowing police officers to arrest an undocumented immigrant without a warrant if they had probable cause to think he or she had committed a crime that could lead to deportation, making it a crime to seek a job without proper immigration papers, and making it a crime to be in Arizona without valid immigration papers. The court upheld the "show me your papers" provision, which authorizes police officers to check the immigration status of anyone they stop or arrest who they suspect is an illegal immigrant.

Arizona v. United States, 567 U.S. __ (2012).

However, in letting this provision stand, the court warned Arizona and other states with similar laws that they could face civil rights lawsuits if police officers applied it based on racial profiling.

Julia Preston, "Arizona Ruling Only a Narrow Opening for Other States," *New York Times*, 25 June 2012.

All in all, Justice Anthony Kennedy's opinion embraced an expansive view of the U.S. government's authority to regulate immigration and aliens, describing it as broad and undoubted. That authority derived from the legislative power of Congress to "establish a uniform Rule of Naturalization," enumerated in the Constitution.

Arizona's Senate Bill 1070 has been the subject of heated debate. Read the views of proponents and opponents of the law.

Marital rights for gays and lesbians have also significantly changed in recent years. By passing the Defense of Marriage Act (DOMA) in 1996, the federal government stepped into this policy issue. Not only did DOMA allow states to choose whether to recognize same-sex marriages, it also defined marriage as a union between a man and a woman, which meant that same-sex couples were denied various federal provisions and benefits—such as the right to file joint tax returns and receive Social Security survivor benefits. In 1997, more than half the states in the union had passed some form of legislation banning same-sex marriage. By 2006, two years after Massachusetts became the first state to recognize marriage equality, twenty-seven states had passed constitutional bans on same-sex marriage. In *United States v. Windsor*, the Supreme Court changed the dynamic established by DOMA by ruling that the federal government had no authority to define marriage. The Court held that states possess the "historic and essential authority to define the marital relation," and that the federal government's involvement in this area "departs from this history and tradition of reliance on state law to define marriage."

United States v. Windsor, 570 U.S. __ (2013).

EDITH WINDSOR: ICON OF THE MARRIAGE EQUALITY MOVEMENT

Edith Windsor, the plaintiff in the landmark Supreme Court case *United States v. Windsor*, has become an icon of the marriage equality movement for her successful effort to force repeal the DOMA provision that denied married same-sex couples a host of federal provisions and protections. In 2007, after having lived together since the late 1960s, Windsor and her partner Thea Spyer were married in Canada, where same-sex marriage was legal. After Spyer died in 2009, Windsor received a $363,053 federal tax bill on the estate Spyer had left her. Because her marriage was not valid under federal law, her request for the estate-tax exemption that applies to surviving spouses was denied. With the counsel of her lawyer, Roberta Kaplan, Windsor sued the federal government and won (Figure).


Image shows two people at a podium in front of a large crowd on a city street. One person speaks to the crowd, while the other stands next to the podium.

With her client Edith Windsor looking on, attorney Roberta Kaplan speaks to the crowd at the site of the 1969 Stonewall Riots, a historic landmark in the movement for LGBT rights. (credit: "Boss Tweed" /Flickr)

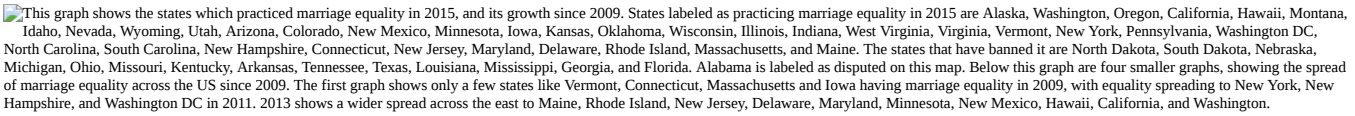
Because of the *Windsor* decision, federal laws could no longer discriminate against same-sex married couples. What is more, marriage equality became a reality in a growing number of states as federal court after federal court overturned state constitutional bans on same-sex marriage. The *Windsor* case gave federal judges the moment of clarity from the U.S. Supreme Court that they needed. James Esseks, director of the American Civil Liberties Union's (ACLU) Lesbian Gay Bisexual Transgender & AIDS Project, summarizes the significance of the case as follows: "Part of what's gotten us to this exciting moment in American culture is not just Edie's lawsuit but the story of her life. The love at the core of that story, as well as the injustice at its end, is part of what has moved America on this issue so profoundly."

James Esseks. 2014. "Op-ed: In the Wake of Windsor," June 26. www.advocate.com/commentary/2...d-wake-windsor (June 24, 2015).

In the final analysis, same-sex marriage is a protected constitutional right as decided by the U.S. Supreme Court, which took up the issue again when it heard *Obergefell v. Hodges* in 2015.

What role do you feel the story of Edith Windsor played in reframing the debate over same-sex marriage? How do you think it changed the federal government's view of its role in legislation regarding same-sex marriage relative to the role of the states?

Following the *Windsor* decision, the number of states that recognized same-sex marriages increased rapidly, as illustrated in Figure. In 2015, marriage equality was recognized in thirty-six states plus Washington, DC, up from seventeen in 2013. The diffusion of marriage equality across states was driven in large part by federal district and appeals courts, which have used the rationale underpinning the *Windsor* case (i.e., laws cannot discriminate between same-sex and opposite-sex couples based on the equal protection clause of the Fourteenth Amendment) to invalidate state bans on same-sex marriage. The 2014 court decision not to hear a collection of cases from four different states essentially affirmed same-sex marriage in thirty states. And in 2015 the Supreme Court gave same-sex marriage a constitutional basis of right nationwide in *Obergefell v. Hodges*. In sum, as the immigration and marriage equality examples illustrate, constitutional disputes have arisen as states and the federal government have sought to reposition themselves on certain policy issues, disputes that the federal courts have had to sort out.


This graph shows the states which practiced marriage equality in 2015, and its growth since 2009. States labeled as practicing marriage equality in 2015 are Alaska, Washington, Oregon, California, Hawaii, Montana, Idaho, Nevada, Wyoming, Utah, Arizona, Colorado, New Mexico, Minnesota, Iowa, Kansas, Oklahoma, Wisconsin, Illinois, Indiana, West Virginia, Virginia, Vermont, New York, Pennsylvania, Washington DC, North Carolina, South Carolina, New Hampshire, Connecticut, New Jersey, Maryland, Delaware, Rhode Island, Massachusetts, and Maine. The states that have banned it are North Dakota, South Dakota, Nebraska, Michigan, Ohio, Missouri, Kentucky, Arkansas, Tennessee, Texas, Louisiana, Mississippi, Georgia, and Florida. Alabama is labeled as disputed on this map. Below this graph are four smaller graphs, showing the spread of marriage equality across the US since 2009. The first graph shows only a few states like Vermont, Connecticut, Massachusetts and Iowa having marriage equality in 2009, with equality spreading to New York, New Hampshire, and Washington DC in 2011. 2013 shows a wider spread across the east to Maine, Rhode Island, New Jersey, Delaware, Maryland, Minnesota, New Mexico, Hawaii, California, and Washington.

The number of states that practiced marriage equality gradually increased between 2008 and 2015, with the fastest increase occurring between *United States v. Windsor* in 2013 and *Obergefell v. Hodges* in 2015.

STRATEGIZING ABOUT NEW ISSUES

Mothers Against Drunk Driving (MADD) was established in 1980 by a woman whose thirteen-year-old daughter had been killed by a drunk driver. The organization lobbied state legislators to raise the drinking age and impose tougher penalties, but without success. States with lower drinking ages had an economic interest in maintaining them because they lured youths from neighboring states with restricted consumption laws. So MADD decided to redirect its lobbying efforts at Congress, hoping to find sympathetic representatives willing to take action. In 1984, the federal government passed the National Minimum Drinking Age Act (NMDAA), a crosscutting mandate that gradually reduced federal highway grant money to any state that failed to increase the legal age for alcohol purchase and possession to twenty-one. After losing a legal battle against the NMDAA, all states were in compliance by 1988.

South Dakota v. Dole, 483 U.S. 203 (1987).

By creating two institutional access points—the federal and state governments—the U.S. federal system enables interest groups such as MADD to strategize about how best to achieve their policy objectives. The term venue shopping refers to a strategy in which interest groups select the level and branch of government (legislature, judiciary, or executive) they calculate will be most advantageous for them.

Frank Baumgartner and Bryan Jones. 1993. *Agendas and Instability in American Politics*. Chicago: University of Chicago Press.

If one institutional venue proves unreceptive to an advocacy group's policy goal, as state legislators were to MADD, the group will attempt to steer its issue to a more responsive venue.

The strategy anti-abortion advocates have used in recent years is another example of venue shopping. In their attempts to limit abortion rights in the wake of the 1973 *Roe v. Wade* Supreme Court decision making abortion legal nationwide, anti-abortion advocates initially targeted Congress in hopes of obtaining restrictive legislation.

Roe v. Wade, 410 U.S. 113 (1973).

Lack of progress at the national level prompted them to shift their focus to state legislators, where their advocacy efforts have been more successful. By 2015, for example, thirty-eight states required some form of parental involvement in a minor's decision to have an abortion, forty-six states allowed individual health-care providers to refuse to participate in abortions, and thirty-two states prohibited the use of public funds to carry out an abortion except when the woman's life is in danger or the pregnancy is the result of rape or incest. While 31 percent of U.S. women of childbearing age resided in one of the thirteen states that had passed restrictive abortion laws in 2000, by 2013, about 56 percent of such women resided in one of the twenty-seven states where abortion is restricted.

Elizabeth Nash et al. 2013. "Laws Affecting Reproductive Health and Rights: 2013 State Policy Review." www.guttmacher.org/statecente...ends42013.html (June 24, 2015).

Some policy areas have been redefined as a result of changes in the roles that states and the federal government play in them. The constitutional disputes these changes often trigger have had to be sorted out by the Supreme Court. Contemporary federalism has also witnessed interest groups engaging in venue shopping. Aware of the multiple access points to our political system, such groups seek to access the level of government they deem will be most receptive to their policy views.

Which statement about immigration federalism is *false?*

1. The *Arizona v. United States* decision struck down all Arizona's most restrictive provisions on illegal immigration.
2. Since the 1990s, states have increasingly moved into the policy domain of immigration.
3. Federal immigration laws trump state laws.
4. States' involvement in immigration is partly due to their interest in preventing illegal immigrants from accessing public services such as education and welfare benefits.

Which statement about the evolution of same-sex marriage is *false?*

1. The federal government became involved in this issue when it passed DOMA.
2. In the 1990s and 2000s, the number of state restrictions on same-sex marriage increased.
3. *United States v. Windsor* legalized same-sex marriage in the United States.
4. More than half the states had legalized same-sex marriage by the time the Supreme Court made same-sex marriage legal nationwide in 2015.

Which statement about venue shopping is true?

1. MADD steered the drinking age issue from the federal government down to the states.
2. Anti-abortion advocates have steered the abortion issue from the states up to the federal government.
3. Both MADD and anti-abortion proponents redirected their advocacy from the states to the federal government.
4. None of the statements are correct.

What does venue shopping mean?

Glossary

immigration federalism

the gradual movement of states into the immigration policy domain traditionally handled by the federal government

venue shopping

a strategy in which interest groups select the level and branch of government they calculate will be most receptive to their policy goals

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4.6: Advantages and Disadvantages of Federalism

Learning Objectives

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

- Discuss the advantages of federalism
- Explain the disadvantages of federalism

The federal design of our Constitution has had a profound effect on U.S. politics. Several positive and negative attributes of federalism have manifested themselves in the U.S. political system.

THE BENEFITS OF FEDERALISM

Among the merits of federalism are that it promotes policy innovation and political participation and accommodates diversity of opinion. On the subject of policy innovation, Supreme Court Justice Louis Brandeis observed in 1932 that "a single courageous state may, if its citizens choose, serve as a laboratory; and try novel social and economic experiments without risk to the rest of the country."

New State Ice Co. v. Liebmann, 285 U.S. 262 (1932).

What Brandeis meant was that states could harness their constitutional authority to engage in policy innovations that might eventually be diffused to other states and at the national level. For example, a number of New Deal breakthroughs, such as child labor laws, were inspired by state policies. Prior to the passage of the Nineteenth Amendment, several states had already granted women the right to vote. California has led the way in establishing standards for fuel emissions and other environmental policies (Figure). Recently, the health insurance exchanges run by Connecticut, Kentucky, Rhode Island, and Washington have served as models for other states seeking to improve the performance of their exchanges.

Christine Vestal and Michael Ollove, "Why some state-run health exchanges worked," *USA Today*, 10 December 2013.

Image A shows the Golden Gate bridge with a moderate amount of traffic. Image B shows a sticker on a car that states "Access OK California clean air vehicle". The sticker has the California state seal.

The California Air Resources Board was established in 1967, before passage of the federal Clean Air Act. The federal Environmental Protection Agency has adopted California emissions standards nationally, starting with the 2016 model year, and is working with California regulators to establish stricter national emissions standards going forward.(credit a: modification of work by Antti T. Nissinen; credit b: modification of work by Marcin Wichary)

Another advantage of federalism is that because our federal system creates two levels of government with the capacity to take action, failure to attain a desired policy goal at one level can be offset by successfully securing the support of elected representatives at another level. Thus, individuals, groups, and social movements are encouraged to actively participate and help shape public policy.

FEDERALISM AND POLITICAL OFFICE

Thinking of running for elected office? Well, you have several options. As Tableshows, there are a total of 510,682 elected offices at the federal, state, and local levels. Elected representatives in municipal and township governments account for a little more than half the total number of elected officials in the United States. Political careers rarely start at the national level. In fact, a very small share of politicians at the subnational level transition to the national stage as representatives, senators, vice presidents, or presidents.

This table lists the number of elected bodies and elected officials at the federal, state, and local levels.
Jennifer Lawless. 2012. *Becoming a Candidate*. New York: Cambridge University Press.

Elected Officials at the Federal, State, and Local Levels		
	Number of Elective Bodies	Number of Elected Officials
Federal Government	1	
Executive branch		2
U.S. Senate		100
U.S. House of Representatives		435
State Government	50	
State legislatures		7,382
Statewide offices		1,036
State boards		1,331
Local Government		
County governments	3,034	58,818
Municipal governments	19,429	135,531
Town governments	16,504	126,958
School districts	13,506	95,000
Special districts	35,052	84,089
Total	**87,576**	**510,682**

If you are interested in serving the public as an elected official, there are more opportunities to do so at the local and state levels than at the national level. As an added incentive for setting your sights at the subnational stage, consider the following. Whereas only 28 percent of U.S. adults trusted Congress in 2014, about 62 percent trusted their state governments and 72 percent had confidence in their local governments.

Justin McCarthy. 2014. "Americans Still Trust Local Government More Than State," September 22. http://www.gallup.com/poll/176846/am...ent-state.aspx (June 24, 2015).

If you ran for public office, what problems would you most want to solve? What level of government would best enable you to solve them, and why?

The system of checks and balances in our political system often prevents the federal government from imposing uniform policies across the country. As a result, states and local communities have the latitude to address policy issues based on the specific needs and interests of their citizens. The diversity of public viewpoints across states is manifested by differences in the way states handle access to abortion, distribution of alcohol, gun control, and social welfare benefits, for example.

THE DRAWBACKS OF FEDERALISM

Federalism also comes with drawbacks. Chief among them are economic disparities across states, race-to-the-bottom dynamics (i.e., states compete to attract business by lowering taxes and regulations), and the difficulty of taking action on issues of national importance.

Stark economic differences across states have a profound effect on the well-being of citizens. For example, in 2014, Maryland had the highest median household income ($73,971), while Mississippi had the lowest ($39,680).

See http://www.deptofnumbers.com/income/ for more data on household income.

There are also huge disparities in school funding across states. In 2013, New York spent $19,818 per student for elementary and secondary education, while Utah spent $6,555.

Governing. “Education Spending Per Student by State.” www.governing.com/gov-data/ed...upil-data.html (June 24, 2015).

Furthermore, health-care access, costs, and quality vary greatly across states.

The Commonwealth Fund. “Aiming Higher: Results from a Scorecard on State Health System Performance, 2014.” www.commonwealthfund.org/publ...tate-scorecard (June 24, 2015).

Proponents of social justice contend that federalism has tended to obstruct national efforts to effectively even out these disparities.

The National Education Association discusses the problem of inequality in the educational system of the United States. Read its proposed solution and decide whether you agree.

The economic strategy of using race-to-the-bottom tactics in order to compete with other states in attracting new business growth also carries a social cost. For example, workers’ safety and pay can suffer as workplace regulations are lifted, and the reduction in payroll taxes for employers has led a number of states to end up with underfunded unemployment insurance programs.

Alexander Hertel-Fernandez. 2012. “Why U.S. Unemployment Insurance is in Financial Trouble,” February. www.scholarsstrategynetwork.o..._financing.pdf

Nineteen states have also opted not to cover more of their residents under Medicaid, as encouraged by the Patient Protection and Affordable Care Act in 2010, for fear it will raise state public spending and increase employers’ cost of employee benefits, despite provisions that the federal government will pick up nearly all cost of the expansion.

Matt Broaddus and January Angeles. 2012. “Federal Government Will Pick Up Nearly All Costs of Health Reform’s Medicaid Expansion,” March 28. http://www.cbpp.org/research/federal...caid-expansion

More than half of these states are in the South.

The federal design of our Constitution and the system of checks and balances has jeopardized or outright blocked federal responses to important national issues. President Roosevelt’s efforts to combat the scourge of the Great Depression were initially struck down by the Supreme Court. More recently, President Obama’s effort to make health insurance accessible to more Americans under the Affordable Care Act immediately ran into legal challenges

National Federation of Independent Business v. Sebelius, 567 U.S. __ (2012).

from some states, but it has been supported by the Supreme Court so far. However, the federal government’s ability to defend the voting rights of citizens suffered a major setback when the Supreme Court in 2013 struck down a key provision of the Voting Rights Act of 1965.

Shelby County v. Holder, 570 U.S. __ (2013).

No longer are the nine states with histories of racial discrimination in their voting processes required to submit plans for changes to the federal government for approval.

The benefits of federalism are that it can encourage political participation, give states an incentive to engage in policy innovation, and accommodate diverse viewpoints across the country. The disadvantages are that it can set off a race to the bottom among states, cause cross-state economic and social disparities, and obstruct federal efforts to address national problems.

Which of the following is *not* a benefit of federalism?

1. Federalism promotes political participation.
2. Federalism encourages economic equality across the country.
3. Federalism provides for multiple levels of government action.
4. Federalism accommodates a diversity of opinion.

Describe the advantages of federalism.

Describe the disadvantages of federalism.

Describe the primary differences in the role of citizens in government among the federal, confederation, and unitary systems.

How have the political and economic relationships between the states and federal government evolved since the early 1800s?

Discuss how the federal government shapes the actions of state and local governments.

What are the merits and drawbacks of American federalism?

What do you see as the upcoming challenges to federalism in the next decade? Choose an issue and outline how the states and the federal government could respond.

Glossary

race-to-the-bottom

a dynamic in which states compete to attract business by lowering taxes and regulations, often to workers’ detriment

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CHAPTER OVERVIEW

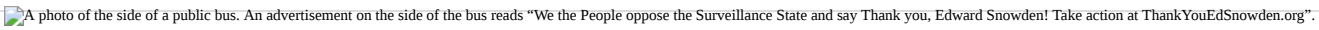
5: Civil Liberties

Topic hierarchy

5.1: Introduction
5.2: What Are Civil Liberties?
5.3: Securing Basic Freedoms
5.4: The Rights of Suspects
5.5: Interpreting the Bill of Rights
5.6: Section 6:

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5.1: Introduction



Those concerned about government surveillance have found a champion in Edward Snowden, a former contractor for the U.S. government who leaked thousands of classified documents to journalists in June 2013. These documents revealed the existence of multiple global surveillance programs run by the National Security Agency. (credit: modification of work by Bruno Sanchez-Andrade Nuño)

Americans have recently confronted situations in which government officials appeared not to provide citizens their basic freedoms and rights. Protests have erupted nationwide in response to the deaths of African Americans during interactions with police. Many people were deeply troubled by the revelations of Edward Snowden (Figure) that U.S. government agencies are conducting widespread surveillance, capturing not only the conversations of foreign leaders and suspected terrorists but also the private communications of U.S. citizens, even those not suspected of criminal activity.

These situations are hardly unique in U.S. history. The framers of the Constitution wanted a government that would not repeat the abuses of individual liberties and rights that caused them to declare independence from Britain. However, laws and other “parchment barriers” (or written documents) alone have not protected freedoms over the years; instead, citizens have learned the truth of the old saying (often attributed to Thomas Jefferson but actually said by Irish politician John Philpot Curran), “Eternal vigilance is the price of liberty.” The actions of ordinary citizens, lawyers, and politicians have been at the core of a vigilant effort to protect constitutional liberties.

But what are those freedoms? And how should we balance them against the interests of society and other individuals? These are the key questions we will tackle in this chapter.

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5.2: What Are Civil Liberties?

Learning Objectives

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

- Define civil liberties and civil rights
- Describe the origin of civil liberties in the U.S. context
- Identify the key positions on civil liberties taken at the Constitutional Convention
- Explain the Civil War origin of concern that the states should respect civil liberties

The U.S. Constitution—in particular, the first ten amendments that form the Bill of Rights—protects the freedoms and rights of individuals. It does not limit this protection just to citizens or adults; instead, in most cases, the Constitution simply refers to "persons," which over time has grown to mean that even children, visitors from other countries, and immigrants—permanent or temporary, legal or undocumented—enjoy the same freedoms when they are in the United States or its territories as adult citizens do. So, whether you are a Japanese tourist visiting Disney World or someone who has stayed beyond the limit of days allowed on your visa, you do not sacrifice your liberties. In everyday conversation, we tend to treat freedoms, liberties, and rights as being effectively the same thing—similar to how separation of powers and checks and balances are often used as if they are interchangeable, when in fact they are distinct concepts.

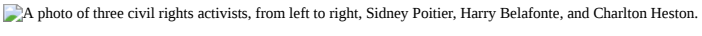
DEFINING CIVIL LIBERTIES

To be more precise in their language, political scientists and legal experts make a distinction between civil liberties and civil rights, even though the Constitution has been interpreted to protect both. We typically envision civil liberties as being limitations on government power, intended to protect freedoms that governments may not legally intrude on. For example, the First Amendment denies the government the power to prohibit "the free exercise" of religion; the states and the national government cannot forbid people to follow a religion of their choice, even if politicians and judges think the religion is misguided, blasphemous, or otherwise inappropriate. You are free to create your own religion and recruit followers to it (subject to the U.S. Supreme Court deeming it a religion), even if both society and government disapprove of its tenets. That said, the way you practice your religion may be regulated if it impinges on the rights of others. Similarly, the Eighth Amendment says the government cannot impose "cruel and unusual punishments" on individuals for their criminal acts. Although the definitions of *cruel* and *unusual* have expanded over the years, as we will see later in this chapter, the courts have generally and consistently interpreted this provision as making it unconstitutional for government officials to torture suspects.

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

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

The idea that Americans—indeed, people in general—have fundamental rights and liberties was at the core of the arguments in favor of their independence. In writing the Declaration of Independence in 1776, Thomas Jefferson drew on the ideas of John Locke to express the colonists' belief that they had certain inalienable or natural rights that no ruler had the power or authority to deny to his or her subjects. It was a scathing legal indictment of King George III for violating the colonists' liberties. Although the Declaration of Independence does not guarantee specific freedoms, its language was instrumental in inspiring many of the states to adopt protections for civil liberties and rights in their own constitutions, and in expressing principles of the founding era that have resonated in the United States since its independence. In particular, Jefferson's words "all men are created equal" became the centerpiece of struggles for the rights of women and minorities (Figure).



Actors and civil rights activists Sidney Poitier (left), Harry Belafonte (center), and Charlton Heston(right) on the steps of the Lincoln Memorial on August 28, 1963, during the March on Washington.

Founded in 1920, the American Civil Liberties Union (ACLU) is one of the oldest interest groups in the United States. The mission of this non-partisan, not-for-profit organization is "to defend and preserve the individual rights and liberties guaranteed to every person in this country by the Constitution and laws of the United States." Many of the Supreme Court cases in this chapter were litigated by, or with the support of, the ACLU. The ACLU offers a listing of state and local chapters on their website.

CIVIL LIBERTIES AND THE CONSTITUTION

The Constitution as written in 1787 did not include a Bill of Rights, although the idea of including one was proposed and, after brief discussion, dismissed in the final week of the Constitutional Convention. The framers of the Constitution believed they faced much more pressing concerns than the protection of civil rights and liberties, most notably keeping the fragile union together in the light of internal unrest and external threats.

Moreover, the framers thought that they had adequately covered rights issues in the main body of the document. Indeed, the Federalists did include in the Constitution some protections against legislative acts that might restrict the liberties of citizens, based on the history of real and perceived abuses by both British kings and parliaments as well as royal governors. In Article I, Section 9, the Constitution limits the power of Congress in three ways: prohibiting the passage of bills of attainder, prohibiting ex post facto laws, and limiting the ability of Congress to suspend the writ of habeas corpus.

A bill of attainder is a law that convicts or punishes someone for a crime without a trial, a tactic used fairly frequently in England against the king's enemies. Prohibition of such laws means that the U.S. Congress cannot simply punish people who are unpopular or seem to be guilty of crimes. An ex post facto law has a retroactive effect: it can be used to punish crimes that were not crimes at the time they were committed, or it can be used to increase the severity of punishment after the fact.

Finally, the writ of habeas corpus is used in our common-law legal system to demand that a neutral judge decide whether someone has been lawfully detained. Particularly in times of war, or even in response to threats against national security, the government has held suspected enemy agents without access to civilian courts, often without access to lawyers or a defense, seeking instead to try them before military tribunals or detain them indefinitely without trial. For example, during the Civil War, President Abraham Lincoln detained suspected Confederate saboteurs and sympathizers in Union-controlled states and attempted to have them tried in military courts, leading the Supreme Court to rule in *Ex parte Milligan* that the government could not bypass the civilian court system in states where it was operating.

Ex parte Milligan, 71 U.S. 2 (1866).

During World War II, the Roosevelt administration interned Japanese Americans and had other suspected enemy agents—including U.S. citizens—tried by military courts rather than by the civilian justice system, a choice the Supreme Court upheld in *Ex parte Quirin* (Figure).

Ex parte Quirin, 317 U.S. 1 (1942); See William H. Rehnquist. 1998. *All the Laws but One: Civil Liberties in Wartime*. New York: William Morrow.

More recently, in the wake of the 9/11 attacks on the World Trade Center and the Pentagon, the Bush and Obama administrations detained suspected terrorists captured both within and outside the United States and sought, with mixed results, to avoid trials in civilian courts. Hence, there have been times in our history when national security issues trumped individual liberties.



Richard Quirin and seven other trained German saboteurs had once lived in the United States and had secretly returned in June 1942. Upon their capture, a military commission (shown here) convicted the men—six of them received death sentences. *Ex parte Quirin* set a precedent for the trial by military commission of any unlawful combatant against the United States. (credit: Library of Congress)

Debate has always swirled over these issues. The Federalists reasoned that the limited set of enumerated powers of Congress, along with the limitations on those powers in Article I, Section 9, would suffice, and no separate bill of rights was needed. Alexander Hamilton, writing as Publius in *Federalist* No. 84, argued that the Constitution was "merely intended to regulate the general political interests of the nation," rather than to concern itself with "the regulation of every species of personal and private concerns." Hamilton went on to argue that listing some rights might actually be dangerous, because it would provide a pretext for people to claim that rights *not* included in such a list were not protected. Later, James Madison, in his speech introducing the proposed amendments that would become the Bill of Rights, acknowledged another Federalist argument: "It has been said, that a

bill of rights is not necessary, because the establishment of this government has not repealed those declarations of rights which are added to the several state constitutions."

American History from Revolution to Reconstruction and Beyond, "Madison Speech Proposing the Bill of Rights June 8 1789," www.let.rug.nl/usa/documents/...une-8-1789.php (March 4, 2016).

For that matter, the Articles of Confederation had not included a specific listing of rights either.

However, the Anti-Federalists argued that the Federalists' position was incorrect and perhaps even insincere. The Anti-Federalists believed provisions such as the elastic clause in Article I, Section 8, of the Constitution would allow Congress to legislate on matters well beyond the limited ones foreseen by the Constitution's authors; thus, they held that a bill of rights was necessary. One of the Anti-Federalists, Brutus, whom most scholars believe to be Robert Yates, wrote: "The powers, rights, and authority, granted to the general government by this Constitution, are as complete, with respect to every object to which they extend, as that of any state government—It reaches to every thing which concerns human happiness—Life, liberty, and property, are under its controul [sic]. There is the same reason, therefore, that the exercise of power, in this case, should be restrained within proper limits, as in that of the state governments."

Constitution Society, "To the Citizens of the State of New-York," www.constitution.org/afp/brutus02.htm (March 4, 2016).

The experience of the past two centuries has suggested that the Anti-Federalists may have been correct in this regard; while the states retain a great deal of importance, the scope and powers of the national government are much broader today than in 1787—likely beyond even the imaginings of the Federalists themselves.

The struggle to have rights clearly delineated and the decision of the framers to omit a bill of rights nearly derailed the ratification process. While some of the states were willing to ratify without any further guarantees, in some of the larger states—New York and Virginia in particular—the Constitution's lack of specified rights became a serious point of contention. The Constitution could go into effect with the support of only nine states, but the Federalists knew it could not be effective without the participation of the largest states. To secure majorities in favor of ratification in New York and Virginia, as well as Massachusetts, they agreed to consider incorporating provisions suggested by the ratifying states as amendments to the Constitution.

Ultimately, James Madison delivered on this promise by proposing a package of amendments in the First Congress, drawing from the Declaration of Rights in the Virginia state constitution, suggestions from the ratification conventions, and other sources, which were extensively debated in both houses of Congress and ultimately proposed as twelve separate amendments for ratification by the states. Ten of the amendments were successfully ratified by the requisite 75 percent of the states and became known as the Bill of Rights(Table).

Rights and Liberties Protected by the First Ten Amendments	
First Amendment	Right to freedoms of religion and speech; right to assemble and to petition the government for redress of grievances
Second Amendment	Right to keep and bear arms to maintain a well-regulated militia
Third Amendment	Right to not house soldiers during time of war
Fourth Amendment	Right to be secure from unreasonable search and seizure
Fifth Amendment	Rights in criminal cases, including due process and indictment by grand jury for capital crimes, as well as the right not to testify against oneself
Sixth Amendment	Right to a speedy trial by an impartial jury
Seventh Amendment	Right to a jury trial in civil cases
Eighth Amendment	Right to not face excessive bail, excessive fines, or cruel and unusual punishment
Ninth Amendment	Rights retained by the people, even if they are not specifically enumerated by the Constitution
Tenth Amendment	States' rights to powers not specifically delegated to the federal government

DEBATING THE NEED FOR A BILL OF RIGHTS

One of the most serious debates between the Federalists and the Anti-Federalists was over the necessity of limiting the power of the new federal government with a Bill of Rights. As we saw in this section, the Federalists believed a Bill of Rights was unnecessary —and perhaps even dangerous to liberty, because it might invite violations of rights that weren't included in it—while the Anti-Federalists thought the national government would prove adept at expanding its powers and influence and that citizens couldn't depend on the good judgment of Congress alone to protect their rights.

As George Washington's call for a bill of rights in his first inaugural address suggested, while the Federalists ultimately had to add the Bill of Rights to the Constitution in order to win ratification, and the Anti-Federalists would soon be proved right that the national government might intrude on civil liberties. In 1798, at the behest of President John Adams during the Quasi-War with France, Congress passed a series of four laws collectively known as the Alien and Sedition Acts. These were drafted to allow the president to imprison or deport foreign citizens he believed were "dangerous to the peace and safety of the United States" and to restrict speech and newspaper articles that were critical of the federal government or its officials; the laws were primarily used against members and supporters of the opposition Democratic-Republican Party.

State laws and constitutions protecting free speech and freedom of the press proved ineffective in limiting this new federal power. Although the courts did not decide on the constitutionality of these laws at the time, most scholars believe the Sedition Act, in particular, would be unconstitutional if it had remained in effect. Three of the four laws were repealed in the Jefferson administration, but one—the Alien Enemies Act—remains on the books today. Two centuries later, the issue of free speech and freedom of the press during times of international conflict remains a subject of public debate.

Should the government be able to restrict or censor unpatriotic, disloyal, or critical speech in times of international conflict? How much freedom should journalists have to report on stories from the perspective of enemies or to repeat propaganda from opposing forces?

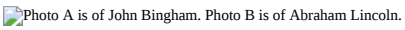
EXTENDING THE BILL OF RIGHTS TO THE STATES

In the decades following the Constitution's ratification, the Supreme Court declined to expand the Bill of Rights to curb the power of the states, most notably in the 1833 case of *Barron v. Baltimore*.

Barron v. Baltimore, 32 U.S. 243 (1833).

In this case, which dealt with property rights under the Fifth Amendment, the Supreme Court unanimously decided that the Bill of Rights applied only to actions by the federal government. Explaining the court's ruling, Chief Justice John Marshall wrote that it was incorrect to argue that "the Constitution was intended to secure the people of the several states against the undue exercise of power by their respective state governments; as well as against that which might be attempted by their [Federal] government."

In the wake of the Civil War, however, the prevailing thinking about the application of the Bill of Rights to the states changed. Soon after slavery was abolished by the Thirteenth Amendment, state governments—particularly those in the former Confederacy —began to pass "black codes" that restricted the rights of former slaves and effectively relegated them to second-class citizenship under their state laws and constitutions. Angered by these actions, members of the Radical Republican faction in Congress demanded that the laws be overturned. In the short term, they advocated suspending civilian government in most of the southern states and replacing politicians who had enacted the black codes. Their long-term solution was to propose two amendments to the Constitution to guarantee the rights of freed slaves on an equal standing with whites; these rights became the Fourteenth Amendment, which dealt with civil liberties and rights in general, and the Fifteenth Amendment, which protected the right to vote in particular (Figure). But, the right to vote did not yet apply to women or to Native Americans.



Representative John Bingham (R-OH) (a) is considered the author of the Fourteenth Amendment, adopted on July 9, 1868. Influenced by his mentor, Salmon P. Chase, Bingham was a strong supporter of the antislavery cause; after Chase lost the Republican presidential nomination to Abraham Lincoln (b), Bingham became one of the president's most ardent supporters.

With the ratification of the Fourteenth Amendment in 1868, civil liberties gained more clarification. First, the amendment says, "no State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States," which is a provision that echoes the privileges and immunities clause in Article IV, Section 2, of the original Constitution ensuring that states treat citizens of other states the same as their own citizens. (To use an example from today, the punishment for speeding by an out-

of-state driver cannot be more severe than the punishment for an in-state driver). Legal scholars and the courts have extensively debated the meaning of this privileges or immunities clause over the years; some have argued that it was supposed to extend the entire Bill of Rights (or at least the first eight amendments) to the states, while others have argued that only some rights are extended. In 1999, Justice John Paul Stevens, writing for a majority of the Supreme Court, argued in *Saenz v. Roe* that the clause protects the right to travel from one state to another.

Saenz v. Roe, 526 U.S. 489 (1999).

More recently, Justice Clarence Thomas argued in the 2010 *McDonald v. Chicago* ruling that the individual right to bear arms applied to the states because of this clause.

McDonald v. Chicago, 561 U.S. 742 (2010).

The second provision of the Fourteenth Amendment that pertains to applying the Bill of Rights to the states is the due process clause, which says, "nor shall any State deprive any person of life, liberty, or property, without due process of law." This provision is similar to the Fifth Amendment in that it also refers to "due process," a term that generally means people must be treated fairly and impartially by government officials (or with what is commonly referred to as substantive due process). Although the text of the provision does not mention rights specifically, the courts have held in a series of cases that it indicates there are certain fundamental liberties that cannot be denied by the states. For example, in *Sherbert v. Verner* (1963), the Supreme Court ruled that states could not deny unemployment benefits to an individual who turned down a job because it required working on the Sabbath.

Sherbert v. Verner, 374 U.S. 398 (1963).

Beginning in 1897, the Supreme Court has found that various provisions of the Bill of Rights protecting these fundamental liberties must be upheld by the states, even if their state constitutions and laws do not protect them as fully as the Bill of Rights does—or at all. This means there has been a process of selective incorporation of the Bill of Rights into the practices of the states; in other words, the Constitution effectively inserts parts of the Bill of Rights into state laws and constitutions, even though it doesn't do so explicitly. When cases arise to clarify particular issues and procedures, the Supreme Court decides whether state laws violate the Bill of Rights and are therefore unconstitutional.

For example, under the Fifth Amendment a person can be tried in federal court for a felony—a serious crime—only after a grand jury issues an indictment indicating that it is reasonable to try the person for the crime in question. (A grand jury is a group of citizens charged with deciding whether there is enough evidence of a crime to prosecute someone.) But the Supreme Court has ruled that states don't have to use grand juries as long as they ensure people accused of crimes are indicted using an equally fair process.

Selective incorporation is an ongoing process. When the Supreme Court initially decided in 2008 that the Second Amendment protects an individual's right to keep and bear arms, it did not decide then that it was a fundamental liberty the states must uphold as well. It was only in the *McDonald v. Chicago* case two years later that the Supreme Court incorporated the Second Amendment into state law. Another area in which the Supreme Court gradually moved to incorporate the Bill of Rights regards censorship and the Fourteenth Amendment. In *Near v. Minnesota* (1931), the Court disagreed with state courts regarding censorship and ruled it unconstitutional except in rare cases.

Near v. Minnesota, 283 U.S. 697 (1931).

The Bill of Rights is designed to protect the freedoms of individuals from interference by government officials. Originally these protections were applied only to actions by the national government; different sets of rights and liberties were protected by state constitutions and laws, and even when the rights themselves were the same, the level of protection for them often differed by definition across the states. Since the Civil War, as a result of the passage and ratification of the Fourteenth Amendment and a series of Supreme Court decisions, most of the Bill of Rights' protections of civil liberties have been expanded to cover actions by state governments as well through a process of selective incorporation. Nonetheless there is still vigorous debate about what these rights entail and how they should be balanced against the interests of others and of society as a whole.

The Bill of Rights was added to the Constitution because _____.

1. key states refused to ratify the Constitution unless it was added
2. Alexander Hamilton believed it was necessary
3. it was part of the Articles of Confederation
4. it was originally part of the Declaration of Independence

An example of a right explicitly protected by the Constitution as drafted at the Constitutional Convention is the _____.

1. right to free speech
2. right to keep and bear arms
3. right to a writ of habeas corpus
4. right not to be subjected to cruel and unusual punishment

The Fourteenth Amendment was critically important for civil liberties because it _____.

1. guaranteed freed slaves the right to vote
2. outlawed slavery
3. helped start the process of selective incorporation of the Bill of Rights
4. allowed the states to continue to enact black codes

Briefly explain the difference between civil liberties and civil rights.

Briefly explain the concept of selective incorporation, and why it became necessary.

Glossary

civil liberties
limitations on the power of government, designed to ensure personal freedoms

civil rights
guarantees of equal treatment by government authorities

due process clause
provisions of the Fifth and Fourteenth Amendments that limit government power to deny people “life, liberty, or property” on an unfair basis

selective incorporation
the gradual process of making some guarantees of the Bill of Rights (so far) apply to state governments and the national government

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5.3: Securing Basic Freedoms

Learning Objectives

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

- Identify the liberties and rights guaranteed by the first four amendments to the Constitution
- Explain why in practice these rights and liberties are limited
- Explain why interpreting some amendments has been controversial

We can broadly divide the provisions of the Bill of Rights into three categories. The First, Second, Third, and Fourth Amendments protect basic individual freedoms; the Fourth (partly), Fifth, Sixth, Seventh, and Eighth protect people suspected or accused of criminal activity; and the Ninth and Tenth, are consistent with the framers' view that the Bill of Rights is not necessarily an exhaustive list of all the rights people have and guarantees a role for state as well as federal government (Figure).



A Venn Diagram labeled "Categories of Rights and Protections". The top circle of the diagram is labeled "Criminal", the circle on the left is labeled "Procedural", and the circle on the right is labeled "Individual Freedoms". The values "Fifth Amendment" and "Sixth Amendment" are shown in the center of the diagram where all three circles overlap. The values "Fourth Amendment" and "Tenth Amendment" are shown in the circle on the left labeled "Procedural". The values "First Amendment", "Seventh Amendment", and "Eighth Amendment" are shown at the bottom of the diagram where the circles labeled "Procedural" and "Individual Freedoms" overlap. The values "Second Amendment", "Third Amendment", and "Ninth Amendment" are shown in the circle on the right labeled "Individual Freedoms".

The First Amendment protects the right to freedom of religious conscience and practice and the right to free expression, particularly of political and social beliefs. The Second Amendment—perhaps the most controversial today—protects the right to defend yourself in your home or other property, as well as the collective right to protect the community as part of the militia. The Third Amendment prohibits the government from commandeering people's homes to house soldiers, particularly in peacetime. Finally, the Fourth Amendment prevents the government from searching our persons or property or taking evidence without a warrant issued by a judge, with certain exceptions.

THE FIRST AMENDMENT

The First Amendment is perhaps the most famous provision of the Bill of Rights; it is arguably also the most extensive, because it guarantees both religious freedoms and the right to express your views in public. Specifically, the First Amendment says:

""Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.""

Given the broad scope of this amendment, it is helpful to break it into its two major parts.

The first portion deals with religious freedom. However, it actually protects two related sorts of freedom: first, it protects people from having a set of religious beliefs imposed on them by the government, and second, it protects people from having their own religious beliefs restricted by government authorities.

The Establishment Clause

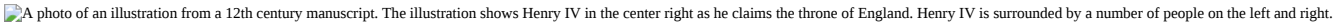
The first of these two freedoms is known as the establishment clause. Congress is prohibited from creating or promoting a state-sponsored religion (this now includes the states too). When the United States was founded, most countries around the world had an established church or religion, an officially sponsored set of religious beliefs and values. In Europe, bitter wars were fought between and within states, often because the established church of one territory was in conflict with that of another; wars and civil strife were common, particularly between states with Protestant and Catholic churches that had differing interpretations of Christianity. Even today, the legacy of these wars remains, most notably in Ireland, which has been divided between a mostly Catholic south and a largely Protestant north for nearly a century.

Many settlers in the United States found themselves on this continent as refugees from such wars; others came to find a place where they could follow their own religion with like-minded people in relative peace. So as a practical matter, even if the early United States had wanted to establish a single national religion, the diversity of religious beliefs would already have prevented it. Nonetheless the differences were small; most people were of European origin and professed some form of Christianity (although in private some of the founders, most notably Thomas Jefferson, Thomas Paine, and Benjamin Franklin, held what today would be seen as Unitarian and/or deistic views). So for much of U.S. history, the establishment clause was not particularly important—the vast majority of citizens were Protestant Christians of some form, and since the federal government was relatively uninvolved in

the day-to-day lives of the people, there was little opportunity for conflict. That said, there were some citizenship and office-holding restrictions on Jews within some of the states.

Worry about state sponsorship of religion in the United States began to reemerge in the latter part of the nineteenth century. An influx of immigrants from Ireland and eastern and southern Europe brought large numbers of Catholics, and states—fearing the new immigrants and their children would not assimilate—passed laws forbidding government aid to religious schools. New religious organizations, such as the Church of Latter-day Saints (the Mormon Church), Seventh-day Adventists, Jehovah's Witnesses, and many others, also emerged, blending aspects of Protestant beliefs with other ideas and teachings at odds with the more traditional Protestant churches of the era. At the same time, public schooling was beginning to take root on a wide scale. Since most states had traditional Protestant majorities and most state officials were Protestants themselves, the public school curriculum incorporated many Protestant features; at times, these features would come into conflict with the beliefs of children from other Christian sects or from other religious traditions.

The establishment clause today tends to be interpreted a bit more broadly than in the past; it not only forbids the creation of a "Church of the United States" or "Church of Ohio" it also forbids the government from favoring one set of religious beliefs over others or favoring religion (of any variety) over non-religion. Thus, the government cannot promote, say, Islamic beliefs over Sikh beliefs or belief in God over atheism or agnosticism (Figure).



In this illustration from a contemporary manuscript, Henry Bolingbroke (i.e., Henry IV) claims the throne in 1399 surrounded by the Lords Spiritual and Temporal (secular). While the Lords Spiritual have been a minority in the House of Lords since the time of Henry VIII, and religion does not generally play a large role in British politics today, the Church of England nevertheless remains represented in Parliament by twenty-six bishops.

The key question that faces the courts is whether the establishment clause should be understood as imposing, in Thomas Jefferson's words, "a wall of separation between church and state." In a 1971 case known as *Lemon v. Kurtzman*, the Supreme Court established the Lemon test for deciding whether a law or other government action that might promote a particular religious practice should be allowed to stand.

Lemon v. Kurtzman, 403 U.S. 602 (1971).

The Lemon test has three criteria that must be satisfied for such a law or action to be found constitutional and remain in effect:

"1. The action or law must not lead to *excessive government entanglement* with religion; in other words, policing the boundary between government and religion should be relatively straightforward and not require extensive effort by the government."

"2. The action or law cannot either *inhibit* or *advance* religious practice; it should be neutral in its effects on religion."

"3. The action or law must have some *secular purpose*; there must be some non-religious justification for the law."

For example, imagine your state decides to fund a school voucher program that allows children to attend private and parochial schools at public expense; the vouchers can be used to pay for school books and transportation to and from school. Would this voucher program be constitutional?

Let's start with the secular-purpose prong of the test. Educating children is a clear, non-religious purpose, so the law has a secular purpose. The law would neither inhibit nor advance religious practice, so that prong would be satisfied. The remaining question—and usually the one on which court decisions turn—is whether the law leads to excessive government entanglement with religious practice. Given that transportation and school books generally have no religious purpose, there is little risk that paying for them would lead the state to much entanglement with religion. The decision would become more difficult if the funding were unrestricted in use or helped to pay for facilities or teacher salaries; if that were the case, it might indeed be used for a religious purpose, and it would be harder for the government to ensure that it wasn't without audits or other investigations that could lead to too much government entanglement with religion.

The use of education as an example is not an accident; in fact, many of the court's cases dealing with the establishment clause have involved education, particularly public education, because school-age children are considered a special and vulnerable population. Perhaps no subject affected by the First Amendment has been more controversial than the issue of prayer in public schools. Discussion about school prayer has been particularly fraught because in many ways it appears to bring the two religious liberty clauses into conflict with each other. The free exercise clause, discussed below, guarantees the right of individuals to practice their

religion without government interference—and while the rights of children are not as extensive in all areas as those of adults, the courts have consistently ruled that the free exercise clause's guarantee of religious freedom applies to children as well.

At the same time, however, government actions that require or encourage particular religious practices might infringe upon children's rights to follow their own religious beliefs and thus, in effect, be unconstitutional establishments of religion. For example, a teacher, an athletic coach, or even a student reciting a prayer in front of a class or leading students in prayer as part of the organized school activities constitutes an illegal establishment of religion.

Engel v. Vitale, 370 U.S. 421 (1962).

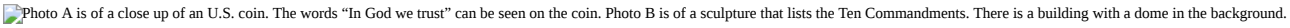
Yet a school cannot prohibit voluntary, non-disruptive prayer by its students, because that would impair the free exercise of religion. So although the blanket statement that "prayer in schools is illegal" or unconstitutional is incorrect, the establishment clause does limit official endorsement of religion, including prayers organized or otherwise facilitated by school authorities, even as part of off-campus or extracurricular activities.

See, in particular, *Santa Fe Independent School District v. Doe*, 530 U.S. 290 (2000), which found that the school district's including a student-led prayer at high school football games was illegal.

But some laws that may appear to establish certain religious practices are allowed. For example, the courts have permitted religiously inspired blue law**s** that limit working hours or even shutter businesses on Sunday, the Christian day of rest, because by allowing people to practice their (Christian) faith, such rules may help ensure the "health, safety, recreation, and general well-being" of citizens. They have allowed restrictions on the sale of alcohol and sometimes other goods on Sunday for similar reasons.

The meaning of the establishment clause has been controversial at times because, as a matter of course, government officials acknowledge that we live in a society with vigorous religious practice where most people believe in God—even if we disagree on what God is. Disputes often arise over how much the government can acknowledge this widespread religious belief. The courts have generally allowed for a certain tolerance of what is described as ceremonial deism, an acknowledgement of God or a creator that generally lacks any substantive religious content. For example, the national motto "In God We Trust," which appears on our coins and paper money (Figure), is seen as more an acknowledgment that most citizens believe in God than any serious effort by government officials to promote religious belief and practice. This reasoning has also been used to permit the inclusion of the phrase "under God" in the Pledge of Allegiance—a change that came about during the early years of the Cold War as a means of contrasting the United States with the "godless" Soviet Union.

In addition, the courts have allowed some religiously motivated actions by government agencies, such as clergy delivering prayers to open city council meetings and legislative sessions, on the presumption that—unlike school children—adult participants can distinguish between the government's allowing someone to speak and endorsing that person's speech. Yet, while some displays of religious codes (e.g., Ten Commandments) are permitted in the context of showing the evolution of law over the centuries (Figure), in other cases, these displays have been removed after state supreme court rulings. In Oklahoma, the courts ordered the removal of a Ten Commandments sculpture at the state capitol when other groups, including Satanists and the Church of the Flying Spaghetti Monster, attempted to get their own sculptures allowed there.


Photo A is of a close up of an U.S. coin. The words "In God we trust" can be seen on the coin. Photo B is of a sculpture that lists the Ten Commandments. There is a building with a dome in the background.

The motto "In God We Trust" has appeared intermittently on U.S. coins since the 1860s (a), yet it was not mandated on paper currency until 1957. The Ten Commandments are prominently displayed on the grounds of the Texas State Capitol in Austin (b), though a similar sculpture was ordered to be removed in Oklahoma. (credit a: modification of work by Kevin Dooley)

The Free Exercise Clause

The free exercise clause, on the other hand, limits the ability of the government to control or restrict religious practices. This portion of the First Amendment regulates not the government's promotion of religion, but rather government *suppression* of religious beliefs and practices. Much of the controversy surrounding the free exercise clause reflects the way laws or rules that apply to everyone might apply to people with particular religious beliefs. For example, can a Jewish police officer whose religious belief, if followed strictly, requires her to observe Shabbat be compelled to work on a Friday night or during the day on Saturday? Or must the government accommodate this religious practice, even if it means the general law or rule in question is not applied equally to everyone?

In the 1930s and 1940s, cases involving Jehovah's Witnesses demonstrated the difficulty of striking the right balance. In addition to following their church's teaching that they should not participate in military combat, members refuse to participate in displays of patriotism, including saluting the flag and reciting the Pledge of Allegiance, and they regularly engage in door-to-door evangelism

to recruit converts. These activities have led to frequent conflict with local authorities. Jehovah's Witness children were punished in public schools for failing to salute the flag or recite the Pledge of Allegiance, and members attempting to evangelize were arrested for violating laws against door-to-door solicitation of customers. In early legal challenges brought by Jehovah's Witnesses, the Supreme Court was reluctant to overturn state and local laws that burdened their religious beliefs.

Minersville School District v. Gobitis, 310 U.S. 586 (1940).

However, in later cases, the court was willing to uphold the rights of Jehovah's Witnesses to proselytize and refuse to salute the flag or recite the Pledge.

West Virginia State Board of Education v. Barnette, 319 U.S. 624 (1943); *Watchtower Society v. Village of Stratton*, 536 U.S. 150 (2002).

The rights of conscientious objectors—individuals who claim the right to refuse to perform military service on the grounds of freedom of thought, conscience, or religion—have also been controversial, although many conscientious objectors have contributed service as non-combatant medics during wartime. To avoid serving in the Vietnam War, many people claimed to have a conscientious objection to military service on the basis that they believed this particular war was unwise or unjust. However, the Supreme Court ruled in *Gillette v. United States* that to claim to be a conscientious objector, a person must be opposed to serving in *any* war, not just some wars.

Gillette v. United States, 401 U.S. 437 (1971).

Establishing a general framework for deciding whether a religious belief can trump general laws and policies has been a challenge for the Supreme Court. In the 1960s and 1970s, the court decided two cases in which it laid out a general test for deciding similar cases in the future. In both *Sherbert v. Verner*, a case dealing with unemployment compensation, and *Wisconsin v. Yoder*, which dealt with the right of Amish parents to homeschool their children, the court said that for a law to be allowed to limit or burden a religious practice, the government must meet two criteria.

Sherbert v. Verner, 374 U.S. 398 (1963); *Wisconsin v. Yoder*, 406 U.S. 205 (1972).

It must demonstrate both that it had a "compelling governmental interest" in limiting that practice and that the restriction was "narrowly tailored." In other words, it must show there was a very good reason for the law in question and that the law was the only feasible way of achieving that goal. This standard became known as the Sherbert test. Since the burden of proof in these cases was on the government, the Supreme Court made it very difficult for the federal and state governments to enforce laws against individuals that would infringe upon their religious beliefs.

In 1990, the Supreme Court made a controversial decision substantially narrowing the Sherbert test in *Employment Division v. Smith*, more popularly known as "the peyote case."

Employment Division, Department of Human Resources of Oregon v. Smith, 494 U.S. 872 (1990).

This case involved two men who were members of the Native American Church, a religious organization that uses the hallucinogenic peyote plant as part of its sacraments. After being arrested for possession of peyote, the two men were fired from their jobs as counselors at a private drug rehabilitation clinic. When they applied for unemployment benefits, the state refused to pay on the basis that they had been dismissed for work-related reasons. The men appealed the denial of benefits and were initially successful, since the state courts applied the Sherbert test and found that the denial of unemployment benefits burdened their religious beliefs. However, the Supreme Court ruled in a 6–3 decision that the "compelling governmental interest" standard should not apply; instead, so long as the law was not designed to target a person's religious beliefs in particular, it was not up to the courts to decide that those beliefs were more important than the law in question.

On the surface, a case involving the Native American Church seems unlikely to arouse much controversy. But because it replaced the Sherbert test with one that allowed more government regulation of religious practices, followers of other religious traditions grew concerned that state and local laws, even ones neutral on their face, might be used to curtail their religious practices. In 1993, in response to this decision, Congress passed a law known as the Religious Freedom Restoration Act (RFRA), which was followed in 2000 by the Religious Land Use and Institutionalized Persons Act after part of the RFRA was struck down by the Supreme Court. In addition, since 1990, twenty-one states have passed state RFRAs that include the Sherbert test in state law, and state court decisions in eleven states have enshrined the Sherbert test's compelling governmental interest interpretation of the free exercise clause into state law.

Juliet Eilperin, "31 states have heightened religious freedom protections," *Washington Post*, 1 March 2014. www.washingtonpost.com/blogs/...gious-freedom/. Three more states passed state RFRAs in the past year.

However, the RFRA itself has not been without its critics. While it has been relatively uncontroversial as applied to the rights of individuals, debate has emerged about whether businesses and other groups can be said to have religious liberty. In explicitly religious organizations, such as a fundamentalist congregation (fundamentalists adhere very strictly to biblical absolutes) or the Roman Catholic Church, it is fairly obvious members have a meaningful, shared religious belief. But the application of the RFRA has become more problematic in businesses and non-profit organizations whose owners or organizers may share a religious belief while the organization has some secular, non-religious purpose.

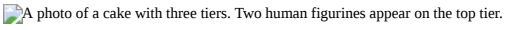
Such a conflict emerged in the 2014 Supreme Court case known as *Burwell v. Hobby Lobby*.

Burwell v. Hobby Lobby Stores, Inc., 573 U.S. __ (2014).

The Hobby Lobby chain of stores sells arts and crafts merchandise at hundreds of stores; its founder, David Green, is a devout fundamentalist Christian whose beliefs include opposition to abortion and contraception. Consistent with these beliefs, he used his business to object to a provision of the Patient Protection and Affordable Care Act (ACA or Obamacare) requiring employer-backed insurance plans to include no-charge access to the morning-after pill, a form of emergency contraception, arguing that this requirement infringed on his conscience. Based in part on the federal RFRA, the Supreme Court agreed 5–4 with Green and Hobby Lobby's position and said that Hobby Lobby and other closely held businesses did not have to provide employees free access to emergency contraception or other birth control if doing so would violate the religious beliefs of the business' owners, because there were other less restrictive ways the government could ensure access to these services for Hobby Lobby's employees (e.g., paying for them directly).

In 2015, state RFRAs became controversial when individuals and businesses that provided wedding services (e.g., catering and photography) were compelled to provide these for same-sex weddings in states where the practice had been newly legalized (Figure). Proponents of state RFRA laws argued that people and businesses ought not be compelled to endorse practices their religious beliefs held to be immoral or indecent and feared clergy might be compelled to officiate same-sex marriages against their religion's teachings. Opponents of RFRA laws argued that individuals and businesses should be required, per *Obergefell v. Hodges*, to serve same-sex marriages on an equal basis as a matter of ensuring the civil rights of gays and lesbians, just as they would be obliged to cater or photograph an interracial marriage.

Obergefell v. Hodges, 576 U.S. ___ (2015).



One of the most recent notorious cases related to the free exercise clause involved an Oregon bakery whose owners refused to bake a wedding cake for a lesbian couple in January 2013, citing the owners' religious beliefs. The couple was eventually awarded $135,000 in damages as a result of the ongoing dispute. (credit: modification of work by Bev Sykes)

Despite ongoing controversy, however, the courts have consistently found some public interests sufficiently compelling to override the free exercise clause. For example, since the late nineteenth century, the courts have consistently held that people's religious beliefs do not exempt them from the general laws against polygamy. Other potential acts in the name of religion that are also out of the question are drug use and human sacrifice.

Freedom of Expression

Although the remainder of the First Amendment protects four distinct rights—free speech, press, assembly, and petition—we generally think of these rights today as encompassing a right to freedom of expression, particularly since the world's technological evolution has blurred the lines between oral and written communication (i.e., speech and press) in the centuries since the First Amendment was written and adopted.

Controversies over freedom of expression were rare until the 1900s, even though government censorship was quite common. For example, during the Civil War, the Union post office refused to deliver newspapers that opposed the war or sympathized with the Confederacy, while allowing pro-war newspapers to be mailed. The emergence of photography and movies, in particular, led to new public concerns about morality, causing both state and federal politicians to censor lewd and otherwise improper content. At the same time, writers became more ambitious in their subject matter by including explicit references to sex and using obscene language, leading to government censorship of books and magazines.

Censorship reached its height during World War I. The United States was swept up in two waves of hysteria. Anti-German feeling was provoked by the actions of Germany and its allies leading up to the war, including the sinking of the RMS *Lusitania* and the Zimmerman Telegram, an effort by the Germans to conclude an alliance with Mexico against the United States. This concern was compounded in 1917 by the Bolshevik revolution against the more moderate interim government of Russia; the leaders of the Bolsheviks, most notably Vladimir Lenin, Leon Trotsky, and Joseph Stalin, withdrew from the war against Germany and called for communist revolutionaries to overthrow the capitalist, democratic governments in western Europe and North America.

Americans who vocally supported the communist cause or opposed the war often found themselves in jail. In *Schenck v. United States*, the Supreme Court ruled that people encouraging young men to dodge the draft could be imprisoned for doing so, arguing that recommending that people disobey the law was tantamount to "falsely shouting fire in a theatre and causing a panic" and thus presented a "clear and present danger" to public order.

Schenck v. United States, 249 U.S. 47 (1919).

Similarly, communists and other revolutionary anarchists and socialists during the Red Scare after the war were prosecuted under various state and federal laws for supporting the forceful or violent overthrow of government. This general approach to political speech remained in place for the next fifty years.

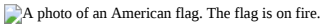
In the 1960s, however, the Supreme Court's rulings on free expression became more liberal, in response to the Vietnam War and the growing antiwar movement. In a 1969 case involving the Ku Klux Klan, *Brandenburg v. Ohio*, the Supreme Court found that only speech or writing that constituted a direct call or plan to imminent lawless action, an illegal act in the immediate future, could be suppressed; the mere advocacy of a hypothetical revolution was not enough.

Brandenburg v. Ohio, 395 U.S. 444 (1969).

The Supreme Court also found that various forms of symbolic speech—wearing clothing like an armband that carried a political symbol or raising a fist in the air, for example—were subject to the same protections as written and spoken communication.

BURNING THE U.S. FLAG

Perhaps no act of symbolic speech has been as controversial in U.S. history as the burning of the flag (Figure). Citizens tend to revere the flag as a unifying symbol of the country in much the same way most people in Britain would treat the reigning queen (or king). States and the federal government have long had laws protecting the flag from being desecrated—defaced, damaged, or otherwise treated with disrespect. Perhaps in part because of these laws, people who have wanted to drive home a point in opposition to U.S. government policies have found desecrating the flag a useful way to gain public and press attention to their cause.



On the eve of the 2008 election, a U.S. flag was burned in protest in New Hampshire. (credit: modification of work by Jennifer Parr)

One such person was Gregory Lee Johnson, a member of various pro-communist and antiwar groups. In 1984, as part of a protest near the Republican National Convention in Dallas, Texas, Johnson set fire to a U.S. flag that another protestor had torn from a flagpole. He was arrested, charged with "desecration of a venerated object" (among other offenses), and eventually convicted of that offense. However, in 1989, the Supreme Court decided in *Texas v. Johnson* that burning the flag was a form of symbolic speech protected by the First Amendment and found the law, as applied to flag desecration, to be unconstitutional.

Texas v. Johnson, 491 U.S. 397 (1989).

This court decision was strongly criticized, and Congress responded by passing a federal law, the Flag Protection Act, intended to overrule it; the act, too, was struck down as unconstitutional in 1990.

United States v. Eichman, 496 U.S. 310 (1990).

Since then, Congress has attempted on several occasions to propose constitutional amendments allowing the states and federal government to re-criminalize flag desecration—to no avail.

Should we amend the Constitution to allow Congress or the states to pass laws protecting the U.S. flag from desecration? Should we protect other symbols as well? Why or why not?

Freedom of the press is an important component of the right to free expression as well. In *Near v. Minnesota*, an early case regarding press freedoms, the Supreme Court ruled that the government generally could not engage in prior restraint; that is, states and the federal government could not in advance prohibit someone from publishing something without a very compelling reason.

Near v. Minnesota, 283 U.S. 697 (1931).

This standard was reinforced in 1971 in the Pentagon Papers case, in which the Supreme Court found that the government could not prohibit the *New York Times* and *Washington Post* newspapers from publishing the Pentagon Papers.

New York Times Co. v. United States, 403 U.S. 713 (1971).

These papers included materials from a secret history of the Vietnam War that had been compiled by the military. More specifically, the papers were compiled at the request of Secretary of Defense Robert McNamara and provided a study of U.S. political and military involvement in Vietnam from 1945 to 1967. Daniel Ellsberg famously released passages of the Papers to the press to show that the United States had secretly enlarged the scope of the war by bombing Cambodia and Laos among other deeds while lying to the American public about doing so.

Although people who leak secret information to the media can still be prosecuted and punished, this does not generally extend to reporters and news outlets that pass that information on to the public. The Edward Snowden case is another good case in point. Snowden himself, rather than those involved in promoting the information that he shared, is the object of criminal prosecution.

Furthermore, the courts have recognized that government officials and other public figures might try to silence press criticism and avoid unfavorable news coverage by threatening a lawsuit for defamation of character. In the 1964 *New York Times v. Sullivan* case, the Supreme Court decided that public figures needed to demonstrate not only that a negative press statement about them was untrue but also that the statement was published or made with either malicious intent or "reckless disregard" for the truth.

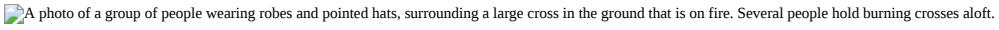
New York Times v. Sullivan, 376 U.S. 254 (1964).

This ruling made it much harder for politicians to silence potential critics or to bankrupt their political opponents through the courts.

The right to freedom of expression is not absolute; several key restrictions limit our ability to speak or publish opinions under certain circumstances. We have seen that the Constitution protects most forms of offensive and unpopular expression, particularly political speech; however, *incitement* of a criminal act, "fighting words," and genuine threats are not protected. So, for example, you can't point at someone in front of an angry crowd and shout, "Let's beat up that guy!" And the Supreme Court has allowed laws that ban threatening symbolic speech, such as burning a cross on the lawn of an African American family's home (Figure).

See, for example, *Virginia v. Black*, 538 U.S. 343 (2003).

Finally, as we've just seen, defamation of character—whether in written form (libel) or spoken form (slander)—is not protected by the First Amendment, so people who are subject to false accusations can sue to recover damages, although criminal prosecutions of libel and slander are uncommon.


A photo of a group of people wearing robes and pointed hats, surrounding a large cross in the ground that is on fire. Several people hold burning crosses aloft.

The Supreme Court has allowed laws that ban threatening symbolic speech, such as burning crosses on the lawns of African American families, an intimidation tactic used by the Ku Klux Klan, pictured here at a meeting in Gainesville, Florida, on December 31, 1922.

Another key exception to the right to freedom of expression is obscenity, acts or statements that are extremely offensive under current societal standards. Defining obscenity has been something of a challenge for the courts; Supreme Court Justice Potter Stewart famously said of obscenity, having watched pornography in the Supreme Court building, "I know it when I see it." Into the early twentieth century, written work was frequently banned as being obscene, including works by noted authors such as James Joyce and Henry Miller, although today it is rare for the courts to uphold obscenity charges for written material alone. In 1973, the Supreme Court established the Miller test for deciding whether something is obscene: "(a) whether the average person, applying contemporary community standards, would find that the work, taken as a whole, appeals to the prurient interest, (b) whether the work depicts or describes, in a patently offensive way, sexual conduct specifically defined by the applicable state law; and (c) whether the work, taken as a whole, lacks serious literary, artistic, political, or scientific value."

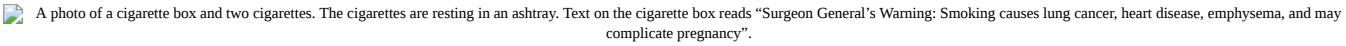
Miller v. California, 413 U.S. 15 (1973).

However, the application of this standard has at times been problematic. In particular, the concept of "contemporary community standards" raises the possibility that obscenity varies from place to place; many people in New York or San Francisco might not bat an eye at something people in Memphis or Salt Lake City would consider offensive. The one form of obscenity that has been banned almost without challenge is child pornography, although even in this area the courts have found exceptions.

The courts have allowed censorship of less-than-obscene content when it is broadcast over the airwaves, particularly when it is available for anyone to receive. In general, these restrictions on indecency—a quality of acts or statements that offend societal norms or may be harmful to minors—apply only to radio and television programming broadcast when children might be in the audience, although most cable and satellite channels follow similar standards for commercial reasons. An infamous case of televised indecency occurred during the halftime show of the 2004 Super Bowl, during a performance by singer Janet Jackson in which a part of her clothing was removed by fellow performer Justin Timberlake, revealing her right breast. The network responsible for the broadcast, CBS, was ultimately presented with a fine of $550,000 by the Federal Communications Commission, the government agency that regulates television broadcasting. However, CBS was not ultimately required to pay.

On the other hand, in 1997, the NBC network showed a broadcast of *Schindler's List*, a film depicting events during the Holocaust in Nazi Germany, without any editing, so it included graphic nudity and depictions of violence. NBC was not fined or otherwise punished, suggesting there is no uniform standard for indecency. Similarly, in the 1990s Congress compelled television broadcasters to implement a television ratings system, enforced by a "V-Chip" in televisions and cable boxes, so parents could better control the television programming their children might watch. However, similar efforts to regulate indecent content on the Internet to protect children from pornography have largely been struck down as unconstitutional. This outcome suggests that technology has created new avenues for obscene material to be disseminated. The Children's Internet Protection Act, however, requires K–12 schools and public libraries receiving Internet access using special E-rate discounts to filter or block access to obscene material and other material deemed harmful to minors, with certain exceptions.

The courts have also allowed laws that forbid or compel certain forms of expression by businesses, such as laws that require the disclosure of nutritional information on food and beverage containers and warning labels on tobacco products (Figure). The federal government requires the prices advertised for airline tickets to include all taxes and fees. Many states regulate advertising by lawyers. And, in general, false or misleading statements made in connection with a commercial transaction can be illegal if they constitute fraud.



The surgeon general's warning label on a box of cigarettes is mandated by the Food and Drug Administration. The United States was the first nation to require a health warning on cigarette packages. (credit: Debora Cartagena, Centers for Disease Control and Prevention)

Furthermore, the courts have ruled that, although public school officials are government actors, the First Amendment freedom of expression rights of children attending public schools are somewhat limited. In particular, in *Tinker v. Des Moines* (1969) and *Hazelwood v. Kuhlmeier* (1988), the Supreme Court has upheld restrictions on speech that creates "substantial interference with school discipline or the rights of others"

Tinker v. Des Moines Independent Community School District, 393 U.S. 503 (1969).

or is "reasonably related to legitimate pedagogical concerns."

Hazelwood School District et al. v. Kuhlmeier et al., 484 U.S. 260 (1988).

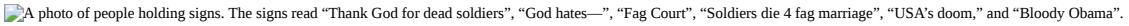
For example, the content of school-sponsored activities like school newspapers and speeches delivered by students can be controlled, either for the purposes of instructing students in proper adult behavior or to deter conflict between students.

Free expression includes the right to assemble peaceably and the right to petition government officials. This right even extends to members of groups whose views most people find abhorrent, such as American Nazis and the vehemently anti-gay Westboro Baptist Church, whose members have become known for their protests at the funerals of U.S. soldiers who have died fighting in the war on terror (Figure).

National Socialist Party of America v. Village of Skokie, 432 U.S. 43 (1977); Snyder v. Phelps, 562 U.S. 443 (2011).

Free expression—although a broad right—is subject to certain constraints to balance it against the interests of public order. In particular, the nature, place, and timing of protests—but not their substantive content—are subject to reasonable limits. The courts

have ruled that while people may peaceably assemble in a place that is a public forum, not all public property is a public forum. For example, the inside of a government office building or a college classroom—particularly while someone is teaching—is not generally considered a public forum.



Protesters from Westboro Baptist Church picket outside the U.S. Supreme Court in July 2014 prior to the decision ruling that Section 3 of the Defense of Marriage Act (DOMA) is unconstitutional. (credit: Jordan Uhl)

Rallies and protests on land that has other dedicated uses, such as roads and highways, can be limited to groups that have secured a permit in advance, and those organizing large gatherings may be required to give sufficient notice so government authorities can ensure there is enough security available. However, any such regulation must be viewpoint-neutral; the government may not treat one group differently than another because of its opinions or beliefs. For example, the government can’t permit a rally by a group that favors a government policy but forbid opponents from staging a similar rally. Finally, there have been controversial situations in which government agencies have established free-speech zones for protesters during political conventions, presidential visits, and international meetings in areas that are arguably selected to minimize their public audience or to ensure that the subjects of the protests do not have to encounter the protesters.

Since 2011, as part of the White House website, the Obama administration has included a dedicated system, “We the People: Your Voice in our Government,”for people to make petitions that will be reviewed by administration officials.

THE SECOND AMENDMENT

There has been increased conflict over the Second Amendment in recent years due to school shootings and gun violence. As a result, gun rights have become a highly charged political issue. The text of the Second Amendment is among the shortest of those included in the Constitution:

““A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.””

But the relative simplicity of its text has not kept it from controversy; arguably, the Second Amendment has become controversial in large part because of its text. Is this amendment merely a protection of the right of the states to organize and arm a “well regulated militia” for civil defense, or is it a protection of a “right of the people” as a whole to individually bear arms?

Before the Civil War, this would have been a nearly meaningless distinction. In most states at that time, white males of military age were considered part of the militia, liable to be called for service to put down rebellions or invasions, and the right “to keep and bear Arms” was considered a common-law right inherited from English law that predated the federal and state constitutions. The Constitution was not seen as a limitation on state power, and since the states expected all able-bodied free men to keep arms as a matter of course, what gun control there was mostly revolved around ensuring slaves (and their abolitionist allies) didn’t have guns.

With the beginning of selective incorporation after the Civil War, debates over the Second Amendment were reinvigorated. In the meantime, as part of their black codes designed to reintroduce most of the trappings of slavery, several southern states adopted laws that restricted the carrying and ownership of weapons by former slaves. Despite acknowledging a common-law individual right to keep and bear arms, in 1876 the Supreme Court declined, in *United States v. Cruickshank*, to intervene to ensure the states would respect it.

United States v. Cruickshank, 92 U.S. 542 (1876).

In the following decades, states gradually began to introduce laws to regulate gun ownership. Federal gun control laws began to be introduced in the 1930s in response to organized crime, with stricter laws that regulated most commerce and trade in guns coming into force in the wake of the street protests of the 1960s. In the early 1980s, following an assassination attempt on President Ronald Reagan, laws requiring background checks for prospective gun buyers were passed. During this period, the Supreme Court’s decisions regarding the meaning of the Second Amendment were ambiguous at best. In *United States v. Miller*, the Supreme Court upheld the 1934 National Firearms Act’s prohibition of sawed-off shotguns, largely on the basis that possession of such a gun was not related to the goal of promoting a “well regulated militia.”

United States v. Miller, 307 U.S. 174 (1939).

This finding was generally interpreted as meaning that the Second Amendment protected the right of the states to organize a militia, rather than an individual right, and thus lower courts generally found most firearm regulations—including some city and state laws that virtually outlawed the private ownership of firearms—to be constitutional.

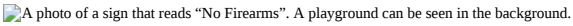
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However, in 2008, in a narrow 5–4 decision on *District of Columbia v. Heller*, the Supreme Court found that at least some gun control laws *did* violate the Second Amendment and that this amendment does protect an individual's right to keep and bear arms, at least in some circumstances—in particular, "for traditionally lawful purposes, such as self-defense within the home."

District of Columbia et al. v. Heller, 554 US 570 (2008), p. 3.

Because the District of Columbia is not a state, this decision immediately applied the right only to the federal government and territorial governments. Two years later, in *McDonald v. Chicago*, the Supreme Court overturned the *Cruickshank* decision (5–4) and again found that the right to bear arms was a fundamental right incorporated against the states, meaning that state regulation of firearms might, in some circumstances, be unconstitutional. In 2015, however, the Supreme Court allowed several of San Francisco's strict gun control laws to remain in place, suggesting that—as in the case of rights protected by the First Amendment—the courts will not treat gun rights as absolute (Figure).

Richard Gonzales, "Supreme Court Rejects NRA Challenge to San Francisco Gun Rules," *National Public Radio*, 8 June 2015. www.npr.org/sections/thetwo-w...-s-f-gun-rules (March 4, 2016).



A "No Firearms" sign is posted at Binghamton Park in Memphis, Tennessee, demonstrating that the right to possess a gun is not absolute. (credit: modification of work by Thomas R Machnitzki)

THE THIRD AMENDMENT

The Third Amendment says in full:

""No Soldier shall, in time of peace be quartered in any house, without the consent of the Owner, nor in time of war, but in a manner to be prescribed by law.""

Most people consider this provision of the Constitution obsolete and unimportant. However, it is worthwhile to note its relevance in the context of the time: citizens remembered having their cities and towns occupied by British soldiers and mercenaries during the Revolutionary War, and they viewed the British laws that required the colonists to house soldiers particularly offensive, to the point that it had been among the grievances listed in the Declaration of Independence.

Today it seems unlikely the federal government would need to house military forces in civilian lodgings against the will of property owners or tenants; however, perhaps in the same way we consider the Second and Fourth amendments, we can think of the Third Amendment as reflecting a broader idea that our homes lie within a "zone of privacy" that government officials should not violate unless absolutely necessary.

THE FOURTH AMENDMENT

The Fourth Amendment sits at the boundary between general individual freedoms and the rights of those suspected of crimes. We saw earlier that perhaps it reflects James Madison's broader concern about establishing an expectation of privacy from government intrusion at home. Another way to think of the Fourth Amendment is that it protects us from overzealous efforts by law enforcement to root out crime by ensuring that police have good reason before they intrude on people's lives with criminal investigations.

The text of the Fourth Amendment is as follows:

""The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.""

The amendment places limits on both *searches* and *seizures*: Searches are efforts to locate documents and contraband. Seizures are the taking of these items by the government for use as evidence in a criminal prosecution (or, in the case of a person, the detention or taking of the person into custody).

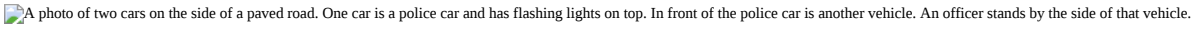
In either case, the amendment indicates that government officials are required to apply for and receive a search warrant prior to a search or seizure; this warrant is a legal document, signed by a judge, allowing police to search and/or seize persons or property. Since the 1960s, however, the Supreme Court has issued a series of rulings limiting the warrant requirement in situations where a person can be said to lack a "reasonable expectation of privacy" outside the home. Police can also search and/or seize people or property without a warrant if the owner or renter consents to the search, if there is a reasonable expectation that evidence may be destroyed or tampered with before a warrant can be issued (i.e., exigent circumstances), or if the items in question are in plain view of government officials.

Furthermore, the courts have found that police do not generally need a warrant to search the passenger compartment of a car (Figure), or to search people entering the United States from another country.

See, for example, *Arizona v. Gant*, 556 U.S. 332 (2009).

When a warrant is needed, law enforcement officers do not need enough evidence to secure a conviction, but they must demonstrate to a judge that there is probable cause to believe a crime has been committed or evidence will be found. Probable cause is the legal standard for determining whether a search or seizure is constitutional or a crime has been committed; it is a lower threshold than the standard of proof at a criminal trial.

Critics have argued that this requirement is not very meaningful because law enforcement officers are almost always able to get a search warrant when they request one; on the other hand, since we wouldn't expect the police to waste their time or a judge's time trying to get search warrants that are unlikely to be granted, perhaps the high rate at which they get them should not be so surprising.



A state police officer conducting a traffic stop near Walla Walla, Washington. (credit: modification of work by Richard Bauer)

What happens if the police conduct an illegal search or seizure without a warrant and find evidence of a crime? In the 1961 Supreme Court case *Mapp v. Ohio*, the court decided that evidence obtained without a warrant that didn't fall under one of the exceptions mentioned above could not be used as evidence in a state criminal trial, giving rise to the broad application of what is known as the exclusionary rule, which was first established in 1914 on a federal level in *Weeks v. United States*.

Mapp v. Ohio, 367 U.S. 643 (1961); *Weeks v. United States*, 232 U.S. 383 (1914).

The exclusionary rule doesn't just apply to evidence found or to items or people seized without a warrant (or falling under an exception noted above); it also applies to any evidence developed or discovered as a result of the illegal search or seizure.

For example, if police search your home without a warrant, find bank statements showing large cash deposits on a regular basis, and discover you are engaged in some other crime in which they were previously unaware (e.g., blackmail, drugs, or prostitution), not only can they not use the bank statements as evidence of criminal activity—they also can't prosecute you for the crimes they discovered during the illegal search. This extension of the exclusionary rule is sometimes called the "fruit of the poisonous tree," because just as the metaphorical tree (i.e., the original search or seizure) is poisoned, so is anything that grows out of it.

Silverthorne Lumber Co. v. United States, 251 U.S. 385 (1920).

However, like the requirement for a search warrant, the exclusionary rule does have exceptions. The courts have allowed evidence to be used that was obtained without the necessary legal procedures in circumstances where police executed warrants they believed were correctly granted but in fact were not ("good faith" exception), and when the evidence would have been found anyway had they followed the law ("inevitable discovery").

The requirement of probable cause also applies to arrest warrants. A person cannot generally be detained by police or taken into custody without a warrant, although most states allow police to arrest someone suspected of a felony crime without a warrant so long as probable cause exists, and police can arrest people for minor crimes or misdemeanors they have witnessed themselves.

The first four amendments of the Bill of Rights protect citizens' key freedoms from governmental intrusion. The First Amendment limits the government's ability to impose certain religious beliefs on the people, or to limit the practice of one's own religion. The First Amendment also protects freedom of expression by the public, the media, and organized groups via rallies, protests, and the petition of grievances. The Second Amendment today protects an individual's right to keep and bear arms for personal defense in the home, while the Third Amendment limits the ability of the government to allow the military to occupy civilians' homes except under extraordinary circumstances. Finally, the Fourth Amendment protects our persons, homes, and property from unreasonable

searches and seizures, and it protects the people from unlawful arrests. However, all these provisions are subject to limitations, often to protect the interests of public order, the good of society as a whole, or to balance the rights of some citizens against those of others.

Which of the following provisions is *not* part of the First Amendment?

1. the right to keep and bear arms
2. the right to peaceably assemble
3. the right to free speech
4. the protection of freedom of religion

The Third Amendment can be thought of as _____.

1. reinforcing the right to keep and bear arms guaranteed by the Second Amendment
2. ensuring the right to freedom of the press
3. forming part of a broader conception of privacy in the home that is also protected by the Second and Fourth Amendments
4. strengthening the right to a jury trial in criminal cases

The Fourth Amendment's requirement for a warrant _____.

1. applies only to searches of the home
2. applies only to the seizure of property as evidence
3. does not protect people who rent or lease property
4. does not apply when there is a serious risk that evidence will be destroyed before a warrant can be issued

Explain the difference between the *establishment clause* and the *free exercise clause*, and explain how these two clauses work together to guarantee religious freedoms.

Explain the difference between the *collective rights* and *individual rights* views of the Second Amendment. Which of these views did the Supreme Court's decision in *District of Columbia v. Heller* reflect?

Glossary

blue law
a law originally created to uphold a religious or moral standard, such as a prohibition against selling alcohol on Sundays

common-law right
a right of the people rooted in legal tradition and past court rulings, rather than the Constitution

conscientious objector
a person who claims the right to refuse to perform military service on the grounds of freedom of thought, conscience, or religion

establishment clause
the provision of the First Amendment that prohibits the government from endorsing a state-sponsored religion; interpreted as preventing government from favoring some religious beliefs over others or religion over non-religion

exclusionary rule
a requirement, from Supreme Court case *Mapp v. Ohio*, that evidence obtained as a result of an illegal search or seizure cannot be used to try someone for a crime

free exercise clause
the provision of the First Amendment that prohibits the government from regulating religious beliefs and practices

obscenity
acts or statements that are extremely offensive by contemporary standards

prior restraint

a government action that stops someone from doing something before they are able to do it (e.g., forbidding someone to publish a book he or she plans to release)

probable cause

legal standard for determining whether a search or seizure is constitutional or a crime has been committed; a lower threshold than the standard of proof needed at a criminal trial

search warrant

a legal document, signed by a judge, allowing police to search and/or seize persons or property

Sherbert test

a standard for deciding whether a law violates the free exercise clause; a law will be struck down unless there is a “compelling governmental interest” at stake and it accomplishes its goal by the “least restrictive means” possible

symbolic speech

a form of expression that does not use writing or speech but nonetheless communicates an idea (e.g., wearing an article of clothing to show solidarity with a group)

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5.4: The Rights of Suspects

Learning Objectives

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

- Identify the rights of those suspected or accused of criminal activity
- Explain how Supreme Court decisions transformed the rights of the accused
- Explain why the Eighth Amendment is controversial regarding capital punishment

In addition to protecting the personal freedoms of individuals, the Bill of Rights protects those suspected or accused of crimes from various forms of unfair or unjust treatment. The prominence of these protections in the Bill of Rights may seem surprising. Given the colonists' experience of what they believed to be unjust rule by British authorities, however, and the use of the legal system to punish rebels and their sympathizers for political offenses, the impetus to ensure fair, just, and impartial treatment to everyone accused of a crime—no matter how unpopular—is perhaps more understandable. What is more, the revolutionaries, and the eventual framers of the Constitution, wanted to keep the best features of English law as well.

In addition to the protections outlined in the Fourth Amendment, which largely pertain to investigations conducted before someone has been charged with a crime, the next four amendments pertain to those suspected, accused, or convicted of crimes, as well as people engaged in other legal disputes. At every stage of the legal process, the Bill of Rights incorporates protections for these people.

THE FIFTH AMENDMENT

Many of the provisions dealing with the rights of the accused are included in the Fifth Amendment; accordingly, it is one of the longest in the Bill of Rights. The Fifth Amendment states in full:

""No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.""

The first clause requires that serious crimes be prosecuted only after an indictment has been issued by a grand jury. However, several exceptions are permitted as a result of the evolving interpretation and understanding of this amendment by the courts, given the Constitution is a living document. First, the courts have generally found this requirement to apply only to felonies; less serious crimes can be tried without a grand jury proceeding. Second, this provision of the Bill of Rights does *not* apply to the states because it has not been incorporated; many states instead require a judge to hold a preliminary hearing to decide whether there is enough evidence to hold a full trial. Finally, members of the armed forces who are accused of crimes are not entitled to a grand jury proceeding.

The Fifth Amendment also protects individuals against double jeopardy, a process that subjects a suspect to prosecution twice for the same criminal act. No one who has been acquitted (found not guilty) of a crime can be prosecuted again for that crime. But the prohibition against double jeopardy has its own exceptions. The most notable is that it prohibits a second prosecution only at the same level of government (federal or state) as the first; the federal government can try you for violating federal law, even if a state or local court finds you not guilty of the same action. For example, in the early 1990s, several Los Angeles police officers accused of brutally beating motorist Rodney King during his arrest were acquitted of various charges in a state court, but some were later convicted in a federal court of violating King's civil rights.

The double jeopardy rule does not prevent someone from recovering damages in a civil case—a legal dispute between individuals over a contract or compensation for an injury—that results from a criminal act, even if the person accused of that act is found not guilty. One famous case from the 1990s involved former football star and television personality O. J. Simpson. Simpson, although acquitted of the murders of his ex-wife Nicole Brown and her friend Ron Goldman in a criminal court, was later found to be responsible for their deaths in a subsequent civil case and as a result was forced to forfeit most of his wealth to pay damages to their families.

Perhaps the most famous provision of the Fifth Amendment is its protection against self-incrimination, or the right to remain silent. This provision is so well known that we have a phrase for it: "taking the Fifth." People have the right not to give evidence in court

or to law enforcement officers that might constitute an admission of guilt or responsibility for a crime. Moreover, in a criminal trial, if someone does not testify in his or her own defense, the prosecution cannot use that failure to testify as evidence of guilt or imply that an innocent person would testify. This provision became embedded in the public consciousness following the Supreme Court's 1966 ruling in *Miranda v. Arizona*, whereby suspects were required to be informed of their most important rights, including the right against self-incrimination, before being interrogated in police custody.

Miranda v. Arizona, 384 U.S. 436 (1966).

However, contrary to some media depictions of the Miranda warning, law enforcement officials do not necessarily have to inform suspects of their rights before they are questioned in situations where they are free to leave.

Like the Fourteenth Amendment's due process clause, the Fifth Amendment prohibits the federal government from depriving people of their "life, liberty, or property, without due process of law." Recall that due process is a guarantee that people will be treated fairly and impartially by government officials when the government seeks to fine or imprison them or take their personal property away from them. The courts have interpreted this provision to mean that government officials must establish consistent, fair procedures to decide when people's freedoms are limited; in other words, citizens cannot be detained, their freedom limited, or their property taken arbitrarily or on a whim by police or other government officials. As a result, an entire body of procedural safeguards comes into play for the legal prosecution of crimes. However, the Patriot Act, passed into law after the 9/11 terrorist attacks, somewhat altered this notion.

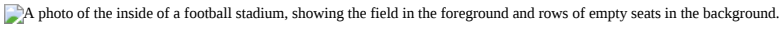
The final provision of the Fifth Amendment has little to do with crime at all. The *takings clause* says that "private property [cannot] be taken for public use, without just compensation." This provision, along with the due process clause's provisions limiting the taking of property, can be viewed as a protection of individuals' economic liberty: their right to obtain, use, and trade tangible and intangible property for their own benefit. For example, you have the right to trade your knowledge, skills, and labor for money through work or the use of your property, or trade money or goods for other things of value, such as clothing, housing, education, or food.

The greatest recent controversy over economic liberty has been sparked by cities' and states' use of the power of eminent domain to take property for redevelopment. Traditionally, the main use of eminent domain was to obtain property for transportation corridors like railroads, highways, canals and reservoirs, and pipelines, which require fairly straight routes to be efficient. Because any single property owner could effectively block a particular route or extract an unfair price for land if it was the last piece needed to assemble a route, there are reasonable arguments for using eminent domain as a last resort in these circumstances, particularly for projects that convey substantial benefits to the public at large.

However, increasingly eminent domain has been used to allow economic development, with beneficiaries ranging from politically connected big businesses such as car manufacturers building new factories to highly profitable sports teams seeking ever-more-luxurious stadiums (Figure). And, while we traditionally think of property owners as relatively well-off people whose rights don't necessarily need protecting since they can fend for themselves in the political system, frequently these cases pit lower- and middle-class homeowners against multinational corporations or multimillionaires with the ear of city and state officials. In a notorious 2005 case, *Kelo v. City of New London*, the Supreme Court sided with municipal officials taking homes in a middle-class neighborhood to obtain land for a large pharmaceutical company's corporate campus.

Kelo et al. v. City of New London et al., 545 U.S. 469 (2005).

The case led to a public backlash against the use of eminent domain and legal changes in many states, making it harder for cities to take property from one private party and give it to another for economic redevelopment purposes.



AT&T Stadium in Arlington, Texas, sits on land taken by eminent domain. (credit: John Purget)

Some disputes over economic liberty have gone beyond the idea of eminent domain. In the past few years, the emergence of on-demand ride-sharing services like Lyft and Uber, direct sales by electric car manufacturer Tesla Motors, and short-term property rentals through companies like Airbnb have led to conflicts between people seeking to offer profitable services online, states and cities trying to regulate these businesses, and the incumbent service providers that compete with these new business models. In the absence of new public policies to clarify rights, the path forward is often determined through norms established in practice, by governments, or by court cases.

THE SIXTH AMENDMENT

Once someone has been charged with a crime and indicted, the next stage in a criminal case is typically the trial itself, unless a plea bargain is reached. The Sixth Amendment contains the provisions that govern criminal trials; in full, it states:

““In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence [sic].””

The first of these guarantees is the right to have a speedy, public trial by an impartial jury. Although there is no absolute limit on the length of time that may pass between an indictment and a trial, the Supreme Court has said that excessively lengthy delays must be justified and balanced against the potential harm to the defendant.

See, for example, *Barker v. Wingo*, 407 U.S. 514 (1972).

In effect, the speedy trial requirement protects people from being detained indefinitely by the government. Yet the courts have ruled that there are exceptions to the public trial requirement; if a public trial would undermine the defendant’s right to a fair trial, it can be held behind closed doors, while prosecutors can request closed proceedings only in certain, narrow circumstances (generally, to protect witnesses from retaliation or to guard classified information). In general, a prosecution must also be made in the “state and district” where the crime was committed; however, people accused of crimes may ask for a change of venue for their trial if they believe pre-trial publicity or other factors make it difficult or impossible for them to receive a fair trial where the crime occurred.

Although the Supreme Court’s proceedings are not televised and there is no video of the courtroom, audio recordings of the oral arguments and decisions announced in cases have been made since 1955. A complete collection of these recordings can be found at the Oyez Project website along with full information about each case.

Most people accused of crimes decline their right to a jury trial. This choice is typically the result of a plea bargain, an agreement between the defendant and the prosecutor in which the defendant pleads guilty to the charge(s) in question, or perhaps to less serious charges, in exchange for more lenient punishment than he or she might receive if convicted after a full trial. There are a number of reasons why this might happen. The evidence against the accused may be so overwhelming that conviction is a near-certainty, so he or she might decide that avoiding the more serious penalty (perhaps even the death penalty) is better than taking the small chance of being acquitted after a trial. Someone accused of being part of a larger crime or criminal organization might agree to testify against others in exchange for lighter punishment. At the same time, prosecutors might want to ensure a win in a case that might not hold up in court by securing convictions for offenses they know they can prove, while avoiding a lengthy trial on other charges they might lose.

The requirement that a jury be impartial is a critical requirement of the Sixth Amendment. Both the prosecution and the defense are permitted to reject potential jurors who they believe are unable to fairly decide the case without prejudice. However, the courts have also said that the composition of the jury as a whole may in itself be prejudicial; potential jurors may not be excluded simply because of their race or sex, for example.

See, for example, *Batson v. Kentucky*, 476 U.S. 79 (1986); *J. E. B. v. Alabama ex rel. T. B.*, 511 U.S. 127 (1994).

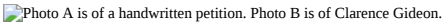
The Sixth Amendment guarantees the right of those accused of crimes to present witnesses in their own defense (if necessary, compelling them to testify) and to confront and cross-examine witnesses presented by the prosecution. In general, the only testimony acceptable in a criminal trial must be given in a courtroom and be subject to cross-examination; hearsay, or testimony by one person about what another person has said, is generally inadmissible, although hearsay may be presented as evidence when it is an admission of guilt by the defendant or a “dying declaration” by a person who has passed away. Although both sides in a trial have the opportunity to examine and cross-examine witnesses, the judge may exclude testimony deemed irrelevant or prejudicial.

Finally, the Sixth Amendment guarantees the right of those accused of crimes to have the assistance of an attorney in their defense. Historically, many states did not provide attorneys to those accused of most crimes who could not afford one themselves; even when an attorney was provided, his or her assistance was often inadequate at best. This situation changed as a result of the Supreme Court’s decision in *Gideon v. Wainwright* (1963).

Gideon v. Wainwright, 372 U.S. 335 (1963).

Clarence Gideon, a poor drifter, was accused of breaking into and stealing money and other items from a pool hall in Panama City, Florida. Denied a lawyer, Gideon was tried and convicted and sentenced to a five-year prison term. While in prison—still without

assistance of a lawyer—he drafted a handwritten appeal and sent it to the Supreme Court, which agreed to hear his case (Figure). The justices unanimously ruled that Gideon, and anyone else accused of a serious crime, was entitled to the assistance of a lawyer, even if they could not afford one, as part of the general due process right to a fair trial.



The handwritten petition for appeal (a) sent to the Supreme Court by Clarence Gideon, shown here circa 1961 (b), the year of his Florida arrest for breaking and entering.

The Supreme Court later extended the *Gideon v. Wainwright* ruling to apply to any case in which an accused person faced the possibility of "loss of liberty," even for one day. The courts have also overturned convictions in which people had incompetent or ineffective lawyers through no fault of their own. The *Gideon*ruling has led to an increased need for professional public defenders, lawyers who are paid by the government to represent those who cannot afford an attorney themselves, although some states instead require practicing lawyers to represent poor defendants on a pro bono basis (essentially, donating their time and energy to the case).

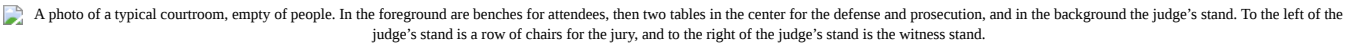
The National Association for Public Defense represents public defenders, lobbying for better funding for public defense and improvements in the justice system in general.

CRIMINAL JUSTICE: THEORY MEETS PRACTICE

Typically a person charged with a serious crime will have a brief hearing before a judge to be informed of the charges against him or her, to be made aware of the right to counsel, and to enter a plea. Other hearings may be held to decide on the admissibility of evidence seized or otherwise obtained by prosecutors.

If the two sides cannot agree on a plea bargain during this period, the next stage is the selection of a jury. A pool of potential jurors is summoned to the court and screened for impartiality, with the goal of seating twelve (in most states) and one or two alternates. All hear the evidence in the trial; unless an alternate must serve, the original twelve decide whether the evidence overwhelmingly points toward guilt or innocence beyond a reasonable doubt.

In the trial itself, the lawyers for the prosecution and defense make opening arguments, followed by testimony by witnesses for the prosecution (and any cross-examination), and then testimony by witnesses for the defense, including the defendant if he or she chooses. Additional prosecution witnesses may be called to rebut testimony by the defense. Finally, both sides make closing arguments. The judge then issues instructions to the jury, including an admonition not to discuss the case with anyone outside the jury room. The jury members leave the courtroom to enter the jury room and begin their deliberations (Figure).



A typical courtroom in the United States. The jury sits along one side, between the judge/witness stand and the tables for the defense and prosecution.

The jurors pick a foreman or forewoman to coordinate their deliberations. They may ask to review evidence or to hear transcripts of testimony. They deliberate in secret and their decision must be unanimous; if they are unable to agree on a verdict after extensive deliberation, a mistrial may be declared, which in effect requires the prosecution to try the case all over again.

A defendant found not guilty of all charges will be immediately released unless other charges are pending (e.g., the defendant is wanted for a crime in another jurisdiction). If the defendant is found guilty of one or more offenses, the judge will choose an appropriate sentence based on the law and the circumstances; in the federal system, this sentence will typically be based on guidelines that assign point values to various offenses and facts in the case. If the prosecution is pursuing the death penalty, the jury will decide whether the defendant should be subject to capital punishment or life imprisonment.

The reality of court procedure is much less dramatic and exciting than what is typically portrayed in television shows and movies. Nonetheless, most Americans will participate in the legal system at least once in their lives as a witness, juror, or defendant.

Have you or any member of your family served on a jury? If so, was the experience a positive one? Did the trial proceed as expected? If you haven't served on a jury, is it something you look forward to? Why or why not?

THE SEVENTH AMENDMENT

The Seventh Amendment deals with the rights of those engaged in civil disputes; as noted earlier, these are disagreements between individuals or businesses in which people are typically seeking compensation for some harm caused. For example, in an automobile accident, the person responsible is compelled to compensate any others (either directly or through his or her insurance company). Much of the work of the legal system consists of efforts to resolve civil disputes. The Seventh Amendment, in full, reads:

““In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law.””

Because of this provision, all trials in civil cases must take place before a jury unless both sides waive their right to a jury trial. However, this right is not always incorporated; in many states, civil disputes—particularly those involving small sums of money, which may be heard by a dedicated small claims court—need not be tried in front of a jury and may instead be decided by a judge working alone.

The Seventh Amendment limits the ability of judges to reconsider questions of fact, rather than of law, that were originally decided by a jury. For example, if a jury decides a person was responsible for an action and the case is appealed, the appeals judge cannot decide someone else was responsible. This preserves the traditional common-law distinction that judges are responsible for deciding questions of law while jurors are responsible for determining the facts of a particular case.

THE EIGHTH AMENDMENT

The Eighth Amendment says, in full:

““Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.””

Bail is a payment of money that allows a person accused of a crime to be freed pending trial; if you “make bail” in a case and do not show up for your trial, you will forfeit the money you paid. Since many people cannot afford to pay bail directly, they may instead get a *bail bond*, which allows them to pay a fraction of the money (typically 10 percent) to a person who sells bonds and who pays the full bail amount. (In most states, the bond seller makes money because the defendant does not get back the money for the bond, and most people show up for their trials.) However, people believed likely to flee or who represent a risk to the community while free may be denied bail and held in jail until their trial takes place.

It is rare for bail to be successfully challenged for being excessive. The Supreme Court has defined an excessive fine as one “so grossly excessive as to amount to deprivation of property without due process of law” or “grossly disproportional to the gravity of a defendant’s offense.”

Waters-Pierce Oil Co. v. Texas, 212 U.S. 86 (1909); *United States v. Bajakajian*, 524 U.S. 321 (1998).

In practice the courts have rarely struck down fines as excessive either.

The most controversial provision of the Eighth Amendment is the ban on “cruel and unusual punishments.” Various torturous forms of execution common in the past—drawing and quartering, burning people alive, and the like—are prohibited by this provision.

See, for example, the discussion in *Wilkerson v. Utah*, 99 U.S. 130 (1879).

Recent controversies over lethal injections and firing squads to administer the death penalty suggest the topic is still salient. While the Supreme Court has never established a definitive test for what constitutes a cruel and unusual punishment, it has generally allowed most penalties short of death for adults, even when to outside observers the punishment might be reasonably seen as disproportionate or excessive.

Perhaps the most notorious example, *Harmelin v. Michigan*, 501 U.S. 957 (1991), upheld a life sentence in a case where the defendant was convicted of possessing just over one pound of cocaine (and no other crime).

In recent years the Supreme Court has issued a series of rulings substantially narrowing the application of the death penalty. As a result, defendants who have mental disabilities may not be executed.

Atkins v. Virginia, 536 U.S. 304 (2002).

Also, defendants who were under eighteen when they committed an offense that is otherwise subject to the death penalty may not be executed.

Roper v. Simmons, 543 U.S. 551 (2005).

The court has generally rejected the application of the death penalty to crimes that did not result in the death of another human being, most notably in the case of rape.

Kennedy v. Louisiana, 554 U.S. 407 (2008).

And, while permitting the death penalty to be applied to murder in some cases, the Supreme Court has generally struck down laws that require the application of the death penalty in certain circumstances. Still, the United States is among ten countries with the most executions worldwide (Figure).

Chart showing the rate of execution in the 10 countries with the highest execution rates. The chart is titled “Rate of Execution in the 10 Countries with the Most Executions, 2007 – 2012”. The chart is divided into three columns, “Country”, “Number of annual executions, on average”, and “Number of annual executions, per capita”. Under the first column “Country” are the values “Iran”, “Saudi Arabia”, “Iraq”, “China”, “Libya”, “Yemen”, “North Korea”, “Pakistan”, “United States”, and “Vietnam”. Under the second column “Number of annual executions, on average” are the values “277.2”, “70.5”, “42.7”, “1720-2400”, “6.5”, “25.3”, “17.5”, “28.5”, “36.7,” and “9.7”. Under the third column “Number of annual executions, per capita” are the values “0.000381%”, “0.000257%”, “0.000157%”, “0.000129-0.000180% (estimate)”, “0.000116%”, “0.000109%”, “0.000073%”, “0.000016%”, “0.000012%”, and “0.000001%”. At the bottom of the chart the source is listed as “Source: Amnesty International, “Death Penalty Statistics, Country by Country.” 2012”.

The United States has the ninth highest per capita rate of execution in the world.

At the same time, however, it appears that the public mood may have shifted somewhat against the death penalty, perhaps due in part to an overall decline in violent crime. The reexamination of past cases through DNA evidence has revealed dozens in which people were wrongfully executed.

Elizabeth Lopatto, “How Many Innocent People Are Sentenced To Death?,” *Forbes*, 29 April 2014. www.forbes.com/sites/elizabet.../#6e9ae5175cc1 (March 1, 2016).

For example, Claude Jones was executed for murder based on 1990-era DNA testing of a single hair that was determined at that time to be his; however, with better DNA testing technology, it was later found to be that of the victim.

Dave Mann, “DNA Tests Undermine Evidence in Texas Execution: New Results Show Claude Jones was Put to Death on Flawed Evidence,” *Texas Observer*, 11 November 2010. www.texasobserver.org/texas-o...xas-execution/ (March 4, 2016).

Perhaps as a result of this and other cases, seven additional states have abolished capital punishment since 2007. As of 2015, nineteen states and the District of Columbia no longer apply the death penalty in new cases, and several other states do not carry out executions despite sentencing people to death.

See, for example, “States With and Without the Death Penalty,” Death Penalty Information Center, www.deathpenaltyinfo.org/stat...-death-penalty (March 4, 2016).

It remains to be seen whether this gradual trend toward the elimination of the death penalty by the states will continue, or whether the Supreme Court will eventually decide to follow former Justice Harry Blackmun’s decision to “no longer… tinker with the machinery of death” and abolish it completely.

The rights of those suspected, accused, and convicted of crimes, along with rights in civil cases and economic liberties, are protected by the second major grouping of amendments within the Bill of Rights. The Fifth Amendment secures various procedural safeguards, protects suspects’ right to remain silent, forbids trying someone twice at the same level of government for the same criminal act, and limits the taking of property for public uses. The Sixth Amendment ensures fairness in criminal trials, including through a fair and speedy trial by an impartial jury, the right to assistance of counsel, and the right to examine and compel testimony from witnesses. The Seventh Amendment ensures the right to jury trials in most civil cases (but only at the federal level). Finally, the Eighth Amendment prohibits excessive fines and bails, as well as “cruel and unusual punishments,” although the scope of what is cruel and unusual is subject to debate.

The Supreme Court case known as *Kelo v. City of New London* was controversial because it _____.

1. allowed greater use of the power of eminent domain
2. regulated popular ride-sharing services like Lyft and Uber
3. limited the application of the death penalty
4. made it harder for police to use evidence obtained without a warrant

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Which of the following rights is not protected by the Sixth Amendment?

1. the right to trial by an impartial jury
2. the right to cross-examine witnesses in a trial
3. the right to remain silent

4. the right to a speedy trial

The double jeopardy rule in the Bill of Rights forbids which of the following?

1. prosecuting someone in a state court for a criminal act he or she had been acquitted of in federal court
2. prosecuting someone in federal court for a criminal act he or she had been acquitted of in a state court
3. suing someone for damages for an act the person was found not guilty of
4. none of these options

The Supreme Court has decided that the death penalty _____.

1. is always cruel and unusual punishment
2. is never cruel and unusual punishment
3. may be applied only to acts of terrorism
4. may not be applied to those who were under 18 when they committed a crime

Explain why someone accused of a crime might negotiate a plea bargain rather than exercising the right to a trial by jury.

Explain the difference between a criminal case and a civil case.

Glossary

double jeopardy
a prosecution pursued twice at the same level of government for the same criminal action

economic liberty
the right of individuals to obtain, use, and trade things of value for their own benefit

eminent domain
the power of government to take or use property for a public purpose after compensating its owner; also known as the takings clause of the Fifth Amendment

Miranda warning
a statement by law enforcement officers informing a person arrested or subject to interrogation of his or her rights

plea bargain
an agreement between the defendant and the prosecutor in which the defendant pleads guilty to the charge(s) in question or perhaps to less serious charges, in exchange for more lenient punishment than if convicted after a full trial

self-incrimination
an action or statement that admits guilt or responsibility for a crime

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5.5: Interpreting the Bill of Rights

Learning Objectives

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

- Describe how the Ninth and Tenth Amendments reflect on our other rights
- Identify the two senses of “right to privacy” embodied in the Constitution
- Explain the controversy over privacy when applied to abortion and same-sex relationships

As this chapter has suggested, the provisions of the Bill of Rights have been interpreted and reinterpreted repeatedly over the past two centuries. However, the first eight amendments are largely silent on the status of traditional common law, which was the legal basis for many of the natural rights claimed by the framers in the Declaration of Independence. These amendments largely reflect the worldview of the time in which they were written; new technology and an evolving society and economy have presented us with novel situations that do not fit neatly into the framework established in the late eighteenth century.

In this section, we consider the final two amendments of the Bill of Rights and the way they affect our understanding of the Constitution as a whole. Rather than protecting specific rights and liberties, the Ninth and Tenth Amendments indicate how the Constitution and the Bill of Rights should be interpreted, and they lay out the residual powers of the state governments. We will also examine privacy rights, an area the Bill of Rights does not address directly; instead, the emergence of defined privacy rights demonstrates how the Ninth and Tenth Amendments have been applied to expand the scope of rights protected by the Constitution.

THE NINTH AMENDMENT

We saw above that James Madison and the other framers were aware they might endanger some rights if they listed a few in the Constitution and omitted others. To ensure that those interpreting the Constitution would recognize that the listing of freedoms and rights in the Bill of Rights was not exhaustive, the Ninth Amendment states:

““The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.””

These rights “retained by the people” include the common-law and natural rights inherited from the laws, traditions, and past court decisions of England. To this day, we regularly exercise and take for granted rights that aren’t written down in the federal constitution, like the right to marry, the right to seek opportunities for employment and education, and the right to have children and raise a family. Supreme Court justices over the years have interpreted the Ninth Amendment in different ways; some have argued that it was intended to extend the rights protected by the Constitution to those natural and common-law rights, while others have argued that it does not prohibit states from changing their constitutions and laws to modify or limit those rights as they see fit.

Critics of a broad interpretation of the Ninth Amendment point out that the Constitution provides ways to protect newly formalized rights through the amendment process. For example, in the nineteenth and twentieth centuries, the right to vote was gradually expanded by a series of constitutional amendments (the Fifteenth and Nineteenth), even though at times this expansion was the subject of great public controversy. However, supporters of a broad interpretation of the Ninth Amendment point out that the rights of the people—particularly people belonging to political or demographic minorities—should not be subject to the whims of popular majorities. One right the courts have said may be at least partially based on the Ninth Amendment is a general right to privacy, discussed later in the chapter.

THE TENTH AMENDMENT

The Tenth Amendment is as follows:

““The 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.””

Unlike the other provisions of the Bill of Rights, this amendment focuses on *power* rather than rights. The courts have generally read the Tenth Amendment as merely stating, as Chief Justice Harlan Stone put it, a “truism that all is retained which has not been surrendered.”

United States v. Darby Lumber, 312 U.S. 100 (1941).

In other words, rather than limiting the power of the federal government in any meaningful way, it simply restates what is made obvious elsewhere in the Constitution: the federal government has both enumerated and implied powers, but where the federal government does not (or chooses not to) exercise power, the states may do so.

At times, politicians and state governments have argued that the Tenth Amendment means states can engage in *interposition* or *nullification* by blocking federal government laws and actions they deem to exceed the constitutional powers of the national government. But the courts have rarely been sympathetic to these arguments, except when the federal government appears to be directly requiring state and local officials to do something. For example, in 1997 the Supreme Court struck down part of a federal law that required state and local law enforcement to participate in conducting background checks for prospective gun purchasers, while in 2012 the court ruled that the government could not compel states to participate in expanding the joint state-federal Medicaid program by taking away all their existing Medicaid funding if they refused to do so.

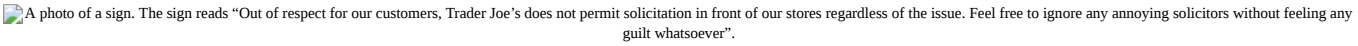
Printz v. United States, 521 U.S. 898 (1997); *National Federation of Independent Business v. Sebelius*, 567 U.S. __ (2012).

However, the Tenth Amendment also allows states to guarantee rights and liberties more fully or extensively than the federal government does, or to include additional rights. For example, many state constitutions guarantee the right to a free public education, several states give victims of crimes certain rights, and eighteen states include the right to hunt game and/or fish.

See Douglas Shinkle, "State Constitutional Right to Hunt and Fish." National Conference of State Legislatures, November 9, 2015. http://www.ncsl.org/research/environ...-and-fish.aspx (March 4, 2016).

A number of state constitutions explicitly guarantee equal rights for men and women. Some permitted women to vote before that right was expanded to all women with the Nineteenth Amendment in 1920, and people aged 18–20 could vote in a few states before the Twenty-Sixth Amendment came into force in 1971. As we will see below, several states also explicitly recognize a right to privacy. State courts at times have interpreted state constitutional provisions to include broader protections for basic liberties than their federal counterparts. For example, although in general people do not have the right to free speech and assembly on private property owned by others without their permission, California's constitutional protection of freedom of expression was extended to portions of some privately owned shopping centers by the state's supreme court (Figure).

Pruneyard Shopping Center v. Robins, 447 U.S. 74 (1980).



This sign outside a California branch of the Trader Joe's supermarket chain is one of many anti-solicitation signs that sprang up in the wake of a court case involving the Pruneyard Shopping Center, which resulted in the protection of free expression in some privately owned shopping centers. (credit: modification of work by "IvyMike"/Flickr)

These state protections do not extend the other way, however. If the federal government passes a law or adopts a constitutional amendment that restricts rights or liberties, or a Supreme Court decision interprets the Constitution in a way that narrows these rights, the state's protection no longer applies. For example, if Congress decided to outlaw hunting and fishing and the Supreme Court decided this law was a valid exercise of federal power, the state constitutional provisions that protect the right to hunt and fish would effectively be meaningless. More concretely, federal laws that control weapons and drugs override state laws and constitutional provisions that otherwise permit them. While federal marijuana policies are not strictly enforced, state-level marijuana policies in Colorado and Washington provide a prominent exception to that clarity.

STUDENT-LED CONSTITUTIONAL CHANGE

Although the United States has not had a national constitutional convention since 1787, the states have generally been much more willing to revise their constitutions. In 1998, two politicians in Texas decided to do something a little bit different: they enlisted the help of college students at Angelo State University to draft a completely new constitution for the state of Texas, which was then formally proposed to the state legislature.

The Texas Politics Project, "Trying to Rewrite the Texas Constitution," texaspolitics.utexas.edu/arc...01/slide1.html (March 1, 2016).

Although the proposal failed, it was certainly a valuable learning experience for the students who took part.

Each state has a different process for changing its constitution. In some, like California and Mississippi, voters can propose amendments to their state constitution directly, bypassing the state legislature. In others, such as Tennessee and Texas, the state legislature controls the process of initiation. The process can affect the sorts of amendments likely to be considered; it shouldn't be

surprising, for example, that amendments limiting the number of terms legislators can serve in office have been much more common in states where the legislators themselves have no say in whether such provisions are adopted.

What rights or liberties do you think ought to be protected by your state constitution that aren't already? Or would you get rid of some of these protections instead? Find a copy of your current state constitution, read through it, and decide. Then find out what steps would be needed to amend your state's constitution to make the changes you would like to see.

THE RIGHT TO PRIVACY

Although the term *privacy* does not appear in the Constitution or Bill of Rights, scholars have interpreted several Bill of Rights provisions as an indication that James Madison and Congress sought to protect a common-law right to privacy as it would have been understood in the late eighteenth century: a right to be free of government intrusion into our personal life, particularly within the bounds of the home. For example, we could perhaps see the Second Amendment as standing for the common-law right to self-defense in the home; the Third Amendment as a statement that government soldiers should not be housed in anyone's home; the Fourth Amendment as setting a high legal standard for allowing agents of the state to intrude on someone's home; and the due process and takings clauses of the Fifth Amendment as applying an equally high legal standard to the government's taking a home or property (reinforced after the Civil War by the Fourteenth Amendment). Alternatively, we could argue that the Ninth Amendment anticipated the existence of a common-law right to privacy, among other rights, when it acknowledged the existence of basic, natural rights not listed in the Bill of Rights or the body of the Constitution itself.

See *Griswold v. Connecticut*, 381 U.S. 479 (1965). This discussion parallels the debate among the members of the Supreme Court in the *Griswold* case.

Lawyers Samuel D. Warren and Louis Brandeis (the latter a future Supreme Court justice) famously developed the concept of privacy rights in a law review article published in 1890.

Samuel Warren and Louis D. Brandeis. 1890. "The Right to Privacy," *Harvard Law Review* 4, No. 193.

Although several state constitutions do list the right to privacy as a protected right, the explicit recognition by the Supreme Court of a right to privacy in the U.S. Constitution emerged only in the middle of the twentieth century. In 1965, the court spelled out the right to privacy for the first time in *Griswold v. Connecticut*, a case that struck down a state law forbidding even married individuals to use any form of contraception.

Griswold v. Connecticut, 381 U.S. 479 (1965)

Although many subsequent cases before the Supreme Court also dealt with privacy in the course of intimate, sexual conduct, the issue of privacy matters as well in the context of surveillance and monitoring by government and private parties of our activities, movements, and communications. Both these senses of privacy are examined below.

Sexual Privacy

Although the *Griswold* case originally pertained only to married couples, in 1972 it was extended to apply the right to obtain contraception to unmarried people as well.

Eisenstadt v. Baird, 405 U.S. 438 (1972).

Although neither decision was entirely without controversy, the "sexual revolution" taking place at the time may well have contributed to a sense that anti-contraception laws were at the very least dated, if not in violation of people's rights. The contraceptive coverage controversy surrounding the Hobby Lobby case shows that this topic remains relevant.

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The Supreme Court's application of the right to privacy doctrine to abortion rights proved far more problematic, legally and politically. In 1972, four states permitted abortions without restrictions, while thirteen allowed abortions "if the pregnant woman's life or physical or mental health were endangered, if the fetus would be born with a severe physical or mental defect, or if the pregnancy had resulted from rape or incest"; abortions were completely illegal in Pennsylvania and heavily restricted in the remaining states.

See Rachel Benson Gold. March 2003. "Lessons from Before Roe: Will Past be Prologue?" *The Guttmacher Report on Public Policy* 6, No. 1. www.guttmacher.org/pubs/tgr/.../gr060108.html (March 4, 2016).

On average, several hundred American women a year died as a result of "back alley abortions" in the 1960s.

The legal landscape changed dramatically as a result of the 1973 ruling in *Roe v. Wade*,

Roe v. Wade, 410 U.S. 113 (1973).

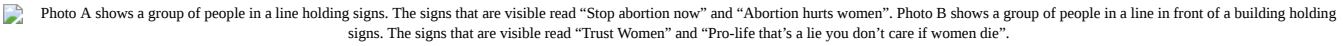
in which the Supreme Court decided the right to privacy encompassed a right for women to terminate a pregnancy, at least under certain scenarios. The justices ruled that while the government did have an interest in protecting the "potentiality of human life," nonetheless this had to be balanced against the interests of both women's health and women's right to decide whether to have an abortion. Accordingly, the court established a framework for deciding whether abortions could be regulated based on the fetus's viability (i.e., potential to survive outside the womb) and the stage of pregnancy, with no restrictions permissible during the first three months of pregnancy (i.e., the first trimester), during which abortions were deemed safer for women than childbirth itself.

Starting in the 1980s, Supreme Court justices appointed by Republican presidents began to roll back the *Roe* decision. A key turning point was the court's ruling in *Planned Parenthood v. Casey* in 1992, in which a plurality of the court rejected *Roe's* framework based on trimesters of pregnancy and replaced it with the undue burden test, which allows restrictions prior to viability that are not "substantial obstacle[s]" (undue burdens) to women seeking an abortion.

Planned Parenthood v. Casey, 505 U.S. 833 (1992).

Thus, the court upheld some state restrictions, including a required waiting period between arranging and having an abortion, parental consent (or, if not possible for some reason such as incest, authorization of a judge) for minors, and the requirement that women be informed of the health consequences of having an abortion. Other restrictions such as a requirement that a married woman notify her spouse prior to an abortion were struck down as an undue burden. Since the *Casey* decision, many states have passed other restrictions on abortions, such as banning certain procedures, requiring women to have and view an ultrasound before having an abortion, and implementing more stringent licensing and inspection requirements for facilities where abortions are performed. Although no majority of Supreme Court justices has ever moved to overrule *Roe*, the restrictions on abortion the Court has upheld in the last few decades have made access to abortions more difficult in many areas of the country, particularly in rural states and communities along the U.S.–Mexico border (Figure). However, in *Whole Woman's Health v. Hellerstedt* (2016), the Court reinforced Roe 5–3 by disallowing two Texas state regulations regarding the delivery of abortion services.

Whole Woman's Health v. Hellerstedt, 579 U.S. ___ (2016).



A "March for Life" in Knoxville, Tennessee, on January 20, 2013 (a), marks the anniversary of the *Roe v. Wade* decision. On November 15, 2014, protestors in Chicago demonstrate against a crisis pregnancy center (b), a type of organization that counsels against abortion. (credit a: modification of work by Brian Stansberry; credit b: modification of work by Samuel Henderson)

Beyond the issues of contraception and abortion, the right to privacy has been interpreted to encompass a more general right for adults to have noncommercial, consensual sexual relationships in private. However, this legal development is relatively new; as recently as 1986, the Supreme Court ruled that states could still criminalize sex acts between two people of the same sex.

Bowers v. Hardwick, 478 U.S. 186 (1986).

That decision was overturned in 2003 in *Lawrence v. Texas*, which invalidated state laws that criminalized sodomy.

Lawrence v. Texas, 539 U.S. 558 (2003).

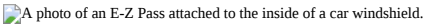
The state and national governments still have leeway to regulate sexual morality to some degree; "anything goes" is not the law of the land, even for actions that are consensual. The Supreme Court has declined to strike down laws in a few states that outlaw the sale of vibrators and other sex toys. Prostitution remains illegal in every state except in certain rural counties in Nevada; both polygamy (marriage to more than one other person) and bestiality (sex with animals) are illegal everywhere. And, as we saw earlier, the states may regulate obscene materials and, in certain situations, material that may be harmful to minors or otherwise indecent; to this end, states and localities have sought to ban or regulate the production, distribution, and sale of pornography.

Privacy of Communications and Property

Another example of heightened concerns about privacy in the modern era is the reality that society is under pervasive surveillance. In the past, monitoring the public was difficult at best. During the Cold War, regimes in the Soviet bloc employed millions of people as domestic spies and informants in an effort to suppress internal dissent through constant monitoring of the general public. Not only was this effort extremely expensive in terms of the human and monetary capital it required, but it also proved remarkably

ineffective. Groups like the East German Stasi and the Romanian Securitate were unable to suppress the popular uprisings that undermined communist one-party rule in most of those countries in the late 1980s.

Technology has now made it much easier to track and monitor people. Police cars and roadways are equipped with cameras that can photograph the license plate of every passing car or truck and record it in a database; while allowing police to recover stolen vehicles and catch fleeing suspects, this data can also be used to track the movements of law-abiding citizens. But law enforcement officials don't even have to go to this much work; millions of car and truck drivers pay tolls electronically without stopping at toll booths thanks to transponders attached to their vehicles, which can be read by scanners well away from any toll road or bridge to monitor traffic flow or any other purpose (Figure). The pervasive use of GPS (Global Positioning System) raises similar issues.



One form of technology that has made it easier to potentially monitor people's movements is electronic toll collection, such as the E-ZPass system in the Midwest and Northeast, FasTrak in California, and I-Pass in Illinois. (credit: modification of work by Kerry Ceszyk)

Even pedestrians and cyclists are relatively easy to track today. Cameras pointed at sidewalks and roadways can employ facial recognition software to identify people as they walk or bike around a city. Many people carry smartphones that constantly report their location to the nearest cell phone tower and broadcast a beacon signal to nearby wireless hotspots and Bluetooth devices. Police can set up a small device called a Stingray that identifies and tracks all cell phones that attempt to connect to it within a radius of several thousand feet. With the right software, law enforcement and criminals can remotely activate a phone's microphone and camera, effectively planting a bug in someone's pocket without the person even knowing it.

These aren't just gimmicks in a bad science fiction movie; businesses and governments have openly admitted they are using these methods. Research shows that even metadata—information about the messages we send and the calls we make and receive, such as time, location, sender, and recipient but excluding their content—can tell governments and businesses a lot about what someone is doing. Even when this information is collected in an anonymous way, it is often still possible to trace it back to specific individuals, since people travel and communicate in largely predictable patterns.

The next frontier of privacy issues may well be the increased use of drones, small preprogrammed or remotely piloted aircraft. Drones can fly virtually undetected and monitor events from overhead. They can peek into backyards surrounded by fences, and using infrared cameras they can monitor activity inside houses and other buildings. The Fourth Amendment was written in an era when finding out what was going on in someone's home meant either going inside or peeking through a window; applying its protections today, when seeing into someone's house can be as easy as looking at a computer screen miles away, is no longer simple.

In the United States, many advocates of civil liberties are concerned that laws such as the USA PATRIOT Act (i.e., Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act), passed weeks after the 9/11 attacks in 2001, have given the federal government too much power by making it easy for officials to seek and obtain search warrants or, in some cases, to bypass warrant requirements altogether. Critics have argued that the Patriot Act has largely been used to prosecute ordinary criminals, in particular drug dealers, rather than terrorists as intended. Most European countries, at least on paper, have opted for laws that protect against such government surveillance, perhaps mindful of past experience with communist and fascist regimes. European countries also tend to have stricter laws limiting the collection, retention, and use of private data by companies, which makes it harder for governments to obtain and use that data. Most recently, the battle between Apple Inc. and the National Security Agency (NSA) over whether Apple should allow the government access to key information that is encrypted has made the discussion of this tradeoff salient once again.

Several groups lobby the government, such as The Electronic Frontier Foundation and The Electronic Privacy Information Center, on issues related to privacy in the information age, particularly on the Internet.

All this is not to say that technological surveillance tools do not have value or are inherently bad. They can be used for many purposes that would benefit society and, perhaps, even enhance our freedoms. Spending less time stuck in traffic because we know there's been an accident—detected automatically because the cell phones that normally whiz by at the speed limit are now crawling along—gives us time to spend on more valuable activities. Capturing criminals and terrorists by recognizing them or their vehicles before they can continue their agendas will protect the life, liberty, and property of the public at large. At the same time, however, the emergence of these technologies means calls for vigilance and limits on what businesses and governments can do with the information they collect and the length of time they may retain it. We might also be concerned about how this technology could be

used by more oppressive regimes. If the technological resources that are at the disposal of today's governments had been available to the East Germany Stasi and the Romanian Securitate, would those repressive regimes have fallen? How much privacy and freedom should citizens sacrifice in order to feel safe?

The interrelationship of constitutional amendments continues to be settled through key court cases over time. Because it was not explicitly laid out in the Constitution, privacy rights required clarification through public laws and court precedents. Important cases addressing the right to privacy relate to abortion, sexual behavior, internet activity, and the privacy of personal texts and cell phone calls. The place where we draw the line between privacy and public safety is an ongoing discussion in which the courts are a significant player.

Which of the following rights is not explicitly protected by some state constitutions?

1. the right to hunt
2. the right to privacy
3. the right to polygamous marriage
4. the right to a free public education

The right to privacy has been controversial for all the following reasons *except* _____.

1. it is not explicitly included in the Constitution or Bill of Rights
2. it has been interpreted to protect women's right to have an abortion
3. it has been used to overturn laws that have substantial public support
4. most U.S. citizens today believe the government should be allowed to outlaw birth control

Which of the following rules has the Supreme Court said is an *undue burden* on the right to have an abortion?

1. Women must make more than one visit to an abortion clinic before the procedure can be performed.
2. Minors must gain the consent of a parent or judge before seeking an abortion.
3. Women must notify their spouses before having an abortion.
4. Women must be informed of the health consequences of having an abortion.

A major difference between most European countries and the United States today is _____.

1. most Europeans don't use technologies that can easily be tracked
2. laws in Europe more strictly regulate how government officials can use tracking technology
3. there are more legal restrictions on how the U.S. government uses tracking technology than in Europe
4. companies based in Europe don't have to comply with U.S. privacy laws

Explain the difference between a right listed in the Bill of Rights and a common-law right.

Describe two ways in which new technological developments challenge traditional notions of privacy.

The framers of the Constitution were originally reluctant to include protections of civil liberties and rights in the Constitution. Do you think this would be the case if the Constitution were written today? Why or why not?

Which rights and freedoms for citizens do you think our government does a good job of protecting? Why? Which rights and freedoms could it better protect, and how?

In which areas do you think people's rights and liberties are at risk of government intrusion? Why? Which solutions would you propose?

What are the implications of the Supreme Court decision in *Burwell v. Hobby*?

How does the provision for and the protection of individual rights and freedoms consume government resources of time and money? Since these are in effect the people's resources, do you think they are being well spent? Why or why not?

There is an old saying that it's better for 100 guilty people to go free than for an innocent person to be unjustly punished. Do you agree? Why or why? What do you think is the right balance for our society to strike?

Glossary

Patriot Act

a law passed by Congress in the wake of the 9/11 attacks that broadened federal powers to monitor electronic communications; the full name is the USA PATRIOT Act (Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act)

right to privacy

the right to be free of government intrusion

undue burden test

a means of deciding whether a law that makes it harder for women to seek abortions is constitutional

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CHAPTER OVERVIEW

6: Civil Rights

Topic hierarchy

6.1: Introduction
6.2: What Are Civil Rights and How Do We Identify Them?
6.3: The African American Struggle for Equality
6.4: The Fight for Women's Rights
6.5: Civil Rights for Indigenous Groups: Native Americans, Alaskans, and Hawaiians
6.6: Equal Protection for Other Groups

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6.1: Introduction

Supporters rally in defense of Park51, a planned Islamic community center in Lower Manhattan. Due to the development's proximity to the World Trade Center site, it was controversially referred to as the Ground Zero mosque. While a temporary Islamic center opened there in September 2011, the owner now plans to build luxury condominiums on the site.

Aaron Morrison, "Ground Zero Mosque 2015: Developer to Build Condos Instead of Islamic Center that Sparked Controversy Around 9/11 Attacks," *International Business Times*, 29 September 2015.

(credit: modification of work by David Shankbone)

The United States' founding principles are liberty, equality, and justice. However, not all its citizens have always enjoyed equal opportunities, the same treatment under the law, or all the liberties extended to others. Well into the twentieth century, many were routinely discriminated against because of sex, race, ethnicity or country of origin, religion, sexual orientation, or physical or mental abilities. When we consider the experiences of white women and ethnic minorities, for much of U.S. history the majority of its people have been deprived of basic rights and opportunities, and sometimes of citizenship itself.

The fight to secure equal rights for all continues today. While many changes must still be made, the past one hundred years, especially the past few decades, have brought significant gains for people long discriminated against. Yet, as the protest over the building of an Islamic community center in Lower Manhattan demonstrates (Figure), people still encounter prejudice, injustice, and negative stereotypes that lead to discrimination, marginalization, and even exclusion from civic life.

What is the difference between civil liberties and civil rights? How did the African American struggle for civil rights evolve? What challenges did women overcome in securing the right to vote, and what obstacles do they and other U.S. groups still face? This chapter addresses these and other questions in exploring the essential concepts of civil rights.

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6.2: What Are Civil Rights and How Do We Identify Them?

Learning Objectives

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

- Define the concept of civil rights
- Describe the standards that courts use when deciding whether a discriminatory law or regulation is unconstitutional
- Identify three core questions for recognizing a civil rights problem

The belief that people should be treated equally under the law is one of the cornerstones of political thought in the United States. Yet not all citizens have been treated equally throughout the nation's history, and some are treated differently even today. For example, until 1920, nearly all women in the United States lacked the right to vote. Black men received the right to vote in 1870, but as late as 1940 only 3 percent of African American adults living in the South were registered to vote, largely due to laws designed to keep them from the polls.

Constitutional Rights Foundation. "Race and Voting in the Segregated South," http://www.crf-usa.org/black-history...gregated-south (April 10, 2016).

Americans were not allowed to enter into legal marriage with a member of the same sex in many U.S. states until 2015. Some types of unequal treatment are considered acceptable, while others are not. No one would consider it acceptable to allow a ten-year-old to vote, because a child lacks the ability to understand important political issues, but all reasonable people would agree that it is wrong to mandate racial segregation or to deny someone the right to vote on the basis of race. It is important to understand which types of inequality are unacceptable and why.

DEFINING CIVIL RIGHTS

Civil rights are, at the most fundamental level, guarantees by the government that it will treat people equally, particularly people belonging to groups that have historically been denied the same rights and opportunities as others. The proclamation that "all men are created equal" appears in the Declaration of Independence, and the due process clause of the Fifth Amendment to the U.S. Constitution requires that the federal government treat people equally. According to Chief Justice Earl Warren in the Supreme Court case of *Bolling v. Sharpe* (1954), "discrimination may be so unjustifiable as to be violative of due process."

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

Additional guarantees of equality are provided by the equal protection clause of the Fourteenth Amendment, ratified in 1868, which states in part that "No State shall . . . deny to any person within its jurisdiction the equal protection of the laws." Thus, between the Fifth and Fourteenth Amendments, neither state governments nor the federal government may treat people unequally unless unequal treatment is necessary to maintain important governmental interests, like public safety.

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

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

If people are not similarly circumstanced, however, they may be treated differently. Asian Americans and Latinos who have broken the same law are similarly circumstanced; however, a blind driver or a ten-year-old driver is differently circumstanced than a sighted, adult driver.

IDENTIFYING DISCRIMINATION

Laws that treat one group of people differently from others are not always unconstitutional. In fact, the government engages in legal discrimination quite often. In most states, you must be eighteen years old to smoke cigarettes and twenty-one to drink alcohol; these laws discriminate against the young. To get a driver's license so you can legally drive a car on public roads, you have to be a

minimum age and pass tests showing your knowledge, practical skills, and vision. Perhaps you are attending a public college or university run by the government; the school you attend has an open admission policy, which means the school admits all who apply. Not all public colleges and universities have an open admissions policy, however. These schools may require that students have a high school diploma or a particular score on the SAT or ACT or a GPA above a certain number. In a sense, this is discrimination, because these requirements treat people unequally; people who do not have a high school diploma or a high enough GPA or SAT score are not admitted. How can the federal, state, and local governments discriminate in all these ways even though the equal protection clause seems to suggest that everyone be treated the same?

The answer to this question lies in the *purpose* of the discriminatory practice. In most cases when the courts are deciding whether discrimination is unlawful, the government has to demonstrate only that it has a good reason for engaging in it. Unless the person or group challenging the law can prove otherwise, the courts will generally decide the discriminatory practice is allowed. In these cases, the courts are applying the rational basis test. That is, as long as there's a reason for treating some people differently that is "rationally related to a legitimate government interest," the discriminatory act or law or policy is acceptable.

Cornell University Law School: Legal Information Institute. "Rational Basis," www.law.cornell.edu/wex/rational_basis (April 10, 2016); *Nebbia v. New York*, 291 U.S. 502 (1934).

For example, since letting blind people operate cars would be dangerous to others on the road, the law forbidding them to drive is reasonably justified on the grounds of safety; thus, it is allowed even though it discriminates against the blind. Similarly, when universities and colleges refuse to admit students who fail to meet a certain test score or GPA, they can discriminate against students with weaker grades and test scores because these students most likely do not possess the knowledge or skills needed to do well in their classes and graduate from the institution. The universities and colleges have a legitimate reason for denying these students entrance.

The courts, however, are much more skeptical when it comes to certain other forms of discrimination. Because of the United States' history of discrimination against people of non-white ancestry, women, and members of ethnic and religious minorities, the courts apply more stringent rules to policies, laws, and actions that discriminate on the basis of race, ethnicity, gender, religion, or national origin.

United States v. Carolene Products Co., 304 U.S. 144 (1938).

Discrimination based on gender or sex is generally examined with intermediate scrutiny. The standard of intermediate scrutiny was first applied by the Supreme Court in *Craig v. Boren* (1976) and again in *Clark v. Jeter* (1988).

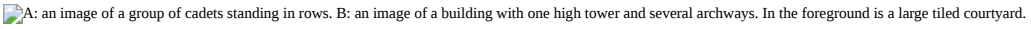
Craig v. Boren, 429 U.S. 190 (1976); *Clark v. Jeter*, 486 U.S. 456 (1988).

It requires the government to demonstrate that treating men and women differently is "substantially related to an important governmental objective." This puts the burden of proof on the *government* to demonstrate why the unequal treatment is justifiable, not on the individual who alleges unfair discrimination has taken place. In practice, this means laws that treat men and women differently are sometimes upheld, although usually they are not. For example, in the 1980s and 1990s, the courts ruled that states could not operate single-sex institutions of higher education and that such schools, like South Carolina's military college The Citadel, shown in Figure, must admit both male and female students.

Mississippi University for Women v. Hogan, 458 U.S. 718 (1982); *United States v. Virginia*, 518 U.S. 515 (1996).

Women in the military are now also allowed to serve in all combat roles, although the courts have continued to allow the Selective Service System (the draft) to register only men and not women.

Matthew Rosenberg and Dave Philipps, "All Combat Roles Open to Women, Defense Secretary Says," *New York Times*, 3 December 2015; *Rostker v. Goldberg*, 453 U.S. 57 (1981).



While the first female cadets graduated from the U.S. Military Academy at West Point in 1980 (a), The Citadel, a military college in South Carolina (b), was an all-male institution until 1995 when a young woman named Shannon Faulkner enrolled in the school.

Discrimination against members of racial, ethnic, or religious groups or those of various national origins is reviewed to the greatest degree by the courts, which apply the strict scrutiny standard in these cases. Under strict scrutiny, the burden of proof is on the government to demonstrate that there is a compelling governmental interest in treating people from one group differently from

those who are not part of that group—the law or action can be “narrowly tailored” to achieve the goal in question, and that it is the “least restrictive means” available to achieve that goal.

Johnson v. California, 543 U.S. 499 (2005).

In other words, if there is a non-discriminatory way to accomplish the goal in question, discrimination should not take place. In the modern era, laws and actions that are challenged under strict scrutiny have rarely been upheld. Strict scrutiny, however, was the legal basis for the Supreme Court’s 1944 upholding of the legality of the internment of Japanese Americans during World War II, discussed later in this chapter.

Korematsu v. United States, 323 U.S. 214 (1944).

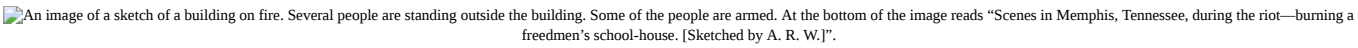
Finally, affirmative action consists of government programs and policies designed to benefit members of groups historically subject to discrimination. Much of the controversy surrounding affirmative action is about whether strict scrutiny should be applied to these cases.

PUTTING CIVIL RIGHTS IN THE CONSTITUTION

At the time of the nation’s founding, of course, the treatment of many groups was unequal: hundreds of thousands of people of African descent were not free, the rights of women were decidedly fewer than those of men, and the native peoples of North America were generally not considered U.S. citizens at all. While the early United States was perhaps a more inclusive society than most of the world at that time, equal treatment of all was at best still a radical idea.

The aftermath of the Civil War marked a turning point for civil rights. The Republican majority in Congress was enraged by the actions of the reconstituted governments of the southern states. In these states, many former Confederate politicians and their sympathizers returned to power and attempted to circumvent the Thirteenth Amendment’s freeing of slaves by passing laws known as the black codes. These laws were designed to reduce former slaves to the status of serfs or indentured servants; blacks were not just denied the right to vote but also could be arrested and jailed for vagrancy or idleness if they lacked jobs. Blacks were excluded from public schools and state colleges and were subject to violence at the hands of whites (Figure).

“Mississippi Black Code,” chnm.gmu.edu/courses/122/recon/code.html (April 10, 2016); “Black Codes and Pig Laws,” http://www.pbs.org/tpt/slavery-by-an...s/black-codes/ (April 10, 2016).


An image of a sketch of a building on fire. Several people are standing outside the building. Some of the people are armed. At the bottom of the image reads “Scenes in Memphis, Tennessee, during the riot—burning a freedmen’s school-house. [Sketched by A. R. W.]”.

A school built by the federal government for former slaves burned after being set on fire during a race riot in Memphis, Tennessee, in 1866. White southerners, angered by their defeat in the Civil War and the loss of their slave property, attacked and killed former slaves, destroyed their property, and terrorized white northerners who attempted to improve the freed slaves’ lives.

To override the southern states’ actions, lawmakers in Congress proposed two amendments to the Constitution designed to give political equality and power to former slaves; once passed by Congress and ratified by the necessary number of states, these became the Fourteenth and Fifteenth Amendments. The Fourteenth Amendment, in addition to including the equal protection clause as noted above, also was designed to ensure that the states would respect the civil liberties of freed slaves. The Fifteenth Amendment was proposed to ensure the right to vote for black men, which will be discussed in more detail later in this chapter.

IDENTIFYING CIVIL RIGHTS ISSUES

When we look back at the past, it’s relatively easy to identify civil rights issues that arose. But looking into the future is much harder. For example, few people fifty years ago would have identified the rights of the LGBT community as an important civil rights issue or predicted it would become one, yet in the intervening decades it has certainly done so. Similarly, in past decades the rights of those with disabilities, particularly mental disabilities, were often ignored by the public at large. Many people with disabilities were institutionalized and given little further thought, and within the past century, it was common for those with mental disabilities to be subject to forced sterilization.

Catherine K. Harbour, and Pallab K. Maulik. 2010. “History of Intellectual Disability.” In *International Encyclopedia of Rehabilitation*, eds. J. H. Stone and M. Blouin. http://cirrie.buffalo.edu/encycloped...n/article/143/ (April 10, 2016).

Today, most of us view this treatment as barbaric.

Clearly, then, new civil rights issues can emerge over time. How can we, as citizens, identify them as they emerge and distinguish genuine claims of discrimination from claims by those who have merely been unable to convince a majority to agree with their viewpoints? For example, how do we decide if twelve-year-olds are discriminated against because they are not allowed to vote? We can identify true discrimination by applying the following analytical process:

1. *Which groups?* First, identify the group of people who are facing discrimination.
2. *Which right(s) are threatened?* Second, what right or rights are being denied to members of this group?
3. *What do we do?* Third, what can the government do to bring about a fair situation for the affected group? Is proposing and enacting such a remedy realistic?

JOIN THE FIGHT FOR CIVIL RIGHTS

One way to get involved in the fight for civil rights is to stay informed. The Southern Poverty Law Center (SPLC) is a not-for-profit advocacy group based in Montgomery, Alabama. Lawyers for the SPLC specialize in civil rights litigation and represent many people whose rights have been violated, from victims of hate crimes to undocumented immigrants. They provide summaries of important civil rights cases under their Docket section.

Civil rights institutes are found throughout the United States and especially in the south. One of the most prominent civil rights institutes is the Birmingham Civil Rights Institute,which is located in Alabama.

The equal protection clause of the Fourteenth Amendment gives all people and groups in the United States the right to be treated equally regardless of individual attributes. That logic has been expanded in the twenty-first century to cover attributes such as race, color, ethnicity, sex, gender, sexual orientation, religion, and disability. People may still be treated unequally by the government, but only if there is at least a rational basis for it, such as a disability that makes a person unable to perform the essential functions required by a job, or if a person is too young to be trusted with an important responsibility, like driving safely. If the characteristic on which discrimination is based is related to sex, race, or ethnicity, the reason for it must serve, respectively, an important government interest or a compelling government interest.

A group of African American students believes a college admissions test that is used by a public university discriminates against them. What legal standard would the courts use in deciding their case?

1. rational basis test
2. intermediate scrutiny
3. strict scrutiny
4. equal protection

The equal protection clause became part of the Constitution as a result of _____.

1. affirmative action
2. the Fourteenth Amendment
3. intermediate scrutiny
4. strict scrutiny

Which of the following types of discrimination would be subject to the rational basis test?

1. A law that treats men differently from women
2. An action by a state governor that treats Asian Americans differently from other citizens
3. A law that treats whites differently from other citizens
4. A law that treats 10-year-olds differently from 28-year-olds

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What is the difference between civil rights and civil liberties?

Glossary

affirmative action

the use of programs and policies designed to assist groups that have historically been subject to discrimination

black codes

laws passed immediately after the Civil War that discriminated against freed slaves and other blacks and deprived them of their rights

equal protection clause

a provision of the Fourteenth Amendment that requires the states to treat all residents equally under the law

intermediate scrutiny

the standard used by the courts to decide cases of discrimination based on gender and sex; burden of proof is on the government to demonstrate an important governmental interest is at stake in treating men differently from women

rational basis test

the standard used by the courts to decide most forms of discrimination; the burden of proof is on those challenging the law or action to demonstrate there is no good reason for treating them differently from other citizens

strict scrutiny

the standard used by the courts to decide cases of discrimination based on race, ethnicity, national origin, or religion; burden of proof is on the government to demonstrate a compelling governmental interest is at stake and no alternative means are available to accomplish its goals

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6.3: The African American Struggle for Equality

Learning Objectives

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

- Identify key events in the history of African American civil rights
- Explain how the courts, Congress, and the executive branch supported the civil rights movement
- Describe the role of grassroots efforts in the civil rights movement

Many groups in U.S. history have sought recognition as equal citizens. Although each group's efforts have been notable and important, arguably the greatest, longest, and most violent struggle was that of African Americans, whose once-inferior legal status was even written into the text of the Constitution. Their fight for freedom and equality provided the legal and moral foundation for others who sought recognition of their equality later on.

SLAVERY AND THE CIVIL WAR

In the Declaration of Independence, Thomas Jefferson made the radical statement that "all men are created equal" and "are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness." Yet like other wealthy landowners of his time, Jefferson also owned dozens of other human beings as his personal property. He recognized this contradiction and personally considered the institution of slavery to be a "hideous blot" on the nation.

Lucia Stanton. 2008. "Thomas Jefferson and Slavery," https://www.monticello.org/site/plan...teref3_srni04n.

However, in order to forge a political union that would stand the test of time, he and the other founders—and later the framers of the Constitution—chose not to address the issue in any definitive way. Political support for abolition was very much a minority stance at the time, although after the Revolution many of the northern states did abolish slavery for a variety of reasons.

"How Did Slavery Disappear in the North?" http://www.abolitionseminar.org/how-...olish-slavery/ (April 10, 2016); Nicholas Boston and Jennifer Hallam, "The Slave Experience: Freedom and Emancipation," http://www.pbs.org/wnet/slavery/expe...m/history.html (April 10, 2016).

As the new United States expanded westward, however, the issue of slavery became harder to ignore and ignited much controversy. Many opponents of slavery were willing to accept the institution if it remained largely confined to the South but did not want it to spread westward. They feared the expansion of slavery would lead to the political dominance of the South over the North and would deprive small farmers in the newly acquired western territories who could not afford slaves.

Eric Foner. 1970. *Free Soil, Free Labor, Free Men: The Ideology of the Republican Party Before the Civil War*. New York: Oxford University Press, 28, 50, 54.

Abolitionists, primarily in the North, also argued that slavery was both immoral and opposed basic U.S. values; they demanded an end to it.

The spread of slavery into the West seemed inevitable, however, following the Supreme Court's ruling in the case *Dred Scott v. Sandford*,

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

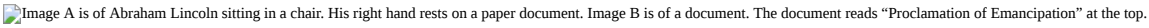
decided in 1857. Scott, who had been born into slavery but had spent time in free states and territories, argued that his temporary residence in a territory where slavery had been banned by the federal government had made him a free man. The Supreme Court rejected his argument. In fact, the Court's majority stated that Scott had no legal right to sue for his freedom at all because blacks (whether free or slave) were not and could not become U.S. citizens. Thus, Scott lacked the standing to even appear before the court. The Court also held that Congress lacked the power to decide whether slavery would be permitted in a territory that had been acquired after the Constitution was ratified, in effect prohibiting the federal government from passing any laws that would limit the expansion of slavery into any part of the West.

Ultimately, of course, the issue was decided by the Civil War (1861–1865), with the southern states seceding to defend their "states' rights" to determine their own destinies without interference by the federal government. Foremost among the rights claimed by the southern states was the right to decide whether their residents would be allowed to own slaves.

David M. Potter. 1977. *The Impending Crisis, 1848–1861*. New York: Harper & Row, 45.

Although at the beginning of the war President Abraham Lincoln had been willing to allow slavery to continue in the South to preserve the Union, he changed his policies regarding abolition over the course of the war. The first step was the issuance of the Emancipation Proclamation on January 1, 1863 (Figure). Although it stated "all persons held as slaves . . . henceforward shall be free," the proclamation was limited in effect to the states that had rebelled. Slaves in states that had remained within the Union, such as Maryland and Delaware, and in parts of the Confederacy that were already occupied by the Union army, were not set free. Although slaves in states in rebellion were technically freed, because Union troops controlled relatively small portions of these states at the time, it was impossible to ensure that enslaved people were freed in reality and not simply on paper.

David Herbert Donald. 1995. *Lincoln*. New York: Simon & Schuster, 407.



In this memorial engraving from 1865 (the year he was assassinated), President Abraham Lincoln is shown with his hand resting on a copy of the Emancipation Proclamation (a). Despite popular belief, the Emancipation Proclamation (b) actually freed very few slaves, though it did change the meaning of the war.

RECONSTRUCTION

At the end of the Civil War, the South entered a period called Reconstruction (1865–1877) during which state governments were reorganized before the rebellious states were allowed to be readmitted to the Union. As part of this process, the Republican Party pushed for a permanent end to slavery. A constitutional amendment to this effect was passed by the House of Representatives in January 1865, after having already been approved by the Senate in April 1864, and it was ratified in December 1865 as the Thirteenth Amendment. The amendment's first section states, "Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction." In effect, this amendment outlawed slavery in the United States.

The changes wrought by the Fourteenth Amendment were more extensive. In addition to introducing the equal protection clause to the Constitution, this amendment also extended the due process clause of the Fifth Amendment to the states, required the states to respect the privileges or immunities of all citizens, and, for the first time, defined citizenship at the national and state levels. People could no longer be excluded from citizenship based solely on their race. Although some of these provisions were rendered mostly toothless by the courts or the lack of political action to enforce them, others were pivotal in the expansion of civil rights.

The Fifteenth Amendment stated that people could not be denied the right to vote based on "race, color, or previous condition of servitude." This construction allowed states to continue to decide the qualifications of voters as long as those qualifications were ostensibly race-neutral. Thus, while states could not deny African American men the right to vote on the basis of race, they could deny it to women on the basis of sex or to people who could not prove they were literate.

Although the immediate effect of these provisions was quite profound, over time the Republicans in Congress gradually lost interest in pursuing Reconstruction policies, and the Reconstruction ended with the end of military rule in the South and the withdrawal of the Union army in 1877.

Erik Foner. 1988. *Reconstruction: America's Unfinished Revolution, 1863–1877*. New York: Harper & Row, 524–527.

Following the army's removal, political control of the South fell once again into the hands of white men, and violence was used to discourage blacks from exercising the rights they had been granted.

Ibid., 595; Alexander Keyssar. 2000. *The Right to Vote: The Contested History of Democracy in the United States*. New York: Basic Books, 105–106.

The revocation of voting rights, or disenfranchisement, took a number of forms; not every southern state used the same methods, and some states used more than one, but they all disproportionately affected black voter registration and turnout.

Keyssar, 114–115.

Perhaps the most famous of the tools of disenfranchisement were literacy tests and understanding tests. Literacy tests, which had been used in the North since the 1850s to disqualify naturalized European immigrants from voting, called on the prospective voter to demonstrate his (and later her) ability to read a particular passage of text. However, since voter registration officials had discretion to decide what text the voter was to read, they could give easy passages to voters they wanted to register (typically whites) and more difficult passages to those whose registration they wanted to deny (typically blacks). Understanding tests required the prospective voter to explain the *meaning* of a particular passage of text, often a provision of the U.S. Constitution, or answer a

series of questions related to citizenship. Again, since the official examining the prospective voter could decide which passage or questions to choose, the difficulty of the test might vary dramatically between white and black applicants.

Keyssar, 111–112.

Even had these tests been administered fairly and equitably, however, most blacks would have been at a huge disadvantage, because few could read. Although schools for blacks had existed in some places, southern states had made it largely illegal to teach slaves to read and write. At the beginning of the Civil War, only 5 percent of blacks could read and write, and most of them lived in the North.

Kimberly Sambol-Tosco, "The Slave Experience: Education, Arts, and Culture," http://www.pbs.org/wnet/slavery/expe.../history2.html (April 10, 2016).

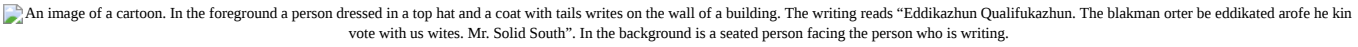
Some were able to take advantage of educational opportunities after they were freed, but many were not able to gain effective literacy.

In some states, poorer, less literate white voters feared being disenfranchised by the literacy and understanding tests. Some states introduced a loophole, known as the grandfather clause, to allow less literate whites to vote. The grandfather clause exempted those who had been allowed to vote in that state prior to the Civil War and their descendants from literacy and understanding tests.

Keyssar, 112.

Because blacks were not allowed to vote prior to the Civil War, but most white men had been voting at a time when there were no literacy tests, this loophole allowed most illiterate whites to vote (Figure) while leaving obstacles in place for blacks who wanted to vote as well. Time limits were often placed on these provisions because state legislators realized that they might quickly be declared unconstitutional, but they lasted long enough to allow illiterate white men to register to vote.

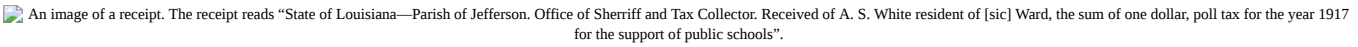
Alan Greenblat, "The Racial History of the 'Grandfather Clause," *NPR Code Switch*, 22 October 2013. www.npr.org/sections/codeswit...dfather-clause.


An image of a cartoon. In the foreground a person dressed in a top hat and a coat with tails writes on the wall of a building. The writing reads "Eddikazhun Qualifukazhun. The blakman orter be eddikated arofe he kin vote with us wites. Mr. Solid South". In the background is a seated person facing the person who is writing.

A magazine cartoon from 1879 ridicules the practice of illiterate, southern whites requiring that a "blakman" be "eddikated" before he could vote. The grandfather clause made such a situation possible.

In states where the voting rights of poor whites were less of a concern, another tool for disenfranchisement was the poll tax(Figure). This was an annual per-person tax, typically one or two dollars (on the order of $20 to $50 today), that a person had to pay to register to vote. People who didn't want to vote didn't have to pay, but in several states the poll tax was cumulative, so if you decided to vote you would have to pay not only the tax due for that year but any poll tax from previous years as well. Because former slaves were usually quite poor, they were less likely than white men to be able to pay poll taxes.

Keyssar, 111.


An image of a receipt. The receipt reads "State of Louisiana—Parish of Jefferson. Office of Sherriff and Tax Collector. Received of A. S. White resident of [sic] Ward, the sum of one dollar, poll tax for the year 1917 for the support of public schools".

According to this receipt, a man named A. S. White paid his $1 poll tax in Jefferson Parish, Louisiana, in 1917.

Although these methods were usually sufficient to ensure that blacks were kept away from the polls, some dedicated African Americans did manage to register to vote despite the obstacles placed in their way. To ensure their vote was largely meaningless, the white elites used their control of the Democratic Party to create the white primary: primary elections in which only whites were allowed to vote. The state party organizations argued that as private groups, rather than part of the state government, they had no obligation to follow the Fifteenth Amendment's requirement not to deny the right to vote on the basis of race. Furthermore, they contended, voting for nominees to run for office was not the same as electing those who would actually hold office. So they held primary elections to choose the Democratic nominee in which only white citizens were allowed to vote.

Keyssar, 247.

Once the nominee had been chosen, he or she might face token opposition from a Republican or minor-party candidate in the general election, but since white voters had agreed beforehand to support whoever won the Democrats' primary, the outcome of the general election was a foregone conclusion.

With blacks effectively disenfranchised, the restored southern state governments undermined guarantees of equal treatment in the Fourteenth Amendment. They passed laws that excluded African Americans from juries and allowed the imprisonment and forced labor of “idle” black citizens. The laws also called for segregation of whites and blacks in public places under the doctrine known as “separate but equal.” As long as nominally equal facilities were provided for both whites and blacks, it was legal to require members of each race to use the facilities designated for them. Similarly, state and local governments passed laws limiting what neighborhoods blacks and whites could live in. Collectively, these discriminatory laws came to be known as Jim Crow laws. The Supreme Court upheld the separate but equal doctrine in 1896 in *Plessy v. Ferguson*, consistent with the Fourteenth Amendment’s equal protection clause, and allowed segregation to continue.

Plessy v. Ferguson, 163 U.S. 537 (1896).

CIVIL RIGHTS IN THE COURTS

By the turn of the twentieth century, the position of African Americans was quite bleak. Even outside the South, racial inequality was a fact of everyday life. African American leaders and thinkers themselves disagreed on the right path forward. Some, like Booker T. Washington, argued that acceptance of inequality and segregation over the short term would allow African Americans to focus their efforts on improving their educational and social status until whites were forced to acknowledge them as equals. W. E. B. Du Bois, however, argued for a more confrontational approach and in 1909 founded the National Association for the Advancement of Colored People (NAACP) as a rallying point for securing equality. Liberal whites dominated the organization in its early years, but African Americans assumed control over its operations in the 1920s.

“NAACP: 100 Years of History,” donate.naacp.org/pages/naacp-history (April 10, 2016).

The NAACP soon focused on a strategy of overturning Jim Crow laws through the courts. Perhaps its greatest series of legal successes consisted of its efforts to challenge segregation in education. Early cases brought by the NAACP dealt with racial discrimination in higher education. In 1938, the Supreme Court essentially gave states a choice: they could either integrate institutions of higher education, or they could establish an equivalent university or college for African Americans.

Missouri ex rel. Gaines v. Canada, 305 U.S. 337 (1938).

Southern states chose to establish colleges for blacks rather than allow them into all-white state institutions. Although this ruling expanded opportunities for professional and graduate education in areas such as law and medicine for African Americans by requiring states to provide institutions for them to attend, it nevertheless allowed segregated colleges and universities to continue to exist.

The NAACP was pivotal in securing African American civil rights and today continues to address civil rights violations, such as police brutality and the disproportionate percentage of African American convicts that are given the death penalty.

The landmark court decision of the judicial phase of the civil rights movement settled the *Brown v. Board of Education* case in 1954.

Brown v. Board of Education of Topeka, 347 U.S. 483 (1954).

In this case, the Supreme Court unanimously overturned its decision in *Plessy v. Ferguson* as it pertained to public education, stating that a separate but equal education was a logical impossibility. Even with the same funding and equivalent facilities, a segregated school could not have the same teachers or environment as the equivalent school for another race. The court also rested its decision in part on social science studies suggesting that racial discrimination led to feelings of inferiority among African American children. The only way to dispel this sense of inferiority was to end segregation and integrate public schools.

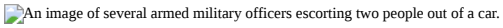
It is safe to say this ruling was controversial. While integration of public schools took place without much incident in some areas of the South, particularly where there were few black students, elsewhere it was often confrontational—or nonexistent. In recognition of the fact that southern states would delay school integration for as long as possible, civil rights activists urged the federal government to enforce the Supreme Court’s decision. Organized by A. Philip Randolph and Bayard Rustin, approximately twenty-five thousand African Americans gathered in Washington, DC, on May 17, 1957, to participate in a Prayer Pilgrimage for Freedom.

“Prayer Pilgrimage for Freedom,” kingencyclopedia.stanford.edu..._freedom_1957/ (April 10, 2016).

A few months later, in Little Rock, Arkansas, governor Orval Faubusresisted court-ordered integration and mobilized National Guard troops to keep black students out of Central High School. President Eisenhower then called up the Arkansas National Guard for federal duty (essentially taking the troops out of Faubus’s hands) and sent soldiers of the 101st Airborne Division to escort

students to and from classes, as shown in Figure. To avoid integration, Faubus closed four high schools in Little Rock the following school year.

Jason Sokol. 2006. *There Goes My Everything: White Southerners in the Age of Civil Rights*. New York: Alfred A. Knopf, 116–117.



Opposition to the 1957 integration of Little Rock's all-white Central High School led President Eisenhower to call in soldiers of the 101st Airborne Division. For a year, they escorted nine African American students to and from school and to and from classes within the school. (credit: The U.S. Army)

In Virginia, state leaders employed a strategy of "massive resistance" to school integration, which led to the closure of a large number of public schools across the state, some for years.

Ibid., 118–120.

Although *de jure* segregation, segregation mandated by law, had ended on paper, in practice, few efforts were made to integrate schools in most school districts with substantial black student populations until the late 1960s. Many white southerners who objected to sending their children to school with blacks then established private academies that admitted only white students.

Ibid., 120, 171, 173.

Advances were made in the courts in areas other than public education. In many neighborhoods in northern cities, which technically were not segregated, residents were required to sign restrictive real estate covenants promising that if they moved, they would not sell their houses to African Americans and sometimes not to Chinese, Japanese, Mexicans, Filipinos, Jews, and other ethnic minorities as well.

Robert M. Fogelson. 2005. *Bourgeois Nightmares: Suburbia, 1870–1930*. New Haven, CT: Yale University Press, 102–103.

In the case of *Shelley v. Kraemer* (1948), the Supreme Court held that while such covenants did not violate the Fourteenth Amendment because they consisted of agreements between private citizens, their provisions could not be enforced by courts.

Shelley v. Kraemer, 334 U.S. 1 (1948).

Because state courts are government institutions and the Fourteenth Amendment prohibits the government from denying people equal protection of the law, the courts' enforcement of such covenants would be a violation of the amendment. Thus, if a white family chose to sell its house to a black family and the other homeowners in the neighborhood tried to sue the seller, the court would not hear the case. In 1967, the Supreme Court struck down a Virginia law that prohibited interracial marriage in *Loving v. Virginia*.

Loving v. Virginia, 388 U.S. 1 (1967).

LEGISLATING CIVIL RIGHTS

Beyond these favorable court rulings, however, progress toward equality for African Americans remained slow in the 1950s. In 1962, Congress proposed what later became the Twenty-Fourth Amendment, which banned the poll tax in elections to federal (but not state or local) office; the amendment went into effect after being ratified in early 1964. Several southern states continued to require residents to pay poll taxes in order to vote in state elections until 1966 when, in the case of *Harper v. Virginia Board of Elections*, the Supreme Court declared that requiring payment of a poll tax in order to vote in an election at any level was unconstitutional.

Harper v. Virginia Board of Elections, 383 U.S. 663 (1966).

The slow rate of progress led to frustration within the African American community. Newer, grassroots organizations such as the Southern Christian Leadership Conference (SCLC), Congress of Racial Equality (CORE), and Student Non-Violent Coordinating Committee (SNCC) challenged the NAACP's position as the leading civil rights organization and questioned its legal-focused strategy. These newer groups tended to prefer more confrontational approaches, including the use of direct action campaigns relying on marches and demonstrations. The strategies of nonviolent resistance and civil disobedience, or the refusal to obey an unjust law, had been effective in the campaign led by Mahatma Gandhi to liberate colonial India from British rule in the 1930s and 1940s. Civil rights pioneers adopted these measures in the 1955–1956 Montgomery bus boycott. After Rosa Parks refused to give

up her bus seat to a white person and was arrested, a group of black women carried out a day-long boycott of Montgomery's public transit system. This boycott was then extended for over a year and overseen by union organizer E. D. Nixon. The effort desegregated public transportation in that city.

"Gandhi, Mohandas Karamchand (1869–1948)," kingencyclopedia.stanford.edu...948/index.html (April 10, 2016); "Nixon, E. D. (1899–1987)," www.blackpast.org/aah/nixon-e...899-1987(April 10, 2016).

Direct action also took such forms as the sit-in campaigns to desegregate lunch counters that began in Greensboro, North Carolina, in 1960, and the 1961 Freedom Rides in which black and white volunteers rode buses and trains through the South to enforce a 1946 Supreme Court decision that desegregated interstate transportation (*Morgan v. Virginia*).

Morgan v. Virginia, 328 U.S. 373 (1946).

While such focused campaigns could be effective, they often had little impact in places where they were not replicated. In addition, some of the campaigns led to violence against both the campaigns' leaders and ordinary people; Rosa Parks, a longtime NAACP member and graduate of the Highlander Folk School for civil rights activists, whose actions had begun the Montgomery boycott, received death threats, E. D. Nixon's home was bombed, and the Freedom Riderswere attacked in Alabama.

See Lynne Olson. 2002. *Freedom's Daughters: The Unsung Heroines of the Civil Rights Movement from 1830–1970*. New York: Scribner, 97; D. F. Gore et al. 2009. *Want to Start a Revolution? Radical Women in the Black Freedom Struggle*. New York: New York University Press; Raymond Arsenault. 2007. *Freedom Riders: 1961 and the Struggle for Racial Justice*. New York: Oxford University Press.

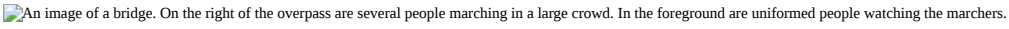
As the campaign for civil rights continued and gained momentum, President John F. Kennedy called for Congress to pass new civil rights legislation, which began to work its way through Congress in 1963. The resulting law (pushed heavily and then signed by President Lyndon B. Johnson after Kennedy's assassination) was the Civil Rights Act of 1964, which had wide-ranging effects on U.S. society. Not only did the act outlaw government discrimination and the unequal application of voting qualifications by race, but it also, for the first time, outlawed segregation and other forms of discrimination by most businesses that were open to the public, including hotels, theaters, and restaurants that were not private clubs. It outlawed discrimination on the basis of race, ethnicity, religion, sex, or national origin by most employers, and it created the Equal Employment Opportunity Commission (EEOC) to monitor employment discrimination claims and help enforce this provision of the law. The provisions that affected private businesses and employers were legally justified not by the Fourteenth Amendment's guarantee of equal protection of the laws but instead by Congress's power to regulate interstate commerce.

See *Heart of Atlanta Motel, Inc. v. United States*, 379 U.S. 241 (1964); *Katzenbach v. McClung*, 379 U.S. 294 (1964), which built on *Wickard v. Filburn*, 317 U.S. 111 (1942).

Even though the Civil Rights Act of 1964 had a monumental impact over the long term, it did not end efforts by many southern whites to maintain the white-dominated political power structure in the region. Progress in registering African American voters remained slow in many states despite increased federal activity supporting it, so civil rights leaders including Martin Luther King, Jr. decided to draw the public eye to the area where the greatest resistance to voter registration drives were taking place. The SCLC and SNCC particularly focused their attention on the city of Selma, Alabama, which had been the site of violent reactions against civil rights activities.

The organizations' leaders planned a march from Selma to Montgomery in March 1965. Their first attempt to march was violently broken up by state police and sheriff's deputies (Figure). The second attempt was aborted because King feared it would lead to a brutal confrontation with police and violate a court order from a federal judge who had been sympathetic to the movement in the past. That night, three of the marchers, white ministers from the north, were attacked and beaten with clubs by members of the Ku Klux Klan; one of the victims died from his injuries. Televised images of the brutality against protesters and the death of a minister led to greater public sympathy for the cause. Eventually, a third march was successful in reaching the state capital of Montgomery.

See David Garrow. 1978. *Protest at Selma*. New Haven, CT: Yale University Press; David J. Garrow.1988. *Bearing the Cross: Martin Luther King Jr. and the Southern Christian Leadership Conference*. London: Jonathan Cape.



The police attack on civil rights demonstrators as they crossed the Edmund Pettus Bridge on their way from Selma to Montgomery on March 7, 1965, is remembered as "Bloody Sunday."

The 1987 PBS documentary *Eyes on the Prize* won several Emmys and other awards for its coverage of major events in the civil rights movement, including the Montgomery bus boycott, the battle for school integration in Little Rock, the march from Selma to Montgomery, and Martin Luther King, Jr.'s leadership of the march on Washington, DC.

The events at Selma galvanized support in Congress for a follow-up bill solely dealing with the right to vote. The Voting Rights Act of 1965 went beyond previous laws by requiring greater oversight of elections by federal officials. Literacy and understanding tests, and other devices used to discriminate against voters on the basis of race, were banned. The Voting Rights Act proved to have much more immediate and dramatic effect than the laws that preceded it; what had been a fairly slow process of improving voter registration and participation was replaced by a rapid increase of black voter registration rates—although white registration rates increased over this period as well.

Keyssar, 263–264.

To many people's way of thinking, however, the Supreme Court turned back the clocks when it gutted a core aspect of the Voting Rights Act in *Shelby County v. Holder* (2013).

Shelby County v. Holder, 570 U.S. ___ (2013).

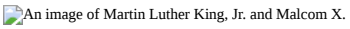
No longer would states need federal approval to change laws and policies related to voting. Indeed, many states with a history of voter discrimination quickly resumed restrictive practices with laws requiring photo ID and limiting early voting. Some of the new restrictions are already being challenged in the courts.

Adam Liptak, "Supreme Court Invalidates Key Part of Voting Rights Act," The New York Times, 25 June 2013. http://www.nytimes.com/2013/06/26/us...rt-ruling.html; Wendy R. Weiser and Erik Opsal, "The State of Voting in 2014," Brennan Center for Justice, 17 June 2014. http://www.brennancenter.org/analysi...te-voting-2014.

Not all African Americans in the civil rights movement were comfortable with gradual change. Instead of using marches and demonstrations to change people's attitudes, calling for tougher civil rights laws, or suing for their rights in court, they favored more immediate action that forced whites to give in to their demands. Men like Malcolm X, the leader of the Nation of Islam, and groups like the Black Panthers were willing to use violence to achieve their goals (Figure).

Louis E. Lomax. 1963. *When the Word is Given: A Report on Elijah Muhammad, Malcolm X, and the Black Muslim World*. Cleveland, OH: World Publishing, 173–174; David Farber. 1994. *The Age of Great Dreams: America in the 1960s*. New York: Hill and Wang, 207.

These activists called for Black Power and Black Pride, not assimilation into white society. Their position was attractive to many young African Americans, especially after Martin Luther King, Jr. was assassinated in 1968.



Martin Luther King, Jr. (left) and Malcolm X (right) adopted different approaches to securing civil rights for African Americans. This occasion, a Senate debate of the Civil Rights Act of 1964, was the only time the two men ever met.

CONTINUING CHALLENGES FOR AFRICAN AMERICANS

The civil rights movement for African Americans did not end with the passage of the Voting Rights Act in 1965. For the last fifty years, the African American community has faced challenges related to both past and current discrimination; progress on both fronts remains slow, uneven, and often frustrating.

Legacies of the *de jure* segregation of the past remain in much of the United States. Many African Americans still live in predominantly black neighborhoods where their ancestors were forced by laws and housing covenants to live.

Dan Keating, "Why Whites Don't Understand Black Segregation," *Washington Post*, 21 November 2014. www.washingtonpost.com/news/...k-segregation/.

Even those who live in the suburbs, once largely white, tend to live in suburbs that are mostly black.

Alana Semuels, "White Flight Never Ended," *The Atlantic*, 30 July 2015. http://www.theatlantic.com/business/...d-well/399980/.

Some two million African American young people attend schools whose student body is composed almost entirely of students of color.

Lindsey Cook, “U.S. Education: Still Separate and Unequal,” *U.S. News and World Report*, 28 January 2015. www.usnews.com/news/blogs/dat...te-and-unequal.

During the late 1960s and early 1970s, efforts to tackle these problems were stymied by large-scale public opposition, not just in the South but across the nation. Attempts to integrate public schools through the use of busing—transporting students from one segregated neighborhood to another to achieve more racially balanced schools—were particularly unpopular and helped contribute to “white flight” from cities to the suburbs.

Sokol, 175–177.

This white flight has created *de facto* segregation, a form of segregation that results from the choices of individuals to live in segregated communities without government action or support.

Today, a lack of high-paying jobs in many urban areas, combined with persistent racism, has trapped many African Americans in poor neighborhoods. While the Civil Rights Act of 1964 created opportunities for members of the black middle class to advance economically and socially, and to live in the same neighborhoods as the white middle class did, their departure left many black neighborhoods mired in poverty and without the strong community ties that existed during the era of legal segregation. Many of these neighborhoods also suffered from high rates of crime and violence.

Jacqueline Jones. 1992. *The Dispossessed: America’s Underclasses From the Civil War to the Present*. New York: Basic Books, 274, 290–292.

Police also appear, consciously or subconsciously, to engage in racial profiling: singling out blacks (and Latinos) for greater attention than members of other racial and ethnic groups, as FBI director James B. Comey has admitted.

James B. Comey. February 12, 2015. “Hard Truths: Law Enforcement and Race” (speech). www.fbi.gov/news/speeches/ha...ement-and-race.

When incidents of real or perceived injustice arise, as recently occurred after a series of deaths of young black men at the hands of police in Ferguson, Missouri; Staten Island, New York; and Baltimore, Maryland, many African Americans turn to the streets to protest because they believe that politicians—white and black alike—fail to pay sufficient attention to these problems.

The most serious concerns of the black community today appear to revolve around poverty resulting from the legacies of slavery and Jim Crow. While the public mood may have shifted toward greater concern about economic inequality in the United States, substantial policy changes to immediately improve the economic standing of African Americans in general have not followed, that is, if government-based policies and solutions are the answer. The Obama administration recently proposed new rules under the Fair Housing Act that may, in time, lead to more integrated communities in the future.

Julie Hirschfeld Davis and Binyamin Appelbaum, “Obama Unveils Stricter Rules Against Segregation in Housing,” *New York Times*, 8 July 2015. www.nytimes.com/2015/07/09/us...tion.html?_r=0.

Meanwhile, grassroots movements to improve neighborhoods and local schools have taken root in many black communities across America, and perhaps in those movements is the hope for greater future progress.

AFFIRMATIVE ACTION

One of the major controversies regarding race in the United States today is related to affirmative action, the practice of ensuring that members of historically disadvantaged or underrepresented groups have equal access to opportunities in education, the workplace, and government contracting. The phrase *affirmative action* originated in the Civil Rights Act of 1964 and Executive Order 11246, and it has drawn controversy ever since. The Civil Rights Act of 1964 prohibited discrimination in employment, and Executive Order 11246, issued in 1965, forbade employment discrimination not only within the federal government but by federal contractors and contractors and subcontractors who received government funds.

Clearly, African Americans, as well as other groups, have been subject to discrimination in the past and present, limiting their opportunity to compete on a level playing field with those who face no such challenge. Opponents of affirmative action, however, point out that many of its beneficiaries are ethnic minorities from relatively affluent backgrounds, while whites and Asian Americans who grew up in poverty are expected to succeed despite facing many of the same handicaps.

Because affirmative action attempts to redress discrimination on the basis of race or ethnicity, it is generally subject to the strict scrutiny standard, which means the burden of proof is on the government to demonstrate the necessity of racial discrimination to achieve a compelling governmental interest. In 1978, in *Bakke v. California*, the Supreme Court upheld affirmative action and said that colleges and universities could consider race when deciding whom to admit but could not establish racial quotas.

Bakke v. California, 438 U.S. 265 (1978).

In 2003, the Supreme Court reaffirmed the Bakke decision in *Grutter v. Bollinger*, which said that taking race or ethnicity into account as one of several factors in admitting a student to a college or university was acceptable, but a system setting aside seats for a specific quota of minority students was not.

Grutter v. Bollinger, 539 U.S. 306 (2003).

All these issues are back under discussion in the Supreme Court with the re-arguing of *Fisher v. University of Texas*.

Fisher v. University of Texas, 570 U.S. ___ (2013); *Fisher v. University of Texas*, 579 U.S. ___ (2016).

In *Fisher v. University of Texas* (2013, known as *Fisher I*), University of Texas student Abigail Fisher brought suit to declare UT's race-based admissions policy as inconsistent with *Grutter*. The court did not see the UT policy that way and allowed it, so long as it remained narrowly tailored and not quota-based. *Fisher II* (2016) was decided by a 4–3 majority. It allowed race-based admissions, but required that the utility of such an approach had to be re-established on a regular basis.

Should race be a factor in deciding who will be admitted to a particular college? Why or why not?

Following the Civil War and the freeing of all slaves by the Thirteenth Amendment, a Republican Congress hoped to protect the freedmen from vengeful southern whites by passing the Fourteenth and Fifteenth Amendments, granting them citizenship and guaranteeing equal protection under the law and the right to vote (for black men). The end of Reconstruction, however, allowed white Southerners to regain control of the South's political and legal system and institute openly discriminatory Jim Crow laws. While some early efforts to secure civil rights were successful, the greatest gains came after World War II. Through a combination of lawsuits, Congressional acts, and direct action (such as President Truman's executive order to desegregate the U.S. military), African Americans regained their voting rights and were guaranteed protection against discrimination in employment. Schools and public accommodations were desegregated. While much has been achieved, the struggle for equal treatment continues.

The Supreme Court decision ruling that "separate but equal" was constitutional and allowed racial segregation to take place was _____.

1. *Brown v. Board of Education*
2. *Plessy v. Ferguson*
3. *Loving v. Virginia*
4. *Shelley v. Kraemer*

The 1965 Selma-to-Montgomery march was an important milestone in the civil rights movement because it _____.

1. vividly illustrated the continued resistance to black civil rights in the Deep South
2. did not encounter any violent resistance
3. led to the passage of the Civil Rights Act of 1964
4. was the first major protest after the death of Martin Luther King, Jr.

What were the key provisions of the Civil Rights Act of 1964?

Glossary

Brown v. Board of Education
: the 1954 Supreme Court ruling that struck down *Plessy v. Ferguson*and declared segregation and "separate but equal" to be unconstitutional in public education

civil disobedience
: an action taken in violation of the letter of the law to demonstrate that the law is unjust

***de facto* segregation**
: segregation that results from the private choices of individuals

***de jure* segregation**

segregation that results from government discrimination

direct action
civil rights campaigns that directly confronted segregationist practices through public demonstrations

disenfranchisement
the revocation of someone's right to vote

grandfather clause
the provision in some southern states that allowed illiterate whites to vote because their ancestors had been able to vote before the Fifteenth Amendment was ratified

Jim Crow laws
state and local laws that promoted racial segregation and undermined black voting rights in the south after Reconstruction

literacy tests
tests that required the prospective voter in some states to be able to read a passage of text and answer questions about it; often used as a way to disenfranchise racial or ethnic minorities

Plessy v. Ferguson
the 1896 Supreme Court ruling that allowed "separate but equal" racial segregation under the equal protection clause of the Fourteenth Amendment

poll tax
annual tax imposed by some states before a person was allowed to vote

Reconstruction
the period from 1865 to 1877 during which the governments of Confederate states were reorganized prior to being readmitted to the Union

understanding tests
tests requiring prospective voters in some states to be able to explain the meaning of a passage of text or to answer questions related to citizenship; often used as a way to disenfranchise black voters

white primary
a primary election in which only whites are allowed to vote

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6.4: The Fight for Women's Rights

Learning Objectives

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

- Describe early efforts to achieve rights for women
- Explain why the Equal Rights Amendment failed to be ratified
- Describe the ways in which women acquired greater rights in the twentieth century
- Analyze why women continue to experience unequal treatment

Along with African Americans, women of all races and ethnicities have long been discriminated against in the United States, and the women's rights movement began at the same time as the movement to abolish slavery in the United States. Indeed, the women's movement came about largely as a result of the difficulties women encountered while trying to abolish slavery. The trailblazing Seneca Falls Convention for women's rights was held in 1848, a few years before the Civil War. But the abolition and African American civil rights movements largely eclipsed the women's movement throughout most of the nineteenth century. Women began to campaign actively again in the late nineteenth and early twentieth centuries, and another movement for women's rights began in the 1960s.

THE EARLY WOMEN'S RIGHTS MOVEMENT AND WOMEN'S SUFFRAGE

At the time of the American Revolution, women had few rights. Although single women were allowed to own property, married women were not. When women married, their separate legal identities were erased under the legal principle of coverture. Not only did women adopt their husbands' names, but all personal property they owned legally became their husbands' property. Husbands could not sell their wives' real property—such as land or in some states slaves—without their permission, but they were allowed to manage it and retain the profits. If women worked outside the home, their husbands were entitled to their wages.

Mary Beth Norton. 1980. *Liberty's Daughters: The Revolutionary Experience of American Women, 1750–1800*. New York: Little, Brown, and Company, 46.

So long as a man provided food, clothing, and shelter for his wife, she was not legally allowed to leave him. Divorce was difficult and in some places impossible to obtain.

Ibid., 47.

Higher education for women was not available, and women were barred from professional positions in medicine, law, and ministry.

Following the Revolution, women's conditions did not improve. Women were not granted the right to vote by any of the states except New Jersey, which at first allowed all taxpaying property owners to vote. However, in 1807, the law changed to limit the vote to men.

Jan Ellen Lewis. 2011. "Rethinking Women's Suffrage in New Jersey, 1776–1807," *Rutgers Law Review* 63, No. 3, http://www.rutgerslawreview.com/wp-c...sue3/Lewis.pdf.

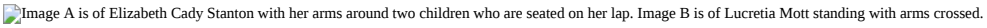
Changes in property laws actually hurt women by making it easier for their husbands to sell their real property without their consent.

Although women had few rights, they nevertheless played an important role in transforming American society. This was especially true in the 1830s and 1840s, a time when numerous social reform movements swept across the United States. Many women were active in these causes, especially the abolition movement and the temperance movement, which tried to end the excessive consumption of liquor. They often found they were hindered in their efforts, however, either by the law or by widely held beliefs that they were weak, silly creatures who should leave important issues to men.

Keyssar, 174.

One of the leaders of the early women's movement, Elizabeth Cady Stanton (Figure), was shocked and angered when she sought to attend an 1840 antislavery meeting in London, only to learn that women would not be allowed to participate and had to sit apart from the men. At this convention, she made the acquaintance of another American female abolitionist, Lucretia Mott (Figure), who was also appalled by the male reformers' treatment of women.

Elizabeth Cady Stanton. 1993. *Eighty Years and More: Reminiscences, 1815–1897*. Boston: Northeastern University Press, 148.



Elizabeth Cady Stanton (a) and Lucretia Mott (b) both emerged from the abolitionist movement as strong advocates of women's rights.

In 1848, Stanton and Mott called for a women's rights convention, the first ever held specifically to address the subject, at Seneca Falls, New York. At the Seneca Falls Convention, Stanton wrote the Declaration of Sentiments, which was modeled after the Declaration of Independence and proclaimed women were equal to men and deserved the same rights. Among the rights Stanton wished to see granted to women was suffrage, the right to vote. When called upon to sign the Declaration, many of the delegates feared that if women demanded the right to vote, the movement would be considered too radical and its members would become a laughingstock. The Declaration passed, but the resolution demanding suffrage was the only one that did not pass unanimously.

Elizabeth Cady Stanton et al. 1887. *History of Woman Suffrage*, vol. 1. Cambridge, MA: Harvard University Press, 73.

Along with other feminists (advocates of women's equality), such as her friend and colleague Susan B. Anthony, Stanton fought for rights for women besides suffrage, including the right to seek higher education. As a result of their efforts, several states passed laws that allowed married women to retain control of their property and let divorced women keep custody of their children.

Jean H. Baker. 2005. *Sisters: The Lives of America's Suffragists*. New York: Hill and Wang, 109.

Amelia Bloomer, another activist, also campaigned for dress reform, believing women could lead better lives and be more useful to society if they were not restricted by voluminous heavy skirts and tight corsets.

The women's rights movement attracted many women who, like Stanton and Anthony, were active in either the temperance movement, the abolition movement, or both movements. Sarah and Angelina Grimke, the daughters of a wealthy slaveholding family in South Carolina, became first abolitionists and then women's rights activists.

Angelina Grimke. October 2, 1837. "Letter XII Human Rights Not Founded on Sex." In *Letters to Catherine E. Beecher: In Reply to an Essay on Slavery and Abolitionism*. Boston: Knapp, 114–121.

Many of these women realized that their effectiveness as reformers was limited by laws that prohibited married women from signing contracts and by social proscriptions against women addressing male audiences. Without such rights, women found it difficult to rent halls in which to deliver lectures or to hire printers to produce antislavery literature.

Following the Civil War and the abolition of slavery, the women's rights movement fragmented. Stanton and Anthony denounced the Fifteenth Amendment because it granted voting rights only to black men and not to women of any race.

Keyssar, 178.

The fight for women's rights did not die, however. In 1869, Stanton and Anthony formed the National Woman Suffrage Association(NWSA), which demanded that the Constitution be amended to grant the right to vote to all women. It also called for more lenient divorce laws and an end to sex discrimination in employment. The less radical Lucy Stone formed the American Woman Suffrage Association (AWSA) in the same year; AWSA hoped to win the suffrage for women by working on a state-by-state basis instead of seeking to amend the Constitution.

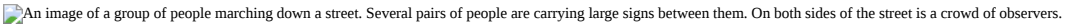
Keyssar, 184.

Four western states—Utah, Colorado, Wyoming, and Idaho—did extend the right to vote to women in the late nineteenth century, but no other states did.

Women were also granted the right to vote on matters involving liquor licenses, in school board elections, and in municipal elections in several states. However, this was often done because of stereotyped beliefs that associated women with moral reform and concern for children, not as a result of a belief in women's equality. Furthermore, voting in municipal elections was restricted to women who owned property.

Keyssar, 175, 186–187.

In 1890, the two suffragist groups united to form the National American Woman Suffrage Association (NAWSA). To call attention to their cause, members circulated petitions, lobbied politicians, and held parades in which hundreds of women and girls marched through the streets (Figure).


An image of a group of people marching down a street. Several pairs of people are carrying large signs between them. On both sides of the street is a crowd of observers.

In October 1917, suffragists marched down Fifth Avenue in New York demanding the right to vote. They carried a petition that had been signed by one million women.

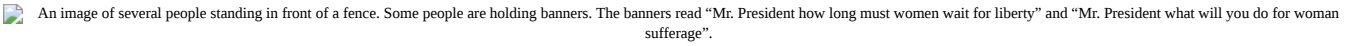
The more radical National Woman's Party (NWP), led by Alice Paul, advocated the use of stronger tactics. The NWP held public protests and picketed outside the White House (Figure).

Keyssar, 214.

Demonstrators were often beaten and arrested, and suffragists were subjected to cruel treatment in jail. When some, like Paul, began hunger strikes to call attention to their cause, their jailers force-fed them, an incredibly painful and invasive experience for the women.

"Alice Paul," www.nwhm.org/education-resou...es/alice-paul/ (April 10, 2016).

Finally, in 1920, the triumphant passage of the Nineteenth Amendment granted all women the right to vote.


An image of several people standing in front of a fence. Some people are holding banners. The banners read "Mr. President how long must women wait for liberty" and "Mr. President what will you do for woman sufferage".

Members of the National Woman's Party picketed outside the White House six days a week from January 10, 1917, when President Woodrow Wilson took office, until June 4, 1919, when the Nineteenth Amendment was passed by Congress. The protesters wore banners proclaiming the name of the institution of higher learning they attended.

CIVIL RIGHTS AND THE EQUAL RIGHTS AMENDMENT

Just as the passage of the Thirteenth, Fourteenth, and Fifteenth Amendments did not result in equality for African Americans, the Nineteenth Amendment did not end discrimination against women in education, employment, or other areas of life, which continued to be legal. Although women could vote, they very rarely ran for or held public office. Women continued to be underrepresented in the professions, and relatively few sought advanced degrees. Until the mid-twentieth century, the ideal in U.S. society was typically for women to marry, have children, and become housewives. Those who sought work for pay outside the home were routinely denied jobs because of their sex and, when they did find employment, were paid less than men. Women who wished to remain childless or limit the number of children they had in order to work or attend college found it difficult to do so. In some states it was illegal to sell contraceptive devices, and abortions were largely illegal and difficult for women to obtain.

A second women's rights movement emerged in the 1960s to address these problems. Title VII of the Civil Rights Act of 1964 prohibited discrimination in employment on the basis of sex as well as race, color, national origin, and religion. Nevertheless, women continued to be denied jobs because of their sex and were often sexually harassed at the workplace. In 1966, feminists who were angered by the lack of progress made by women and by the government's lackluster enforcement of Title VII organized the National Organization for Women (NOW). NOW promoted workplace equality, including equal pay for women, and also called for the greater presence of women in public office, the professions, and graduate and professional degree programs.

NOW also declared its support for the Equal Rights Amendment**(ERA)**, which mandated equal treatment for all regardless of sex. The ERA, written by Alice Paul and Crystal Eastman, was first proposed to Congress, unsuccessfully, in 1923. It was introduced in every Congress thereafter but did not pass both the House and the Senate until 1972. The amendment was then sent to the states for ratification with a deadline of March 22, 1979. Although many states ratified the amendment in 1972 and 1973, the ERA still lacked sufficient support as the deadline drew near. Opponents, including both women and men, argued that passage would subject women to military conscription and deny them alimony and custody of their children should they divorce.

Deborah Rhode. 2009. *Justice and Gender: Sex Discrimination and the Law*. Cambridge, MA: Harvard University Press, 66–67.

In 1978, Congress voted to extend the deadline for ratification to June 30, 1982. Even with the extension, however, the amendment failed to receive the support of the required thirty-eight states; by the time the deadline arrived, it had been ratified by only thirty-five, some of those had rescinded their ratifications, and no new state had ratified the ERA during the extension period (Figure).



The map shows which states supported the ERA and which did not. The dark blue states ratified the amendment. The amendment was ratified but later rescinded in the light blue states and was ratified in only one branch of the legislature in the yellow states. The ERA was never ratified by the purple states.

Although the ERA failed to be ratified, Title IX of the United States Education Amendments of 1972 passed into law as a federal statute (not as an amendment, as the ERA was meant to be). Title IX applies to all educational institutions that receive federal aid and prohibits discrimination on the basis of sex in academic programs, dormitory space, health-care access, and school activities including sports. Thus, if a school receives federal aid, it cannot spend more funds on programs for men than on programs for women.

CONTINUING CHALLENGES FOR WOMEN

There is no doubt that women have made great progress since the Seneca Falls Convention. Today, more women than men attend college, and they are more likely than men to graduate.

Mark Hugo Lopez and Ana Gonzalez-Barrera. 6 March 2014. “Women’s College Enrollment Gains Leave Men Behind,” http://www.pewresearch.org/fact-tank...ve-men-behind/; Allie Bidwell, “Women More Likely to Graduate College, but Still Earn Less Than Men,” *U.S. News & World Report*, 31 October 2014.

Women are represented in all the professions, and approximately half of all law and medical school students are women.

“A Current Glance at Women in the Law–July 2014,” *American Bar Association*, July 2014; “Medical School Applicants, Enrollment Reach All-Time Highs,” Association of American Medical Colleges, October 24, 2013.

Women have held Cabinet positions and have been elected to Congress. They have run for president and vice president, and three female justices currently serve on the Supreme Court. Women are also represented in all branches of the military and can serve in combat. As a result of the 1973 Supreme Court decision in *Roe v. Wade*, women now have legal access to abortion.

Roe v. Wade, 410 U.S. 113 (1973).

Nevertheless, women are still underrepresented in some jobs and are less likely to hold executive positions than are men. Many believe the glass ceiling, an invisible barrier caused by discrimination, prevents women from rising to the highest levels of American organizations, including corporations, governments, academic institutions, and religious groups. Women earn less money than men for the same work. As of 2014, fully employed women earned seventy-nine cents for every dollar earned by a fully employed man.

“Pay Equity and Discrimination,” www.iwpr.org/initiatives/pay-...discrimination (April 10, 2016).

Women are also more likely to be single parents than are men.

Gretchen Livingston. 2 July 2013. “The Rise of Single Fathers,” http://www.pewsocialtrends.org/2013/...ingle-fathers/.

As a result, more women live below the poverty line than do men, and, as of 2012, households headed by single women are twice as likely to live below the poverty line than those headed by single men.

“Poverty in the U.S.: A Snapshot,” National Center for Law and Economic Justice, www.nclej.org/poverty-in-the-us.php.

Women remain underrepresented in elective offices. As of April 2016, women held only about 20 percent of seats in Congress and only about 25 percent of seats in state legislatures.

“Current Numbers,” www.cawp.rutgers.edu/current-numbers (April 10, 2016).

Women remain subject to sexual harassment in the workplace and are more likely than men to be the victims of domestic violence. Approximately one-third of all women have experienced domestic violence; one in five women is assaulted during her college years.

“Statistics,” http://www.ncadv.org/learn/statistics (April 10, 2016); “Statistics About Sexual Violence,” http://www.nsvrc.org/sites/default/f...violence_0.pdf (April 10, 2016).

Many in the United States continue to call for a ban on abortion, and states have attempted to restrict women's access to the procedure. For example, many states have required abortion clinics to meet the same standards set for hospitals, such as corridor size and parking lot capacity, despite lack of evidence regarding the benefits of such standards. Abortion clinics, which are smaller than hospitals, often cannot meet such standards. Other restrictions include mandated counseling before the procedure and the need for minors to secure parental permission before obtaining abortion services.

Heather D. Boonstra and Elizabeth Nash. 2014. "A Surge of State Abortion Restrictions Puts Providers–and the Women They Serve–in the Crosshairs," *Guttmacher Policy Review*17, No. 1, https://www.guttmacher.org/about/gpr...rve-crosshairs.

Whole Woman's Health v. Hellerstedt (2016) cited the lack of evidence for the benefit of larger clinics and further disallowed two Texas laws that imposed special requirements on doctors in order to perform abortions.

Whole Woman's Health v. Hellerstedt, 579 U.S. ___ (2016).

Furthermore, the federal government will not pay for abortions for low-income women except in cases of rape or incest or in situations in which carrying the fetus to term would endanger the life of the mother.

Heather D. Boonstra. 2013. "Insurance Coverage of Abortion: Beyond the Exceptions for Life Endangerment, Rape and Incest," *Guttmacher Policy Review* 16, No. 3, https://www.guttmacher.org/about/gpr...ape-and-incest.

To address these issues, many have called for additional protections for women. These include laws mandating equal pay for equal work. According to the doctrine of comparable worth, people should be compensated equally for work requiring comparable skills, responsibilities, and effort. Thus, even though women are underrepresented in certain fields, they should receive the same wages as men if performing jobs requiring the same level of accountability, knowledge, skills, and/or working conditions, even though the specific job may be different.

For example, garbage collectors are largely male. The chief job requirements are the ability to drive a sanitation truck and to lift heavy bins and toss their contents into the back of truck. The average wage for a garbage collector is $15.34 an hour.

"Garbage Man Salary (United States)," http://www.payscale.com/research/US/...an/Hourly_Rate (April 10, 2016).

Daycare workers are largely female, and the average pay is $9.12 an hour.

"Child Care/Day Care Worker Salary (United States)," http://www.payscale.com/research/US/...er/Hourly_Rate (April 10, 2016).

However, the work arguably requires more skills and is a more responsible position. Daycare workers must be able to feed, clean, and dress small children; prepare meals for them; entertain them; give them medicine if required; and teach them basic skills. They must be educated in first aid and assume responsibility for the children's safety. In terms of the skills and physical activity required and the associated level of responsibility of the job, daycare workers should be paid at least as much as garbage collectors and perhaps more. Women's rights advocates also call for stricter enforcement of laws prohibiting sexual harassment, and for harsher punishment, such as mandatory arrest, for perpetrators of domestic violence.

HARRY BURN AND THE TENNESSEE GENERAL ASSEMBLY

In 1918, the proposed Nineteenth Amendment to the Constitution, extending the right to vote to all adult female citizens of the United States, was passed by both houses of Congress and sent to the states for ratification. Thirty-six votes were needed. Throughout 1918 and 1919, the Amendment dragged through legislature after legislature as pro- and anti-suffrage advocates made their arguments. By the summer of 1920, only one more state had to ratify it before it became law. The Amendment passed through Tennessee's state Senate and went to its House of Representatives. Arguments were bitter and intense. Pro-suffrage advocates argued that the amendment would reward women for their service to the nation during World War I and that women's supposedly greater morality would help to clean up politics. Those opposed claimed women would be degraded by entrance into the political arena and that their interests were already represented by their male relatives. On August 18, the amendment was brought for a vote before the House. The vote was closely divided, and it seemed unlikely it would pass. But as a young anti-suffrage representative waited for his vote to be counted, he remembered a note he had received from his mother that day. In it, she urged him, "Hurrah and vote for suffrage!" At the last minute, Harry Burn abruptly changed his ballot. The amendment passed the House by one vote, and eight days later, the Nineteenth Amendment was added to the Constitution.

How are women perceived in politics today compared to the 1910s? What were the competing arguments for Harry Burn's vote?

The website for the Women's National History Projectcontains a variety of resources for learning more about the women's rights movement and women's history. It features a history of the women's movement, a "This Day in Women's History" page, and quizzes to test your knowledge.

At the time of the Revolution and for many decades following it, married women had no right to control their own property, vote, or run for public office. Beginning in the 1840s, a women's movement began among women who were active in the abolition and temperance movements. Although some of their goals, such as achieving property rights for married women, were reached early on, their biggest goal—winning the right to vote—required the 1920 passage of the Nineteenth Amendment. Women secured more rights in the 1960s and 1970s, such as reproductive rights and the right not to be discriminated against in employment or education. Women continue to face many challenges: they are still paid less than men and are underrepresented in executive positions and elected office.

At the world's first women's rights convention in 1848, the most contentious issue proved to be _____.

1. A. the right to education for women
2. B. suffrage for women
3. C. access to the professions for women
4. D. greater property rights for women

How did NAWSA differ from the NWP?

1. NAWSA worked to win votes for women on a state-by-state basis while the NWP wanted an amendment added to the Constitution.
2. NAWSA attracted mostly middle-class women while NWP appealed to the working class.
3. The NWP favored more confrontational tactics like protests and picketing while NAWSA circulated petitions and lobbied politicians.
4. The NWP sought to deny African Americans the vote, but NAWSA wanted to enfranchise all women.

The doctrine that people who do jobs that require the same level of skill, training, or education are thus entitled to equal pay is known as _____.

1. the glass ceiling
2. substantial compensation
3. comparable worth
4. affirmative action

Glossary

comparable worth

a doctrine calling for the same pay for workers whose jobs require the same level of education, responsibility, training, or working conditions

coverture

a legal status of married women in which their separate legal identities were erased

Equal Rights Amendment (ERA)

the proposed amendment to the Constitution that would have prohibited all discrimination based on sex

glass ceiling

an invisible barrier caused by discrimination that prevents women from rising to the highest levels of an organization—including corporations, governments, academic institutions, and religious organizations

Title IX

the section of the U.S. Education Amendments of 1972 that prohibits discrimination in education on the basis of sex

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6.5: Civil Rights for Indigenous Groups: Native Americans, Alaskans, and Hawaiians

Learning Objectives

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

- Outline the history of discrimination against Native Americans
- Describe the expansion of Native American civil rights from 1960 to 1990
- Discuss the persistence of problems Native Americans face today

Native Americans have long suffered the effects of segregation and discrimination imposed by the U.S. government and the larger white society. Ironically, Native Americans were not granted the full rights and protections of U.S. citizenship until long after African Americans and women were, with many having to wait until the Nationality Act of 1940 to become citizens.

Theodore Haas. 1957. "The Legal Aspects of Indian Affairs from 1887 to 1957," *American Academy of Political Science*311, 12–22.

This was long after the passage of the Fourteenth Amendment in 1868, which granted citizenship to African Americans but not, the Supreme Court decided in *Elk v. Wilkins* (1884), to Native Americans.

Elk v. Wilkins, (1884)112 U.S. 94.

White women had been citizens of the United States since its very beginning even though they were not granted the full rights of citizenship. Furthermore, Native Americans are the only group of Americans who were forcibly removed en masse from the lands on which they and their ancestors had lived so that others could claim this land and its resources. This issue remains relevant today as can be seen in the recent protests of the Dakota Access Pipeline, which have led to intense confrontations between those in charge of the pipeline and Native Americans.

NATIVE AMERICANS LOSE THEIR LAND AND THEIR RIGHTS

From the very beginning of European settlement in North America, Native Americans were abused and exploited. Early British settlers attempted to enslave the members of various tribes, especially in the southern colonies and states.

See Alan Gallay. 2009. *Indian Slavery in Colonial America*. Lincoln: University of Nebraska Press.

Following the American Revolution, the U.S. government assumed responsibility for conducting negotiations with Indian tribes, all of which were designated as sovereign nations, and regulating commerce with them. Because Indians were officially regarded as citizens of other nations, they were denied U.S. citizenship.

See James Wilson. 1998. *The Earth Shall Weep: A History of Native America*. New York: Grove Press.

As white settlement spread westward over the course of the nineteenth century, Indian tribes were forced to move from their homelands. Although the federal government signed numerous treaties guaranteeing Indians the right to live in the places where they had traditionally farmed, hunted, or fished, land-hungry white settlers routinely violated these agreements and the federal government did little to enforce them.

Ibid; Gloria Jahoda. 1975. *Trail of Tears: The Story of American Indian Removal, 1813–1855*. New York: Henry Holt.

In 1830, Congress passed the Indian Removal Act, which forced Native Americans to move west of the Mississippi River.

See Wilson. 1998. *The Earth Shall Weep*.

Not all tribes were willing to leave their land, however. The Cherokee in particular resisted, and in the 1820s, the state of Georgia tried numerous tactics to force them from their territory. Efforts intensified in 1829 after gold was discovered there. Wishing to remain where they were, the tribe sued the state of Georgia.

See John Ehle. 1988. *Trail of Tears: The Rise and Fall of the Cherokee Nation*. New York: Doubleday; Theda Perdue and Michael Green. 2007. *The Cherokee Nation and the Trail of Tears*. New York: Penguin Books.

In 1831, the Supreme Court decided in *Cherokee Nation v. Georgia*that Indian tribes were not sovereign nations, but also that tribes were entitled to their ancestral lands and could not be forced to move from them.

Cherokee Nation v. Georgia, 30 U.S. 1 (1831).

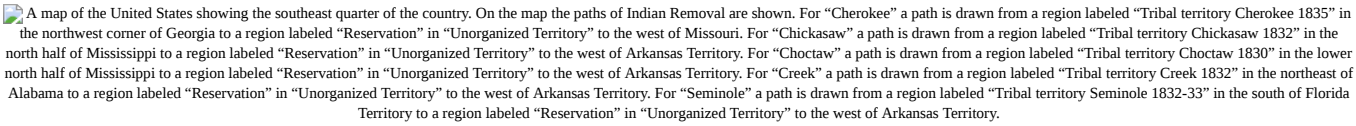
The next year, in *Worcester v. Georgia*, the Court ruled that whites could not enter tribal lands without the tribe's permission. White Georgians, however, refused to abide by the Court's decision, and President Andrew Jackson, a former Indian fighter, refused to enforce it.

Francis Paul Prucha. 1984. *The Great Father: The United States Government and American Indians*, vol. 1. Lincoln: University of Nebraska Press, 212; Robert V. Remini. 2001. *Andrew Jackson and His Indian Wars*. New York: Viking, 257; *Worcester v. Georgia*, 31 U.S. 515 (1832).

Between 1831 and 1838, members of several southern tribes, including the Cherokees, were forced by the U.S. Army to move west along routes shown in Figure. The forced removal of the Cherokees to Oklahoma Territory, which had been set aside for settlement by displaced tribes and designated Indian Territory, resulted in the death of one-quarter of the tribe's population.

Prucha, 241; Ehle, 390–392; Russell Thornton. 1991. "Demography of the Trail of Tears," In *Cherokee Removal: Before and After*, ed. William L. Anderson. Athens: University of Georgia Press, 75–93.

The Cherokees remember this journey as the Trail of Tears.


A map of the United States showing the southeast quarter of the country. On the map the paths of Indian Removal are shown. For "Cherokee" a path is drawn from a region labeled "Tribal territory Cherokee 1835" in the northwest corner of Georgia to a region labeled "Reservation" in "Unorganized Territory" to the west of Missouri. For "Chickasaw" a path is drawn from a region labeled "Tribal territory Chickasaw 1832" in the north half of Mississippi to a region labeled "Reservation" in "Unorganized Territory" to the west of Arkansas Territory. For "Choctaw" a path is drawn from a region labeled "Tribal territory Choctaw 1830" in the lower north half of Mississippi to a region labeled "Reservation" in "Unorganized Territory" to the west of Arkansas Territory. For "Creek" a path is drawn from a region labeled "Tribal territory Creek 1832" in the northeast of Alabama to a region labeled "Reservation" in "Unorganized Territory" to the west of Arkansas Territory. For "Seminole" a path is drawn from a region labeled "Tribal territory Seminole 1832-33" in the south of Florida Territory to a region labeled "Reservation" in "Unorganized Territory" to the west of Arkansas Territory.

After the passage of the Indian Removal Act, the U.S. military forced the removal of the Cherokee, Chickasaw, Choctaw, Creek, and Seminole from the Southeast to the western territory (present-day Oklahoma), marching them along the routes shown here. The lines in yellow mark the routes taken by the Cherokee on the Trail of Tears.

By the time of the Civil War, most Indian tribes had been relocated west of the Mississippi. However, once large numbers of white Americans and European immigrants had also moved west after the Civil War, Native Americans once again found themselves displaced. They were confined to reservations, which are federal lands set aside for their use where non-Indians could not settle. Reservation land was usually poor, however, and attempts to farm or raise livestock, not traditional occupations for most western tribes anyway, often ended in failure. Unable to feed themselves, the tribes became dependent on the Bureau of Indian Affairs (BIA) in Washington, DC, for support. Protestant missionaries were allowed to "adopt" various tribes, to convert them to Christianity and thus speed their assimilation. In an effort to hasten this process, Indian children were taken from their parents and sent to boarding schools, many of them run by churches, where they were forced to speak English and abandon their traditional cultures.

In 1887, the Dawes Severalty Act, another effort to assimilate Indians to white society, divided reservation lands into individual allotments. Native Americans who accepted these allotments and agreed to sever tribal ties were also given U.S. citizenship. All lands remaining after the division of reservations into allotments were offered for sale by the federal government to white farmers and ranchers. As a result, Indians swiftly lost control of reservation land.

Ibid.

In 1898, the Curtis Act dealt the final blow to Indian sovereignty by abolishing all tribal governments.

"Curtis Act (1898)," http://www.okhistory.org/publication...hp?entry=CU006 (April 10, 2016).

THE FIGHT FOR NATIVE AMERICAN RIGHTS

As Indians were removed from their tribal lands and increasingly saw their traditional cultures being destroyed over the course of the nineteenth century, a movement to protect their rights began to grow. Sarah Winnemucca (Figure), member of the Paiute tribe, lectured throughout the east in the 1880s in order to acquaint white audiences with the injustices suffered by the western tribes.

See Gae Whitney Canfield. 1988. *Sarah Winnemucca of the Northern Paiutes*. Norman: University of Oklahoma Press.

Lakota physician Charles Eastman (Figure) also worked for Native American rights. In 1924, the Indian Citizenship Act granted citizenship to all Native Americans born after its passage. Native Americans born before the act took effect, who had not already become citizens as a result of the Dawes Severalty Act or service in the army in World War I, had to wait until the Nationality Act of 1940 to become citizens. In 1934, Congress passed the Indian Reorganization Act, which ended the division of reservation land into allotments. It returned to Native American tribes the right to institute self-government on their reservations, write constitutions,

and manage their remaining lands and resources. It also provided funds for Native Americans to start their own businesses and attain a college education.

Indian Reorganization Act of 1934 (P.L. 73–383); "Indian Reservations," ic.galegroup.com/ic/uhic/Refe...d=&documentId=

GALE|CX3401802046&userGroupName=lnoca_hawken&jsid=f44511ddfece4faafab082109e34a539 (April 10, 2016).



Sarah Winnemucca (a), called the "Paiute Princess" by the press, and Dr. Charles Eastman (b), of the Lakota tribe, campaigned for Native American rights in the late nineteenth and early twentieth centuries. Winnemucca wears traditional dress for a publicity photograph.

Despite the Indian Reorganization Act, conditions on the reservations did not improve dramatically. Most tribes remained impoverished, and many Native Americans, despite the fact that they were now U.S. citizens, were denied the right to vote by the states in which they lived. States justified this violation of the Fifteenth Amendment by claiming that Native Americans might be U.S. citizens but were not state residents because they lived on reservations. Other states denied Native Americans voting rights if they did not pay taxes.

Daniel McCool, Susan M. Olson, and Jennifer L. Robinson. 2007. *Native Vote*. Cambridge, MA: Cambridge University Press, 9, 19.

Despite states' actions, the federal government continued to uphold the rights of tribes to govern themselves. Federal concern for tribal sovereignty was part of an effort on the government's part to end its control of, and obligations to, Indian tribes.

"Indian Reservations," ic.galegroup.com/ic/uhic/Refe...d=&documentId=

GALE|CX3401802046&userGroupName=lnoca_hawken&jsid=f44511ddfece4faafab082109e34a539 (April 10, 2016).

In the 1960s, a modern Native American civil rights movement, inspired by the African American civil rights movement, began to grow. In 1969, a group of Native American activists from various tribes, part of a new Pan-Indian movement, took control of Alcatraz Island in San Francisco Bay, which had once been the site of a federal prison. Attempting to strike a blow for Red Power, the power of Native Americans united by a Pan-Indian identity and demanding federal recognition of their rights, they maintained control of the island for more than a year and a half. They claimed the land as compensation for the federal government's violation of numerous treaties and offered to pay for it with beads and trinkets. In January 1970, some of the occupiers began to leave the island. Some may have been disheartened by the accidental death of the daughter of one of the activists. In May 1970, all electricity and telephone service to the island was cut off by the federal government, and more of the occupiers began to leave. In June, the few people remaining on the island were removed by the government. Though the goals of the activists were not achieved, the occupation of Alcatraz had brought national attention to the concerns of Native American activists.

See Troy R. Johnson. 1996. *The Occupation of Alcatraz Island: Indian Self-Determination and the Rise of Indian Activism*. Urbana: University of Illinois Press.

In 1973, members of the American Indian Movement **(AIM)**, a more radical group than the occupiers of Alcatraz, temporarily took over the offices of the Bureau of Indian Affairs in Washington, DC. The following year, members of AIM and some two hundred Oglala Lakota supporters occupied the town of Wounded Knee on the Lakota tribe's Pine Ridge Reservation in South Dakota, the site of an 1890 massacre of Lakota men, women, and children by the U.S. Army (Figure). Many of the Oglala were protesting the actions of their half-white tribal chieftain, who they claimed had worked too closely with the BIA. The occupiers also wished to protest the failure of the Justice Department to investigate acts of white violence against Lakota tribal members outside the bounds of the reservation.

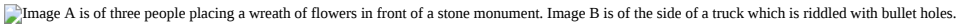
The occupation led to a confrontation between the Native American protestors and the FBI and U.S. Marshals. Violence erupted; two Native American activists were killed, and a marshal was shot (Figure). After the second death, the Lakota called for an end to the occupation and negotiations began with the federal government. Two of AIM's leaders, Russell Means and Dennis Banks, were arrested, but the case against them was later dismissed.

Emily Chertoff, "Occupy Wounded Knee: A 71-Day Siege and a Forgotten Civil Rights Movement," *The Atlantic*, 23 October 2012. http://www.theatlantic.com/national/...vement/263998/.

Violence continued on the Pine Ridge Reservation for several years after the siege; the reservation had the highest per capita murder rate in the United States. Two FBI agents were among those who were killed. The Oglala blamed the continuing violence

on the federal government.

Ibid.


Image A is of three people placing a wreath of flowers in front of a stone monument. Image B is of the side of a truck which is riddled with bullet holes.

A memorial stone (a) marks the spot of the mass grave of the Lakotas killed in the 1890 massacre at Wounded Knee. The bullet-riddled car (b) of FBI agent Ronald Williams reveals the level of violence reached during—and for years after—the 1973 occupation of the town.

The official website of the American Indian Movementprovides information about ongoing issues in Native American communities in both North and South America.

The current relationship between the U.S. government and Native American tribes was established by the Indian Self-Determination and Education Assistance Act of 1975. Under the act, tribes assumed control of programs that had formerly been controlled by the BIA, such as education and resource management, and the federal government provided the funding.

Public Law 93–638: Indian Self-Determination and Education Assistance Act, as Amended.

Many tribes have also used their new freedom from government control to legalize gambling and to open casinos on their reservations. Although the states in which these casinos are located have attempted to control gaming on Native American lands, the Supreme Court and the Indian Gaming Regulatory Act of 1988 have limited their ability to do so.

W. Dale Mason. 2000. *Indian Gaming: Tribal Sovereignty and American Politics*. Norman: University of Oklahoma Press, 60–64.

The 1978 American Indian Religious Freedom Act granted tribes the right to conduct traditional ceremonies and rituals, including those that use otherwise prohibited substances like peyote cactus and eagle bones, which can be procured only from vulnerable or protected species.

Public Law 95–341: American Indian Religious Freedom, Joint Resolution.

ALASKA NATIVES AND NATIVE HAWAIIANS REGAIN SOME RIGHTS

Alaska Natives and Native Hawaiians suffered many of the same abuses as Native Americans, including loss of land and forced assimilation. Following the discovery of oil in Alaska, however, the state, in an effort to gain undisputed title to oil rich land, settled the issue of Alaska Natives' land claims with the passage of the Alaska Native Claims Settlement Act in 1971. According to the terms of the act, Alaska Natives received 44 million acres of resource-rich land and more than $900 million in cash in exchange for relinquishing claims to ancestral lands to which the state wanted title.

U.S. Commission on Civil Rights, "Racism's Frontier: The Untold Story of Discrimination and Division in Alaska," http://www.usccr.gov/pubs/sac/ak0402/ch1.htm (April 10, 2016).

Native Hawaiians also lost control of their land—nearly two million acres—after the Hawaiian Islands were annexed by the United States in 1893. The indigenous population rapidly decreased in number, and white settlers tried to erase all trace of traditional Hawaiian culture. Two acts passed by Congress in 1900 and 1959, when the territory was granted statehood, returned slightly more than one million acres of federally owned land to the state of Hawaii. The state was to hold it in trust and use profits from the land to improve the condition of Native Hawaiians.

Ryan Mielke, "Hawaiians' Years of Mistreatment," *Chicago Tribune*, 4 September 1999. http://articles.chicagotribune.com/1...oha-land-trust.

In September 2015, the U.S. Department of Interior, the same department that contains the Bureau of Indian Affairs, created guidelines for Native Hawaiians who wish to govern themselves in a relationship with the federal government similar to that established with Native American and Alaska Native tribes. Such a relationship would grant Native Hawaiians power to govern themselves while remaining U.S. citizens. Voting began in fall 2015 for delegates to a constitutional convention that would determine whether or not such a relationship should exist between Native Hawaiians and the federal government.

Brittany Lyte, "Historic Election Could Return Sovereignty to Native Hawaiians," *Aljazeera America* 30 Oct. 2015, http://america.aljazeera.com/article...hawaiians.html.

When non-Native Hawaiians and some Native Hawaiians brought suit on the grounds that, by allowing only Native Hawaiians to vote, the process discriminated against members of other ethnic groups, a federal district court found the election to be legal.

However, the Supreme Court has ordered that votes not be counted until an appeal of the lower court's decision be heard by the Ninth U.S. Circuit Court of Appeals.

Chloe Fox. 2 December 2015. "Supreme Court Blocks Native Hawaiians' Attempt to Form Own Government," http://www.huffingtonpost.com/entry/...b079b2818d1767.

Despite significant advances, American Indians, Alaska Natives, and Native Hawaiians still trail behind U.S. citizens of other ethnic backgrounds in many important areas. These groups continue to suffer widespread poverty and high unemployment. Some of the poorest counties in the United States are those in which Native American reservations are located. These minorities are also less likely than white Americans, African Americans, or Asian Americans to complete high school or college.

Jens Manuel Krogstad. 13 June 2014. "One-in-Four Native Americans and Alaska Natives Are Living in Poverty," http://www.pewresearch.org/fact-tank...ng-in-poverty/.

Many American Indian and Alaskan tribes endure high rates of infant mortality, alcoholism, and suicide.

Karina L. Walters, Jane M. Simoni, and Teresa Evans-Campbell. 2002. "Substance Use Among American Indians and Alaska Natives: Incorporating Culture in an 'Indigenist' Stess-Coping Paradigm," *Public Health Reports* 117: S105.

Native Hawaiians are also more likely to live in poverty than whites in Hawaii, and they are more likely than white Hawaiians to be homeless or unemployed.

Kehaulani Lum, "Native Hawaiians' Trail of Tears," *Chicago Tribune*, 24 August 1999. http://articles.chicagotribune.com/1...-people-aleuts.

At the beginning of U.S. history, Indians were considered citizens of sovereign nations and thus ineligible for citizenship, and they were forced off their ancestral lands and onto reservations. Interest in Indian rights arose in the late nineteenth century, and in the 1930s, Native Americans were granted a degree of control over reservation lands and the right to govern themselves. Following World War II, they won greater rights to govern themselves, educate their children, decide how tribal lands should be used—to build casinos, for example—and practice traditional religious rituals without federal interference. Alaska Natives and Native Hawaiians have faced similar difficulties, but since the 1960s, they have been somewhat successful in having lands restored to them or obtaining compensation for their loss. Despite these achievements, members of these groups still tend to be poorer, less educated, less likely to be employed, and more likely to suffer addictions or to be incarcerated than other racial and ethnic groups in the United States.

The Trail of Tears is the name given to the forced removal of this tribe from Georgia to Oklahoma.

1. Lakota
2. Paiute
3. Navajo
4. Cherokee

AIM was _____.

1. a federal program that returned control of Native American education to tribal governments
2. a radical group of Native American activists who occupied the settlement of Wounded Knee on the Pine Ridge Reservation
3. an attempt to reduce the size of reservations
4. a federal program to give funds to Native American tribes to help their members open small businesses that would employ tribal members

Briefly describe the similarities and differences between the experiences of Native Americans and Native Hawaiians.

Glossary

American Indian Movement (AIM)

the Native American civil rights group responsible for the occupation of Wounded Knee, South Dakota, in 1973

Trail of Tears

the name given to the forced migration of the Cherokees from Georgia to Oklahoma in 1838–1839

6.5: Civil Rights for Indigenous Groups: Native Americans, Alaskans, and Hawaiians is shared under a not declared license and was authored, remixed, and/or curated by LibreTexts.

6.6: Equal Protection for Other Groups

Learning Objectives

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

- Discuss the discrimination faced by Hispanic/Latino Americans and Asian Americans
- Describe the influence of the African American civil rights movement on Hispanic/Latino, Asian American, and LGBT civil rights movements
- Describe federal actions to improve opportunities for people with disabilities
- Describe discrimination faced by religious minorities

Many groups in American society have faced and continue to face challenges in achieving equality, fairness, and equal protection under the laws and policies of the federal government and/or the states. Some of these groups are often overlooked because they are not as large of a percentage of the U.S. population as women or African Americans, and because organized movements to achieve equality for them are relatively young. This does not mean, however, that the discrimination they face has not been as longstanding or as severe.

HISPANIC/LATINO CIVIL RIGHTS

Hispanics and Latinos in the United States have faced many of the same problems as African Americans and Native Americans. Although the terms Hispanic and Latino are often used interchangeably, they are not the same. *Hispanic* usually refers to native speakers of Spanish. *Latino* refers to people who come from, or whose ancestors came from, Latin America. Not all Hispanics are Latinos. Latinos may be of any race or ethnicity; they may be of European, African, Native American descent, or they may be of mixed ethnic background. Thus, people from Spain are Hispanic but are not Latino.

"Hispanic v. Latino," www.soaw.org/resources/anti-o...anic-vs-latino (April 10, 2016).

Many Latinos became part of the U.S. population following the annexation of Texas by the United States in 1845 and of California, Arizona, New Mexico, Nevada, Utah, and Colorado following the War with Mexico in 1848. Most were subject to discrimination and could find employment only as poorly paid migrant farm workers, railroad workers, and unskilled laborers.

David G. Gutierrez. 1995. *Walls and Mirrors: Mexican Americans, Mexican Immigrants, and the Politics of Ethnicity*. Berkeley: University of California Press, chapter 1.

The Spanish-speaking population of the United States increased following the Spanish-American War in 1898 with the incorporation of Puerto Rico as a U.S. territory. In 1917, during World War I, the Jones Act granted U.S. citizenship to Puerto Ricans.

In the early twentieth century, waves of violence aimed at Mexicans and Mexican Americans swept the Southwest. Mexican Americans in Arizona and in parts of Texas were denied the right to vote, which they had previously possessed, and Mexican American children were barred from attending Anglo-American schools. During the Great Depression of the 1930s, Mexican immigrants and many Mexican Americans, both U.S.-born and naturalized citizens, living in the Southwest and Midwest were deported by the government so that Anglo-Americans could take the jobs that they had once held.

See Abraham Hoffman. 1974. *Unwanted Americans in the Great Depression: Repatriation Pressures, 1929–1939*. Tucson: University of Arizona Press.

When the United States entered World War II, however, Mexicans were invited to immigrate to the United States as farmworkers under the Bracero (*bracero* meaning "manual laborer" in Spanish) Program to make it possible for these American men to enlist in the armed services.

See Michael Snodgrass. 2011. "The Bracero Program,1942–1964" In *Beyond the Border: The History of Mexican–U.S. Migration*, ed. Mark Overmyer-Velásquez. New York: Oxford University Press, 79–102.

Mexican Americans and Puerto Ricans did not passively accept discriminatory treatment, however. In 1903, Mexican farmworkers joined with Japanese farmworkers, who were also poorly paid, to form the first union to represent agricultural laborers. In 1929, Latino civil rights activists formed the League of United Latin American Citizens (LULAC) to protest against discrimination and to fight for greater rights for Latinos.

See Benjamin Marquez. 1993. *LULAC: The Evolution of a Mexican American Political Organization*. Austin: University of Texas Press.

Just as in the case of African Americans, however, true civil rights advances for Hispanics and Latinos did not take place until the end of World War II. Hispanic and Latino activists targeted the same racist practices as did African Americans and used many of the same tactics to end them. In 1946, Mexican American parents in California, with the assistance of the NAACP, sued several California school districts that forced Mexican and Mexican American children to attend segregated schools. In the case of *Mendez v. Westminster*(1947), the Court of Appeals for the Ninth Circuit Court held that the segregation of Mexican and Mexican American students into separate schools was unconstitutional.

Mendez v. Westminister School District, 64 F. Supp. 544 (S.D. Cal. 1946).

Although Latinos made some civil rights advances in the decades following World War II, discrimination continued. Alarmed by the large number of undocumented Mexicans crossing the border into the United States in the 1950s, the United States government began Operation Wetback (*wetback* is a derogatory term for Mexicans living unofficially in the United States). From 1953 to 1958, more than three million Mexican immigrants, and some Mexican Americans as well, were deported from California, Texas, and Arizona.

See Avi Astor. 2009. "Unauthorized Immigration, Securitization, and the Making of Operation Wetback," *Latino Studies* 7: 5–29.

To limit the entry of Hispanic and Latino immigrants to the United States, in 1965 Congress imposed an immigration quota of 120,000 newcomers from the Western Hemisphere.

At the same time that the federal government sought to restrict Hispanic and Latino immigration to the United States, the Mexican American civil rights movement grew stronger and more radical, just as the African American civil rights movement had done. While African Americans demanded Black Power and called for Black Pride, young Mexican American civil rights activists called for Brown Power and began to refer to themselves as Chicano**s**, a term disliked by many older, conservative Mexican Americans, in order to stress their pride in their hybrid Spanish-Native American cultural identity.

See John R. Chavez. 1997. "The Chicano Image and the Myth of Aztlan Rediscovered." In *Myth America: A Historical Anthology* (volume II), eds. Patrick Gerster and Nicholas Cords. New York: Brandywine Press; F. Arturo Rosales. 1996. *Chicano! The History of the Mexican American Civil Rights Movement*. Houston, Texas: Arte Público Press.

Demands by Mexican American activists often focused on improving education for their children, and they called upon school districts to hire teachers and principals who were bilingual in English and Spanish, to teach Mexican and Mexican American history, and to offer instruction in both English and Spanish for children with limited ability to communicate in English.

See Rosales, *American Civil Rights Movement*.

EAST L.A. STUDENT WALKOUTS

In March 1968, Chicano students at five high schools in East Los Angeles went on strike to demand better education for students of Mexican ancestry. Los Angeles schools did not allow Latino students to speak Spanish in class and gave no place to study Mexican history in the curriculum. Guidance counselors also encouraged students, regardless of their interests or ability, to pursue vocational careers instead of setting their sights on college. Some students were placed in classes for the mentally challenged even though they were of normal intelligence. As a result, the dropout rate among Mexican American students was very high.

School administrators refused to meet with the student protestors to discuss their grievances. After a week, police were sent in to end the strike. Thirteen of the organizers of the walkout were arrested and charged with conspiracy to disturb the peace. After Sal Castro, a teacher who had led the striking students, was dismissed from his job, activists held a sit-in at school district headquarters until Castro was reinstated. Student protests spread across the Southwest, and in response many schools did change. That same year, Congress passed the Bilingual Education Act, which required school districts with large numbers of Hispanic or Latino students to provide instruction in Spanish.

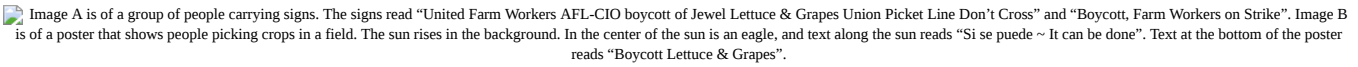
See Sal Castro. 2011. *Blowout! Sal Castro and the Chicano Struggle for Educational Justice*. Chapel Hill: University of North Carolina Press.

Bilingual education remains controversial, even among Hispanics and Latinos. What are some arguments they might raise both for and against it? Are these different from arguments coming from whites?

Mexican American civil rights leaders were active in other areas as well. Throughout the 1960s, Cesar Chavez and Dolores Huertafought for the rights of Mexican American agricultural laborers through their organization, the United Farm Workers

(UFW), a union for migrant workers they founded in 1962. Chavez, Huerta, and the UFW proclaimed their solidarity with Filipino farm workers by joining them in a strike against grape growers in Delano, California, in 1965. Chavez consciously adopted the tactics of the African American civil rights movement. In 1965, he called upon all U.S. consumers to boycott California grapes (Figure), and in 1966, he led the UFW on a 300-mile march to Sacramento, the state capital, to bring the state farm workers' problems to the attention of the entire country. The strike finally ended in 1970 when the grape growers agreed to give the pickers better pay and benefits.

See Randy Shaw. 2008. *Beyond the Fields: Cesar Chavez, the UFW, and the Struggle for Justice in the 21st Century*. Berkeley: University of California Press; Susan Ferriss, Ricardo Sandoval, and Diana Hembree. 1998. *The Fight in the Fields: Cesar Chavez and the Farmworkers Movement*. New York: Houghton Mifflin Harcourt.


Image A is of a group of people carrying signs. The signs read "United Farm Workers AFL-CIO boycott of Jewel Lettuce & Grapes Union Picket Line Don't Cross" and "Boycott, Farm Workers on Strike". Image B is of a poster that shows people picking crops in a field. The sun rises in the background. In the center of the sun is an eagle, and text along the sun reads "Si se puede ~ It can be done". Text at the bottom of the poster reads "Boycott Lettuce & Grapes".

Protestors picket a grocery store in 1973, urging consumers not to buy grapes or lettuce picked by underpaid farm workers (a). The boycott, organized by Cesar Chavez and the United Farm Workers using the slogan "Sí se puede" or "Yes, it can be done!" (b), ultimately forced California growers to improve conditions for migrant laborers.

As Latino immigration to the United States increased in the late twentieth and early twenty-first centuries, discrimination also increased in many places. In 1994, California voters passed Proposition 187. The proposition sought to deny non-emergency health services, food stamps, welfare, and Medicaid to undocumented immigrants. It also banned children from attending public school unless they could present proof that they and their parents were legal residents of the United States. A federal court found it unconstitutional in 1997 on the grounds that the law's intention was to regulate immigration, a power held only by the federal government.

CNN. 19 March 1998. "Most of California's Prop. 187 Ruled Unconstitutional," http://www.cnn.com/ALLPOLITICS/1998/03/19/prop.187/; Patrick J. McDonnell, "Prop. 187 Found Unconstitutional by Federal Judge," *Los Angeles Times*, 15 November 1997. http://articles.latimes.com/1997/nov/15/news/mn-54053.

In 2005, discussion began in Congress on proposed legislation that would make it a felony to enter the United States illegally or to give assistance to anyone who had done so. Although the bill quickly died, on May 1, 2006, hundreds of thousands of people, primarily Latinos, staged public demonstrations in major U.S. cities, refusing to work or attend school for one day.

Teresa Watanabe and Hector Becerra, "500,000 Pack Streets to Protest Immigration Bills," *Los Angeles Times*, 26 March 2006.

The protestors claimed that people seeking a better life should not be treated as criminals and that undocumented immigrants already living in the United States should have the opportunity to become citizens.

Following the failure to make undocumented immigration a felony under federal law, several states attempted to impose their own sanctions on illegal immigration. In April 2010, Arizona passed a law that made illegal immigration a state crime. The law also forbade undocumented immigrants from seeking work and allowed law enforcement officers to arrest people suspected of being in the U.S. illegally. Thousands protested the law, claiming that it encouraged racial profiling. In 2012, in *Arizona v. United States*, the U.S. Supreme Court struck down those provisions of the law that made it a state crime to reside in the United States illegally, forbade undocumented immigrants to take jobs, and allowed the police to arrest those suspected of being illegal immigrants.

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

The court, however, upheld the authority of the police to ascertain the immigration status of someone suspected of being an undocumented alien if the person had been stopped or arrested by the police for other reasons.

Arizona, 567 U.S.

Today, Latinos constitute the largest minority group in the United States. They also have one of the highest birth rates of any ethnic group.

Center for Public Affairs Research. 24 November 2015. "UNO Study: Fertility Rate Gap Between Races, Ethnicities is Shrinking," http://www.unomaha.edu/news/2015/01/fertility.php.

Although Hispanics lag behind whites in terms of income and high school graduation rates, they are enrolling in college at higher rates than whites.

Rakesh Kochhar and Richard Fry. 12 December 2014. “Wealth Inequality Has Widened Along Racial, Ethnic Lines Since End of Great Recession,” http://www.pewresearch.org/fact-tank...eat-recession/; “State High School Graduation Rates By Race, Ethnicity,” http://www.governing.com/gov-data/ed...ethnicity.html (April 10, 2016); Mark Hugo Lopez and Richard Fry. 4 September 2013. “Among Recent High School Grads, Hispanic College Enrollment Rates Surpasses That of Whites,” http://www.pewresearch.org/fact-tank...he-first-time/.

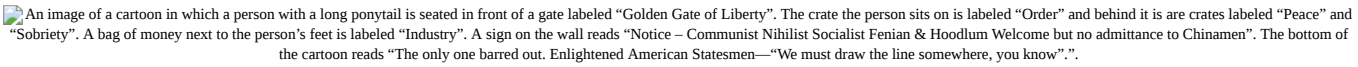
Topics that remain at the forefront of public debate today include immigration reform, the DREAM Act (a proposal for granting undocumented immigrants permanent residency in stages), and court action on President Obama’s executive orders on immigration.

ASIAN AMERICAN CIVIL RIGHTS

Because Asian Americans are often stereotypically regarded as “the model minority” (because it is assumed they are generally financially successful and do well academically), it is easy to forget that they have also often been discriminated against and denied their civil rights. Indeed, in the nineteenth century, Asians were among the most despised of all immigrant groups and were often subjected to the same laws enforcing segregation and forbidding interracial marriage as were African Americans and American Indians.

The Chinese were the first large group of Asians to immigrate to the United States. They arrived in large numbers in the mid-nineteenth century to work in the mining industry and on the Central Pacific Railroad. Others worked as servants or cooks or operated laundries. Their willingness to work for less money than whites led white workers in California to call for a ban on Chinese immigration. In 1882, Congress passed the Chinese Exclusion Act, which prevented Chinese from immigrating to the United States for ten years and prevented Chinese already in the country from becoming citizens (Figure). In 1892, the Geary Act extended the ban on Chinese immigration for another ten years. In 1913, California passed a law preventing all Asians, not just the Chinese, from owning land. With the passage of the Immigration Act of 1924, all Asians, with the exception of Filipinos, were prevented from immigrating to the United States or becoming naturalized citizens. Laws in several states barred marriage between Chinese and white Americans, and some cities with large Asian populations required Asian children to attend segregated schools.

See Gabriel Chin and Hrishi Kathrikeyan. 2002. “Preserving Racial Identity: Population Patterns and the Application of Anti-Miscegenation Statutes to Asian Americans, 1910–1950,” *Asian Law Journal* 9.


An image of a cartoon in which a person with a long ponytail is seated in front of a gate labeled “Golden Gate of Liberty”. The crate the person sits on is labeled “Order” and behind it is are crates labeled “Peace” and “Sobriety”. A bag of money next to the person’s feet is labeled “Industry”. A sign on the wall reads “Notice – Communist Nihilist Socialist Fenian & Hoodlum Welcome but no admittance to Chinamen”. The bottom of the cartoon reads “The only one barred out. Enlightened American Statesmen—“We must draw the line somewhere, you know”.”.

The cartoon shows a Chinese laborer, the personification of industry and sobriety, outside the “Golden Gate of Liberty.” The Chinese Exclusion Act of 1882 has barred him from entering the country, while communists and “hoodlums” are allowed in.

During World War II, citizens of Japanese descent living on the West Coast, whether naturalized immigrants or Japanese Americans born in the United States, were subjected to the indignity of being removed from their communities and interned under Executive Order 9066 (Figure). The reason was fear that they might prove disloyal to the United States and give assistance to Japan. Although Italians and Germans suspected of disloyalty were also interned by the U.S. government, only the Japanese were imprisoned solely on the basis of their ethnicity. None of the more than 110,000 Japanese and Japanese Americans internees was ever found to have committed a disloyal act against the United States, and many young Japanese American men served in the U.S. army during the war.

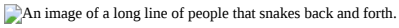
See Greg Robinson. 2010. *A Tragedy of Democracy: Japanese Confinement in North America*. New York: Columbia University Press.

Although Japanese American Fred Korematsu challenged the right of the government to imprison law-abiding citizens, the Supreme Court decision in the 1944 case of *Korematsu v. United States*upheld the actions of the government as a necessary precaution in a time of war.

Korematsu v. United States, 323 U.S. 214 (1944).

When internees returned from the camps after the war was over, many of them discovered that the houses, cars, and businesses they had left behind, often in the care of white neighbors, had been sold or destroyed.

Robinson, *Tragedy of Democracy*.



Japanese Americans displaced from their homes by the U.S. government during World War II stand in line outside the mess hall at a relocation center in San Bruno, California, on April 29, 1942.

Explore the resources at Japanese American Internmentand Digital History to learn more about experiences of Japanese Americans during World War II.

The growth of the African American, Chicano, and Native American civil rights movements in the 1960s inspired many Asian Americans to demand their own rights. Discrimination against Asian Americans, regardless of national origin, increased during the Vietnam War. Ironically, violence directed indiscriminately against Chinese, Japanese, Koreans, and Vietnamese caused members of these groups to unite around a shared pan-Asian identity, much as Native Americans had in the Pan-Indian movement. In 1968, students of Asian ancestry at the University of California at Berkeley formed the Asian American Political Alliance. Asian American students also joined Chicano, Native American, and African American students to demand that colleges offer ethnic studies courses.

See William Wei. 1993. *The Asian American Movement*. Philadelphia: Temple University Press.

In 1974, in the case of *Lau v. Nichols*, Chinese American students in San Francisco sued the school district, claiming its failure to provide them with assistance in learning English denied them equal educational opportunities.

Lau v. Nichols, 414 U.S. 563 (1974).

The Supreme Court found in favor of the students.

The Asian American movement is no longer as active as other civil rights movements are. Although discrimination persists, Americans of Asian ancestry are generally more successful than members of other ethnic groups. They have higher rates of high school and college graduation and higher average income than other groups.

"The Rise of Asian Americans," http://www.pewsocialtrends.org/asian...cans-graphics/ (April 10, 2016).

Although educational achievement and economic success do not protect them from discrimination, it does place them in a much better position to defend their rights.

THE FIGHT FOR CIVIL RIGHTS IN THE LGBT COMMUNITY

Laws against homosexuality, which was regarded as a sin and a moral failing, existed in most states throughout the nineteenth and twentieth centuries. By the late nineteenth century, homosexuality had come to be regarded as a form of mental illness as well as a sin, and gay men were often erroneously believed to be pedophiles.

See Jonathan Ned Katz. 1995. *Gay and American History: Lesbians and Gay Men in the United States*. New York: Thomas Crowell.

As a result, lesbians, gay men, bisexuals, and transgender people, collectively known as the LGBT community, had to keep their sexual orientation hidden or "closeted." Secrecy became even more important in the 1950s, when fear of gay men increased and the federal government believed they could be led into disloyal acts either as a result of their "moral weakness" or through blackmail by Soviet agents. As a result, many men lost or were denied government jobs. Fears of lesbians also increased after World War II as U.S. society stressed conformity to traditional gender roles and the importance of marriage and childrearing.

See David K. Johnson. 2004. *The Lavender Scare: The Cold War Persecution of Gays and Lesbians*. Chicago: University of Chicago Press.

The very secrecy in which lesbian, gay, bisexual, and transgender people had to live made it difficult for them to organize to fight for their rights as other, more visible groups had done. Some organizations did exist, however. The Mattachine Society, established in 1950, was one of the first groups to champion the rights of gay men. Its goal was to unite gay men who otherwise lived in secrecy and to fight against abuse. The Mattachine Society often worked with the Daughters of Bilitis, a lesbian rights organization. Among the early issues targeted by the Mattachine Society was police entrapment of male homosexuals.

See Vern L. Bullough. 2002. *Before Stonewall: Activists for Gay and Lesbian Rights in Historical Context*. New York: Harrington Park Press.

In the 1960s, the gay and lesbian rights movements began to grow more radical, in a manner similar to other civil rights movements. In 1962, gay Philadelphians demonstrated in front of Independence Hall. In 1966, transgender prostitutes who were tired of police harassment rioted in San Francisco. In June 1969, gay men, lesbians, and transgender people erupted in violence when New York City police attempted to arrest customers at a gay bar in Greenwich Village called the Stonewall Inn. The patrons' ability to resist arrest and fend off the police inspired many members of New York's LGBT community, and the riots persisted over several nights. New organizations promoting LGBT rights that emerged after Stonewall were more radical and confrontational than the Mattachine Society and the Daughters of Bilitis had been. These groups, like the Gay Activists Alliance and the Gay Liberation Front, called not just for equality before the law and protection against abuse but also for "liberation," Gay Power, and Gay Pride.

See David Carter. 2004. *Stonewall: The Riots That Sparked the Gay Revolution*. New York: St. Martin's Press; Martin Duberman.1993. *Stonewall*. New York: Penguin Books.

Although LGBT people gained their civil rights later than many other groups, changes did occur beginning in the 1970s, remarkably quickly when we consider how long other minority groups had fought for their rights. In 1973, the American Psychological Association ended its classification of homosexuality as a mental disorder. In 1994, the U.S. military adopted the policy of "Don't ask, don't tell." This act, Department of Defense Directive 1304.26, officially prohibited discrimination against suspected gays, lesbians, and bisexuals by the U.S. military. It also prohibited superior officers from asking about or investigating the sexual orientation of those below them in rank.

Public Law 103–160: National Defense Authorization Act for Fiscal Year 1994.

However, those gays, lesbians, and bisexuals who spoke openly about their sexual orientation were still subject to dismissal because it remained illegal for anyone except heterosexuals to serve in the armed forces. The policy ended in 2011, and now gays, lesbians, and bisexuals may serve openly in the military.

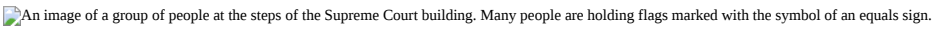
NBC News. 22 July 2011. "Obama Certifies End of Military's Gay Ban," http://www.nbcnews.com/id/43859711/n.../#.VrAzFlLxh-U.

In 2006, in the case of *Lawrence v. Texas*, the Supreme Court ruled unconstitutional state laws that criminalized sexual intercourse between consenting adults of the same sex.

Lawrence v. Texas, 539 U.S. 558 (2003).

Beginning in 2000, several states made it possible for same-sex couples to enter into legal relationships known as civil unions or domestic partnerships. These arrangements extended many of the same protections enjoyed by heterosexual married couples to same-sex couples. LGBT activists, however, continued to fight for the right to marry. Same-sex marriages would allow partners to enjoy exactly the same rights as married heterosexual couples and accord their relationships the same dignity and importance. In 2004, Massachusetts became the first state to grant legal status to same-sex marriage. Other states quickly followed. This development prompted a backlash among many religious conservatives, who considered homosexuality a sin and argued that allowing same-sex couples to marry would lessen the value and sanctity of heterosexual marriage. Many states passed laws banning same-sex marriage, and many gay and lesbian couples challenged these laws, successfully, in the courts. Finally, in *Obergefell v. Hodges*, the Supreme Court overturned state bans and made same-sex marriage legal throughout the United States on June 26, 2015 (Figure).

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



Supporters of marriage equality celebrate outside the Supreme Court on June 26, 2015, following the announcement of the Court's decision in *Obergefell v. Hodges* declaring same-sex marriage a constitutional right under the Fourteenth Amendment. (credit: Matt Popovich)

The legalization of same-sex marriage throughout the United States led some people to feel their religious beliefs were under attack, and many religiously conservative business owners have refused to acknowledge LBGT rights or the legitimacy of same-sex marriages. Following swiftly upon the heels of the *Obergefell* ruling, the Indiana legislature passed a Religious Freedom Restoration Act (RFRA). Congress had already passed such a law in 1993; it was intended to extend protection to minority religions, such as by allowing rituals of the Native American Church. However, the Supreme Court in *City of Boerne v. Flores* (1997) ruled that the 1993 law applied only to the federal government and not to state governments.

City of Boerne v. Flores, 521 U.S. 507 (1997).

Thus several state legislatures later passed their own Religious Freedom Restoration Acts. These laws state that the government cannot "substantially burden an individual's exercise of religion" unless it would serve a "compelling governmental interest" to do so. They allow individuals, which also include businesses and other organizations, to discriminate against others, primarily same-sex couples and LGBT people, if the individual's religious beliefs are opposed to homosexuality.

LGBT Americans still encounter difficulties in other areas as well. Discrimination continues in housing and employment, although federal courts are increasingly treating employment discrimination against transgender people as a form of sex discrimination prohibited by the Civil Rights Act of 1964. The federal Department of Housing and Urban Development has also indicated that refusing to rent or sell homes to transgendered people may be considered sex discrimination.

"Know Your Rights: Transgender People and the Law," www.aclu.org/know-your-right...people-and-law (April 10, 2016).

Violence against members of the LGBT community remains a serious problem; this violence occurs on the streets and in their homes.

Lila Shapiro. 2 Apr. 2015. "Record Number of Reported LGBT Homicides in 2015," http://www.huffingtonpost.com/2015/0...n_6993484.html.

The enactment of the Matthew Shepard and James Byrd Jr. Hate Crimes Prevention Act, also known as the Matthew Shepard Act, in 2009 made it a federal hate crime to attack someone based on his or her gender, gender identity, sexual orientation, or disability and made it easier for federal, state, and local authorities to investigate hate crimes, but it has not necessarily made the world safer for LGBT Americans.

CIVIL RIGHTS AND THE AMERICANS WITH DISABILITIES ACT

People with disabilities make up one of the last groups whose civil rights have been recognized. For a long time, they were denied employment and access to public education, especially if they were mentally or developmentally challenged. Many were merely institutionalized. A *eugenics* movement in the United States in the late nineteenth and early to mid-twentieth centuries sought to encourage childbearing among physically and mentally fit whites and discourage it among those with physical or mental disabilities. Many states passed laws prohibiting marriage among people who had what were believed to be hereditary "defects." Among those affected were people who were blind or deaf, those with epilepsy, people with mental or developmental disabilities, and those suffering mental illnesses. In some states, programs existed to sterilize people considered "feeble minded" by the standards of the time, without their will or consent.

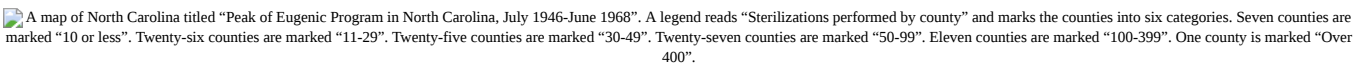
See Edward J. Larson. 1995. *Sex, Race, and Science: Eugenics in The Deep South*. Baltimore, MD: Johns Hopkins University Press; Rebecca M. Kluchin. 2009. *Fit to Be Tied: Sterilization and Reproductive Rights in America 1950–1980*. New Brunswick, NJ: Rutgers University Press.

When this practice was challenged by a "feeble-minded" woman in a state institution in Virginia, the Supreme Court, in the 1927 case of *Buck v. Bell*, upheld the right of state governments to sterilize those people believed likely to have children who would become dependent upon public welfare.

Buck v. Bell, 274 U.S. 200 (1927).

Some of these programs persisted into the 1970s, as Figure shows.

Kim Severson, "Thousands Sterilized, A State Weighs Restitution," *New York Times*, 9 December 2011. http://www.nytimes.com/2011/12/10/us...a.html?_r=1&hp.



The map shows the number of sterilizations performed by the state in each of the counties of North Carolina between July 1946 and June 1968. Nearly five hundred sterilizations took place during this time period in the purple county.

By the 1970s, however, concern for extending equal opportunities to all led to the passage of two important acts by Congress. In 1973, the Rehabilitation Act made it illegal to discriminate against people with disabilities in federal employment or in programs run by federal agencies or receiving federal funding. This was followed by the Education for all Handicapped Children Act of 1975, which required public schools to educate children with disabilities. The act specified that schools consult with parents to

create a plan tailored for each child's needs that would provide an educational experience as close as possible to that received by other children.

In 1990, the Americans with Disabilities Act (ADA) greatly expanded opportunities and protections for people of all ages with disabilities. It also significantly expanded the categories and definition of disability. The ADA prohibits discrimination in employment based on disability. It also requires employers to make reasonable accommodations available to workers who need them. Finally, the ADA mandates that public transportation and public accommodations be made accessible to those with disabilities. The Act was passed despite the objections of some who argued that the cost of providing accommodations would be prohibitive for small businesses.

The community of people with disabilities is well organized in the twenty-first century, as evidenced by the considerable network of disability rights organizations in the United States.

THE RIGHTS OF RELIGIOUS MINORITIES

The right to worship as a person chooses was one of the reasons for the initial settlement of the United States. Thus, it is ironic that many people throughout U.S. history have been denied their civil rights because of their status as members of a religious minority. Beginning in the early nineteenth century with the immigration of large numbers of Irish Catholics to the United States, anti-Catholicism became a common feature of American life and remained so until the mid-twentieth century. Catholic immigrants were denied jobs, and in the 1830s and 1840s anti-Catholic literature accused Catholic priests and nuns of committing horrific acts. Anti-Mormon sentiment was also quite common, and Mormons were accused of kidnapping women and building armies for the purpose of dominating their non-Mormon neighbors. At times, these fears led to acts of violence. A convent in Charlestown, Massachusetts, was burned to the ground in 1834.

See Nancy Lusignan Schultz. 2000. *Fire and Roses: The Burning of the Charlestown Convent*. New York: Free Press.

In 1844, Joseph Smith, the founder of the Mormon religion, and his brother were murdered by a mob in Illinois.

See Richard L. Bushman. 2005. Joseph Smith: Rough Stone Rolling. New York: Alfred A. Knopf.

For many years, American Jews faced discrimination in employment, education, and housing based on their religion. Many of the restrictive real estate covenants that prohibited people from selling their homes to African Americans also prohibited them from selling to Jews, and a "gentlemen's agreement" among the most prestigious universities in the United States limited the number of Jewish students accepted. Indeed, a tradition of confronting discrimination led many American Jews to become actively involved in the civil rights movements for women and African Americans.

See Frederic Cople Jaher. 1994. *A Scapegoat in the Wilderness: The Origins and Rise of Anti-Semitism in America*. Cambridge, MA: Harvard University Press.

Today, open discrimination against Jews in the United States is less common, although anti-Semitic sentiments still remain. In the twenty-first century, especially after the September 11 attacks, Muslims are the religious minority most likely to face discrimination. Although Title VII of the Civil Rights Act of 1964 prevents employment discrimination on the basis of religion and requires employers to make reasonable accommodations so that employees can engage in religious rituals and practices, Muslim employees are often discriminated against. Often the source of controversy is the wearing of head coverings by observant Muslims, which some employers claim violates uniform policies or dress codes, even when non-Muslim coworkers are allowed to wear head coverings that are not part of work uniforms.

"Combatting Religious Discrimination and Protecting Religious Freedom," http://www.justice.gov/crt/combating...ous-freedom-16 (April 10, 2016).

Hate crimes against Muslims have also increased since 9/11, and many Muslims believe they are subject to racial profiling by law enforcement officers who suspect them of being terrorists.

Eric Lichtblau, "Crimes Against Muslim Americans and Mosques Rise Sharply," *New York Times*, 17 December 2015. http://www.nytimes.com/2015/12/18/us...rply.html?_r=0.

In another irony, many Christians have recently argued that they are being deprived of their rights because of their religious beliefs and have used this claim to justify their refusal to acknowledge the rights of others. The owner of Hobby Lobby Stores, for example, a conservative Christian, argued that his company's health-care plan should not have to pay for contraception because his religious beliefs are opposed to the practice. In 2014, in the case of *Burwell v. Hobby Lobby Stores, Inc.*, the Supreme Court ruled in his favor.

Burwell v. Hobby Lobby Stores, Inc., 573 U.S. _ (2014).

As discussed earlier, many conservative Christians have also argued that they should not have to recognize same-sex marriages because they consider homosexuality to be a sin.

Many Hispanics and Latinos were deprived of their right to vote and forced to attend segregated schools. Asian Americans were also segregated and sometimes banned from immigrating to the United States. The achievements of the African American civil rights movement, such as the Civil Rights Act of 1964, benefited these groups, however, and Latinos and Asians also brought lawsuits on their own behalf. Many, like the Chicano youth of the Southwest, also engaged in direct action. This brought important gains, especially in education. Recent concerns over illegal immigration have resulted in renewed attempts to discriminate against Latinos, however.

For a long time, fear of discovery kept many LGBT people closeted and thus hindered their efforts to form a united response to discrimination. Since World War II, however, the LGBT community has achieved the right to same-sex marriage and protection from discrimination in other areas of life as well. The Americans with Disabilities Act, enacted in 1990, has recognized the equal rights of people with disabilities to employment, transportation, and access to public education. People with disabilities still face much discrimination, however, and LGBT people are frequently victims of hate crimes.

Some of the most serious forms of discrimination today are directed at religious minorities like Muslims, and many conservative Christians believe the recognition of LGBT rights threatens their religious freedoms.

Mexican American farm workers in California organized _____ to demand higher pay from their employers.

1. the *bracero* program
2. Operation Wetback
3. the United Farm Workers union
4. the Mattachine Society

Which of the following best describes attitudes toward Asian immigrants in the late nineteenth and early twentieth centuries?

1. Asian immigrants were welcomed to the United States and swiftly became financially successful.
2. Asian immigrants were disliked by whites who feared competition for jobs, and several acts of Congress sought to restrict immigration and naturalization of Asians.
3. Whites feared Asian immigrants because Japanese and Chinese Americans were often disloyal to the U.S. government.
4. Asian immigrants got along well with whites but not with Mexican Americans or African Americans.

Why did it take so long for an active civil rights movement to begin in the LGBT community?

What is the better approach to civil rights—a peaceful, gradual one that focuses on passing laws and winning cases in court, or a radical one that includes direct action and acts of civil disobedience? Why do you consider this to be the better solution?

Should public funds be used to provide programs for Native Americans, Alaska Natives, and Native Hawaiians even though no one living today was responsible for depriving them of their lands? Why or why not?

Although some Native Hawaiians want the right to govern themselves, others want to secede from Hawaii and become an independent nation. If this is what the majority of Native Hawaiians want, should they be allowed to do so? Why or why not?

If a person's religious beliefs conflict with the law or lead to bias against other groups, should the government protect the exercise of those beliefs? Why or why not?

In 1944, the Supreme Court upheld the authority of the U.S. government to order the internment of a minority group in the interest of national security, even though there was no evidence that any members of this group were disloyal to the United States. Should the same policy be applied today against U.S. Muslims or Muslim immigrants? Why or why not?

Suggested Reading

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Glossary

Chicano

a term adopted by some Mexican American civil rights activists to describe themselves and those like them

hate crime

harassment, bullying, or other criminal acts directed against someone because of bias against that person's sex, gender, sexual orientation, religion, race, ethnicity, or disability

Stonewall Inn

a bar in Greenwich Village, New York, where the modern Gay Pride movement began after rioters protested the police treatment of the LGBT community there

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CHAPTER OVERVIEW

7: Human Rights

7.1: What are Human Rights?
7.2: The Universal Declaration of Human Rights
7.3: The Status of Human in the United States
7.4: Emerging Directions
7.5: Conclusion
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CHAPTER OVERVIEW

8: Immigration and Immigrant Policy: Barriers and Opportunities for Families

8.1: Immigration Policy
8.2: Current Immigration Policy
8.3: Opportunities and Barriers for Immigrant Families
8.4: Future Directions
8.5: Conclusion
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CHAPTER OVERVIEW

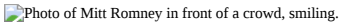
9: The Politics of Public Opinion

Topic hierarchy

9.1: Introduction
9.2: The Nature of Public Opinion
9.3: How Is Public Opinion Measured?
9.4: What Does the Public Think?
9.5: The Effects of Public Opinion
9.6: Section 6:

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9.1: Introduction



Governor and presidential candidate Mitt Romney takes the stage in Boston, Massachusetts, to give his “Super Tuesday” victory speech (credit: modification of work by BU Interactive News/Flickr).

On November 7, 2012, the day after the presidential election, journalists found Mitt Romney’s transition website, detailing the Republican candidate’s plans for the upcoming inauguration celebration and criteria for Cabinet and White House appointees and leaving space for video of his acceptance speech.

Erik Hayden, “Mitt Romney’s Transition Website: Where ‘President-Elect’ Romney Lives On,” *Time*, 8 November 2012. newsfeed.time.com/2012/11/08/...t-elect-romney (February 17, 2016).

Yet, Romney had lost his bid for the White House.

Romney’s campaign staff had been so sure he would win that he had not written a concession speech. How could they have been wrong? Romney’s staff blamed the campaign’s own polls. The staff believed Republican voters were highly motivated, leading Romney pollsters to overestimate how many would turn out (Figure).

John Sides, “The Romney Campaign’s Own Polls Showed It Would Lose,” *Washington Post*, 8 October 2013; Charlie Mahtesian, “Rasmussen Explains,” *Politico*, 1 November 2012. Jan Crawford, “Adviser: Romney ‘Shellshocked’ by Loss,” *CBS News*, 8 November 2012.

The campaign’s polls showed Romney close to President Barack Obama, although non-campaign polls showed Obama ahead.

Crawford, “Adviser: Romney ‘Shellshocked’ by Loss.”

On election night, Romney gave his hastily drafted concession speech, still unsure how he had lost.

In the 2016 election, most polls showed Democratic nominee Hillary Clinton with an advantage nationwide and in the battleground states in the days leading up to the election. However, Republican nominee Donald Trump was elected president as many new voters joined the process, voters who were not studied in the polls as likely voters. As many a disappointed candidate knows, public opinion matters. The way opinions are formed and the way we measure public opinion also matter. But how much, and why? These are some of the questions we’ll explore in this chapter.

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9.2: The Nature of Public Opinion

Learning Objectives

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

- Define public opinion and political socialization
- Explain the process and role of political socialization in the U.S. political system
- Compare the ways in which citizens learn political information
- Explain how beliefs and ideology affect the formation of public opinion

The collection of public opinion through polling and interviews is a part of American political culture. Politicians want to know what the public thinks. Campaign managers want to know how citizens will vote. Media members seek to write stories about what Americans want. Every day, polls take the pulse of the people and report the results. And yet we have to wonder: Why do we care what people think?

WHAT IS PUBLIC OPINION?

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

Gallup. 2015. “Gallup Daily: Obama Job Approval.” *Gallup*. June 6, 2015. http://www.gallup.com/poll/113980/Ga...-Approval.aspx (February 17, 2016); Rasmussen Reports. 2015. “Daily Presidential Tracking Poll.” *Rasmussen Reports* June 6, 2015. www.rasmussenreports.com/publ..._tracking_poll (February 17, 2016); Roper Center. 2015. “Obama Presidential Approval.” *Roper Center*. June 6, 2015. www.ropercenter.uconn.edu/pol...tial-approval/ (February 17, 2016).

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

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But where do people’s opinions come from? Most citizens base their political opinions on their beliefs

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

and their attitudes, both of which begin to form in childhood. *Beliefs*are closely held ideas that support our values and expectations about life and politics. For example, the idea that we are all entitled to equality, liberty, freedom, and privacy is a belief most people in the United States share. We may acquire this belief by growing up in the United States or by having come from a country that did not afford these valued principles to its citizens.

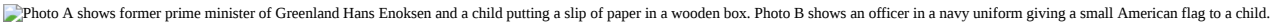
Our *attitudes* are also affected by our personal beliefs and represent the preferences we form based on our life experiences and values. A person who has suffered racism or bigotry may have a skeptical attitude toward the actions of authority figures, for example.

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

POLITICAL SOCIALIZATION

At the same time that our beliefs and attitudes are forming during childhood, we are also being *socialized*; that is, we are learning from many information sources about the society and community in which we live and how we are to behave in it. Political socialization is the process by which we are trained to understand and join a country’s political world, and, like most forms of socialization, it starts when we are very young. We may first become aware of politics by watching a parent or guardian vote, for instance, or by hearing presidents and candidates speak on television or the Internet, or seeing adults honor the American flag at an event (Figure). As socialization continues, we are introduced to basic political information in school. We recite the Pledge of

Allegiance and learn about the Founding Fathers, the Constitution, the two major political parties, the three branches of government, and the economic system.



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

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

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

John Zaller. 1992. *The Nature and Origins of Mass Opinion*. Cambridge: Cambridge University Press.

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

Eitan Hersh. 2013. “Long-Term Effect of September 11 on the Political Behavior of Victims’ Families and Neighbors.” *Proceedings of the National Academy of Sciences of the United States of America* 110 (52): 20959–63.

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

M. Kent Jennings. 2002. “Generation Units and the Student Protest Movement in the United States: An Intra- and Intergenerational Analysis.” *Political Psychology* 23 (2): 303–324.

If enough beliefs or attitudes are shattered by an event, such as an economic catastrophe or a threat to personal safety, ideology shifts may affect the way we vote. During the 1920s, the Republican Party controlled the House of Representatives and the Senate, sometimes by wide margins.

United States Senate. 2015. “Party Division in the Senate, 1789-Present,” *United States Senate*. June 5, 2015. http://www.senate.gov/pagelayout/his...s/partydiv.htm (February 17, 2016). History, Art & Archives. 2015. “Party Divisions of the House of Representatives: 1789–Present.” *United States House of Representatives*. June 5, 2015. http://history.house.gov/Institution...rty-Divisions/ (February 17, 2016).

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

V. O. Key Jr. 1955. “A Theory of Critical Elections.” *Journal of Politics* 17 (1): 3–18.

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

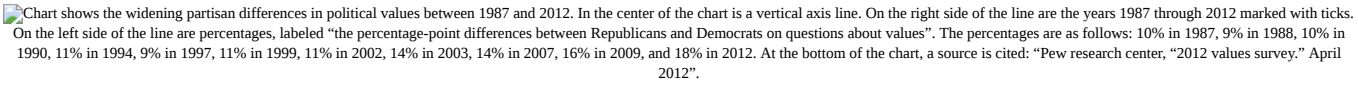
Today, polling agencies have noticed that citizens’ beliefs have become far more polarized, or widely opposed, over the last decade.

Pew Research Center. 2014. “Political Polarization in the American Public.” *Pew Research Center*. June 12, 2014. www.people-press.org/2014/06/...erican-public/ (February 17, 2016).

To track this polarization, Pew Research conducted a study of Republican and Democratic respondents over a twenty-five-year span. Every few years, Pew would poll respondents, asking them whether they agreed or disagreed with statements. These statements are referred to as “value questions” or “value statements,” because they measure what the respondent values. Examples

of statements include “Government regulation of business usually does more harm than good,” “Labor unions are necessary to protect the working person,” and “Society should ensure all have equal opportunity to succeed.” After comparing such answers for twenty-five years, Pew Research found that Republican and Democratic respondents are increasingly answering these questions very differently. This is especially true for questions about the government and politics. In 1987, 58 percent of Democrats and 60 percent of Republicans agreed with the statement that the government controlled too much of our daily lives. In 2012, 47 percent of Democrats and 77 percent of Republicans agreed with the statement. This is an example of polarization, in which members of one party see government from a very different perspective than the members of the other party (Figure).

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


Chart shows the widening partisan differences in political values between 1987 and 2012. In the center of the chart is a vertical axis line. On the right side of the line are the years 1987 through 2012 marked with ticks. On the left side of the line are percentages, labeled “the percentage-point differences between Republicans and Democrats on questions about values”. The percentages are as follows: 10% in 1987, 9% in 1988, 10% in 1990, 11% in 1994, 9% in 1997, 11% in 1999, 11% in 2002, 14% in 2003, 14% in 2007, 16% in 2009, and 18% in 2012. At the bottom of the chart, a source is cited: “Pew research center, “2012 values survey.” April 2012”.

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

Political scientists noted this and other changes in beliefs following the 9/11 terrorist attacks on the United States, including an increase in the level of trust in government

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

and a new willingness to limit liberties for groups or citizens who “[did] not fit into the dominant cultural type.”

Deborah Schildkraut. 2002. “The More Things Change... American Identity and Mass and Elite Responses to 9/11.” *Political Psychology* 23 (3): 532.

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

Joseph Bafumi and Robert Shapiro. 2009. “A New Partisan Voter.” *The Journal of Politics* 71 (1): 1–24.

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

Liz Marlantes, “After 9/11, the Body Politic Tilts to Conservatism,” *Christian Science Monitor*, 16 January 2002.

SOCIALIZATION AGENTS

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

The most prominent agents of socialization are family and school. Other influential agents are social groups, such as religious institutions and friends, and the media. Political socialization is not unique to the United States. Many nations have realized the benefits of socializing their populations. China, for example, stresses nationalism in schools as a way to increase national unity.

Liping Weng. 2010. “Shanghai Children’s Value Socialization and Its Change: A Comparative Analysis of Primary School Textbooks.” *China Media Research* 6 (3): 36–43.

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

David Easton. 1965. *A Systems Analysis of Political Life*. New York: John Wiley.

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

For many children, family is the first introduction to politics. Children may hear adult conversations at home and piece together the political messages their parents support. They often know how their parents or grandparents plan to vote, which in turn can

socialize them into political behavior such as political party membership.

Angus Campbell, Philip Converse, Warren Miller, and Donald Stokes. 2008. *The American Voter: Unabridged Edition*. Chicago: University of Chicago Press. Michael S. Lewis-Beck, William G. Jacoby, Helmut Norpoth, and Herbert F. Weisberg. 2008. *American Vote Revisited*. Ann Arbor: University of Michigan Press.

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

Introducing children to these activities has an impact on their future behavior. Both early and recent findings suggest that children adopt some of the political beliefs and attitudes of their parents (Figure).

Russell Dalton. 1980. "Reassessing Parental Socialization: Indicator Unreliability versus Generational Transfer." *American Political Science Review* 74 (2): 421–431.

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

Michael S. Lewis-Beck, William G. Jacoby, Helmut Norpoth, and Herbert F. Weisberg. 2008. *American Vote Revisited*. Ann Arbor: University of Michigan Press.


Chart shows the percentage intergenerational resemblance in partisan orientation in 1992. People who identify as strong democrat reported their parents' political orientation as follows: 31% reported both of their parents as democrats, 6% reported both of their parents as republicans, and 10% reported no consistent partisanship among parents. Weak democrats reported their parents' political orientation as follows: 27% reported both parents as democrat, 6% reported both their parents as republicans, and 14% reported no consistent partisanship among parents. Independent democrats reported their parents' political orientation as follows: 14% reported both parents as democrats, 6% reported both parents as republicans, and 18% reported no consistent partisanship among parents. Pure independents reported their parents' political orientation as follows: 7% reported both parents as democrats. 7% reported both parents as republicans. 17% reported no consistent partisanship among parents. Independent republicans reported their parents' political orientation as follows: 7% reported both parents as democrats, 16% reported both parents as republicans. 16% reported no consistent partisanship among parents. Weak republicans reported their parents' political orientation as follows: 8% reported both parents as democrats, 32% reported both parents as republicans, 14% reported no consistent partisanship among parents. Strong republicans reported their parents' political orientation as follows: 6% reported both parents as democrats, 27% report both parents as republicans, and 9% reported no consistent partisanship among parents. At the bottom of the chart, a source is cited: "Miller, Warren E., Donald R. Kinder, Steven J. Rosenstone, and National Election Studies. American National Election Study, 1992: Pre- and Post-Election Survey [Enhanced with 1990 and 1991 Data]. ICPSR06067-v2. Ann Arbor, MI: Inter-university Consortium for Political and Social Research [distributor], 1999. http://doi.org/10.3886/ICPSR06067.v2".

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

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

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

We are also socialized outside our homes and schools. When citizens attend religious ceremonies, as 70 percent of Americans in a recent survey claimed,

Michael Lipka. 2013. "What Surveys Say about Workshop Attendance—and Why Some Stay Home." *Pew Research Center*. September 13, 2013. www.pewresearch.org/fact-tank...ome-stay-home/ (February 17, 2016).

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

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

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

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

Media—newspapers, television, radio, and the Internet—also socialize citizens through the information they provide. For a long time, the media served as gatekeepers of our information, creating reality by choosing what to present. If the media did not cover an issue or event, it was as if it did not exist. With the rise of the Internet and social media, however, traditional media have become less powerful agents of this kind of socialization.

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

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



Image A is of a large crowd of people. Some of the people are holding signs. Image B is of a crowd of people. In the foreground three people stand on a car. A fourth person holds a traffic cone against the car's windshield. In the background is a crowd of people along a road.

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

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

SOCIALIZATION AND IDEOLOGY

The socialization process leaves citizens with attitudes and beliefs that create a personal ideology. Ideologies depend on attitudes and beliefs, and on the way we prioritize each belief over the others. Most citizens hold a great number of beliefs and attitudes about government action. Many think government should provide for the common defense, in the form of a national military. They also argue that government should provide services to its citizens in the form of free education, unemployment benefits, and assistance for the poor.

When asked how to divide the national budget, Americans reveal priorities that divide public opinion. Should we have a smaller military and larger social benefits, or a larger military budget and limited social benefits? This is the *guns versus butter* debate,

which assumes that governments have a finite amount of money and must choose whether to spend a larger part on the military or on social programs. The choice forces citizens into two opposing groups.

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

EXPRESS YOURSELF

You can volunteer to participate in public opinion surveys. Diverse respondents are needed across a variety of topics to give a reliable picture of what Americans think about politics, entertainment, marketing, and more. One polling group, Harris Interactive, maintains an Internet pool of potential respondents of varied ages, education levels, backgrounds, cultures, and more. When a survey is designed and put out into the field, Harris emails an invitation to the pool to find respondents. Respondents choose which surveys to complete based on the topics, time required, and compensation offered (usually small).

Harris Interactive is a subsidiary of Nielsen, a company with a long history of measuring television and media viewership in the United States and abroad. Nielsen ratings help television stations identify shows and newscasts with enough viewers to warrant being kept in production, and also to set advertising rates (based on audience size) for commercials on popular shows. Harris Interactive has expanded Nielsen's survey methods by using polling data and interviews to better predict future political and market trends.

Harris polls cover the economy, lifestyles, sports, international affairs, and more. Which topic has the most surveys? Politics, of course.

Wondering what types of surveys you might get? The results of some of the surveys will give you an idea. They are available to the public on the Harris website. For more information, log in to Harris Poll Online.

IDEOLOGIES AND THE IDEOLOGICAL SPECTRUM

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

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


A political spectrum shows the political stance from the left wing to the right wing. Starting in the left wing, which is labeled "equality in society," the spectrum moves right from "communism" to "socialism" to "liberal." The middle of the spectrum is labeled "center." Moving toward the right wing, it starts at "conservative" to "authoritarianism" to "fascism." The right wing is labeled "control of society."

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

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

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

Classical liberalism believes in individual liberties and rights. It is based on the idea of free will, that people are born equal with the right to make decisions without government intervention. It views government with suspicion, since history includes many

examples of monarchs and leaders who limited citizens' rights. Today, modern liberalism focuses on equality and supports government intervention in society and the economy if it promotes equality. Liberals expect government to provide basic social and educational programs to help everyone have a chance to succeed.

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

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

Frederick Engels. 1847. *The Principles of Communism*. Trans. Paul Sweezy. www.marxists.org/archive/mar...1/prin-com.htm (February 17, 2016).

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

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

Libertarian Party. 2014. "Libertarian Party Platform." June. http://www.lp.org/platform (February 17, 2016).

The point where a person's ideology falls on the spectrum gives us some insight to his or her opinions. Though people can sometimes be liberal on one issue and conservative on another, a citizen to the left of liberalism, near socialism, would likely be happy with the passage of the Raise the Wage Act of 2015, which would eventually increase the minimum wage from $7.25 to $12 an hour. A citizen falling near conservatism would believe the Patriot Act is reasonable, because it allows the FBI and other government agencies to collect data on citizens' phone calls and social media communications to monitor potential terrorism (Figure). A citizen to the right of the spectrum is more likely to favor cutting social services like unemployment and Medicaid.



A series of bar graphs showing differences in public opinion. The first graph asks "which statement comes closer to your view of the patriot act?". Those who responded that they viewed it as "a necessary tool that helps government find terrorists" aligned to the following parties: 57% of republicans, 35% of democrats, and 37% of independents. Those who responded that "it goes too far and threatens to civil liberties" aligned as follows: 22% of republicans, 40% of democrats, and 42% of independents. The heading for the remaining graphs asks "Would you increase, decrease, or keep spending the same for…?". When asked about health care, 58% of democrats would increase, and 35% would keep it the same; for republicans, 16% would increase, 40% would keep it the same, and 44% would decrease; for independents, 34% would increase, 43% would keep it the same, and 23% would decrease. When asked about unemployment assistance, 9% of republicans would increase, 35% of republicans would keep it the same, and 56% would decrease; for democrats, 41% would increase, 46% would keep it the same, and 13% would decrease; for independents, 20% would increase, 48% would keep it the same, and 32% would decrease. When asked about aid to needy in the U.S., 9% of republicans would increase, 42% would keep it the same, and 49% would decrease; for democrats, 39% would increase, 52% would keep it the same, and 9% would decrease; for independents, 28% would increase, 47% would keep it the same, 25% would decrease. When asked about the minimum wage, 50% of republicans would increase, 48% would keep it the same, and 2% would decrease; for democrats, 91% would increase, and 9% would keep it the same; for independents, 68% would increase, and 30% would keep it the same. When asked about environmental protection, 12% of republicans would increase, 48% would keep it the same, and 40% would decrease; for democrats, 52% would increase, 40% would keep it the same, and 8% would decrease; for independents, 31% would increase, 48% would keep it the same, and 21% would decrease. When asked about scientific research, 22% of republicans would increase, 46% would keep it the same, and 32% would decrease; for democrats, 47% would increase, 43% would keep it the same, and 10% would decrease; and for independents, 38% would increase, 41% would keep it the same., and 21% would decrease. At the bottom of the chart, a source is cited: ""Patriot Act": Pew Research Center. "Public Remains Divided Over the Patriot Act." February 15, 2011. "Affordable Care Act": Pew Research Center. "ACA Remains Deeply Partisan; Public Divided Over Future of Law." February 22, 2015. Source "Spending": "Spending Cuts Divide Parties." Pew Research Center. February 2013. "In U.S., 71% Back Raising Minimum Wage." Gallup, Inc. "Support for raising U.S. Federal Minimum Wage to $9 per Hour." March 2013."

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

Where do your beliefs come from? The Pew Research Center offers a typology quiz to help you find out. Ask a friend or family member to answer a few questions with you and compare results. What do you think about government regulation? The military? The economy? Now compare your results. Are you both liberal? Conservative? Moderate?

Summary

Public opinion is more than a collection of answers to a question on a poll; it represents a snapshot of how people's experiences and beliefs have led them to feel about a candidate, a law, or a social issue. Our attitudes are formed in childhood as part of our upbringing. They blend with our closely held beliefs about life and politics to form the basis for our opinions. Beginning early in life, we learn about politics from agents of socialization, which include family, schools, friends, religious organizations, and the media. Socialization gives us the information necessary to understand our political system and make decisions. We use this information to choose our ideology and decide what the proper role of government should be in our society.

Which of the following is *not* an agent of political socialization?

1. a family member
2. a religious leader
3. a teacher
4. a U.S. senator

How are most attitudes formed?

1. in adulthood, based on life choices
2. in childhood, based on early childhood experiences
3. in college, based on classes and majors
4. after college, based on finances

_____ political content is given by a media source that lets the reader or viewer know upfront there is a political bias or position.

1. Overt
2. Covert
3. Explanatory
4. Expository

Where do your beliefs originate?

Which agents of socialization will have the strongest impact on an individual?

Glossary

agent of political socialization

a person or entity that teaches and influences others about politics through use of information

classical liberalism

a political ideology based on belief in individual liberties and rights and the idea of free will, with little role for government

communism

a political and economic system in which, in theory, government promotes common ownership of all property, means of production, and materials to prevent the exploitation of workers while creating an equal society; in practice, most communist governments have used force to maintain control

covert content

ideologically slanted information presented as unbiased information in order to influence public opinion

diffuse support

the widespread belief that a country and its legal system are legitimate

fascism

a political system of total control by the ruling party or political leader over the economy, the military, society, and culture and often the private lives of citizens

modern conservatism

a political ideology that prioritizes individual liberties, preferring a smaller government that stays out of the economy

modern liberalism

a political ideology focused on equality and supporting government intervention in society and the economy if it promotes equality

overt content

political information whose author makes clear that only one side is presented

political socialization

the process of learning the norms and practices of a political system through others and societal institutions

public opinion

a collection of opinions of an individual or a group of individuals on a topic, person, or event

socialism

a political and economic system in which government uses its authority to promote social and economic equality, providing everyone with basic services and equal opportunities and requiring citizens with more wealth to contribute more

traditional conservatism

a political ideology supporting the authority of the monarchy and the church in the belief that government provides the rule of law

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9.3: How Is Public Opinion Measured?

Learning Objectives

- By the end of this section, you will be able to:
- Explain how information about public opinion is gathered
- Identify common ways to measure and quantify public opinion
- Analyze polls to determine whether they accurately measure a population's opinions

Polling has changed over the years. The first opinion poll was taken in 1824; it asked voters how they voted as they left their polling places. Informal polls are called straw poll**s**, and they informally collect opinions of a non-random population or group. Newspapers and social media continue the tradition of unofficial polls, mainly because interested readers want to know how elections will end. Facebook and online newspapers often offer informal, pop-up quizzes that ask a single question about politics or an event. The poll is not meant to be formal, but it provides a general idea of what the readership thinks.

Modern public opinion polling is relatively new, only eighty years old. These polls are far more sophisticated than straw polls and are carefully designed to probe what we think, want, and value. The information they gather may be relayed to politicians or newspapers, and is analyzed by statisticians and social scientists. As the media and politicians pay more attention to the polls, an increasing number are put in the field every week.

TAKING A POLL

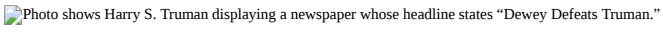
Most public opinion polls aim to be accurate, but this is not an easy task. Political polling is a science. From design to implementation, polls are complex and require careful planning and care. Mitt Romney's campaign polls are only a recent example of problems stemming from polling methods. Our history is littered with examples of polling companies producing results that incorrectly predicted public opinion due to poor survey design or bad polling methods.

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

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

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

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



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

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

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

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

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

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

The sample size varies with each organization and institution due to the way the data are processed. Gallup often interviews only five hundred respondents, while Rasmussen Reports and Pew Research often interview one thousand to fifteen hundred respondents.

Rasmussen Reports. 2015. "Daily Presidential Tracking Poll." *Rasmussen Reports*. September 27, 2015. www.rasmussenreports.com/publ..._tracking_poll (February 17, 2016); Pew Research Center. 2015. "Sampling." *Pew Research Center*. www.pewresearch.org/methodolo...arch/sampling/ (February 17, 2016).

Academic organizations, like the American National Election Studies, have interviews with over twenty-five-hundred respondents.

American National Election Studies Data Center. 2016. electionstudies.org/studypage...all_NoData.php (February 17, 2016).

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

Michael W. Link and Robert W. Oldendick. 1997. "Good" Polls / "Bad" Polls—How Can You Tell? Ten Tips for Consumers of Survey Research." *South Carolina Policy Forum*. http://www.ipspr.sc.edu/publication/Link.htm (February 17, 2016); Pew Research Center. 2015. "Sampling." *Pew Research Center*. www.pewresearch.org/methodolo...arch/sampling/ (February 17, 2016).

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

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

THE INS AND OUTS OF POLLS

Ever wonder what happens behind the polls? To find out, we posed a few questions to Scott Keeter, Director of Survey Research at Pew Research Center.

Q: What are some of the most common misconceptions about polling?

A: A couple of them recur frequently. The first is that it is just impossible for one thousand or fifteen hundred people in a survey sample to adequately represent a population of 250 million adults. But of course it is possible. Random sampling, which has been well understood for the past several decades, makes it possible. If you don't trust small random samples, then ask your doctor to take all of your blood the next time you need a diagnostic test.

The second misconception is that it is possible to get any result we want from a poll if we are willing to manipulate the wording sufficiently. While it is true that question wording can influence responses, it is not true that a poll can get any result it sets out to get. People aren't stupid. They can tell if a question is highly biased and they won't react well to it. Perhaps more important, the public can read the questions and know whether they are being loaded with words and phrases intended to push a respondent in a particular direction. That's why it's important to always look at the wording and the sequencing of questions in any poll.

Q: How does your organization choose polling topics?

A: We choose our topics in several ways. Most importantly, we keep up with developments in politics and public policy, and try to make our polls reflect relevant issues. Much of our research is driven by the news cycle and topics that we see arising in the near future.

We also have a number of projects that we do regularly to provide a look at long-term trends in public opinion. For example, we've been asking a series of questions about political values since 1987, which has helped to document the rise of political polarization in the public. Another is a large (thirty-five thousand interviews) study of religious beliefs, behaviors, and affiliations among Americans. We released the first of these in 2007, and a second in 2015.

Finally, we try to seize opportunities to make larger contributions on weighty issues when they arise. When the United States was on the verge of a big debate on immigration reform in 2006, we undertook a major survey of Americans' attitudes about immigration and immigrants. In 2007, we conducted the first-ever nationally representative survey of Muslim Americans.

Q: What is the average number of polls you oversee in a week?

A: It depends a lot on the news cycle and the needs of our research groups. We almost always have a survey in progress, but sometimes there are two or three going on at once. At other times, we are more focused on analyzing data already collected or planning for future surveys.

Q: Have you placed a poll in the field and had results that really surprised you?

A: It's rare to be surprised because we've learned a lot over the years about how people respond to questions. But here are some findings that jumped out to some of us in the past:

1) In 2012, we conducted a survey of people who said their religion is "nothing in particular." We asked them if they are "looking for a religion that would be right" for them, based on the expectation that many people without an affiliation—but who had not said they were atheists or agnostic—might be trying to find a religion that fit. Only 10 percent said that they were looking for the right religion.

2) We—and many others—were surprised that public opinion about Muslims became more favorable after the 9/11 terrorist attacks. It's possible that President Bush's strong appeal to people not to blame Muslims in general for the attack had an effect on opinions.

3) It's also surprising that basic public attitudes about gun control (whether pro or anti) barely move after highly publicized mass shootings.

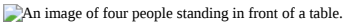
Were you surprised by the results Scott Keeter reported in response to the interviewer's final question? Why or why not? Conduct some research online to discover what degree plans or work experience would help a student find a job in a polling organization.

TECHNOLOGY AND POLLING

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

In some situations and countries, face-to-face interviewing still exists. Exit polls, focus groups, and some public opinion polls occur in which the interviewer and respondents communicate in person (Figure). Exit polls are conducted in person, with an interviewer standing near a polling location and requesting information as voters leave the polls. Focus groups often select random

respondents from local shopping places or pre-select respondents from Internet or phone surveys. The respondents show up to observe or discuss topics and are then surveyed.



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

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

“Roper Center. 2015. “Polling Fundamentals – Sampling.” *Roper*. www.ropercenter.uconn.edu/sup...tals-sampling/ (February 17, 2016).

Then it must survey a representative number of neighborhoods from within a city. At a polling location, interviewers may have directions on how to randomly select voters of varied demographics. If the interviewer is looking to interview a person in a home, multiple attempts are made to reach a respondent if he or she does not answer. Gallup conducts face-to-face interviews in areas where less than 80 percent of the households in an area have phones, because it gives a more representative sample.

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

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

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

Gallup. 2015. “Does Gallup Call Cellphones?” *Gallup*. http://www.gallup.com/poll/110383/do...ll-phones.aspx (February 17, 2016).

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

The interviewing process is also partly computerized. Many polls are now administered through computer-assisted telephone interviewing (CATI) or through robo-polls. A CATI system calls random telephone numbers until it reaches a live person and then connects the potential respondent with a trained interviewer. As the respondent provides answers, the interviewer enters them directly into the computer program. These polls may have some errors if the interviewer enters an incorrect answer. The polls may also have reliability issues if the interviewer goes off the script or answers respondents’ questions.

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

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

The latest challenges in telephone polling come from the shift in phone usage. A growing number of citizens, especially younger citizens, use only cell phones, and their phone numbers are no longer based on geographic areas. The millennial generation (currently aged 18–33) is also more likely to text than to answer an unknown call, so it is harder to interview this demographic group. Polling companies now must reach out to potential respondents using email and social media to ensure they have a representative group of respondents.

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

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

PROBLEMS IN POLLING

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

Created in 2003 to survey the American public on all topics, Rasmussen Reports is a new entry in the polling business. Rasmussen also conducts exit polls for each national election.

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

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

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

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

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



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

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

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

Nate Silver. 2010. “The Broadus Effect? Social Desirability Bias and California Proposition 19.” *FiveThirtyEightPolitics*. July 27, 2010. fivethirtyeight.com/features/...rability-bias/ (February 18, 2016).

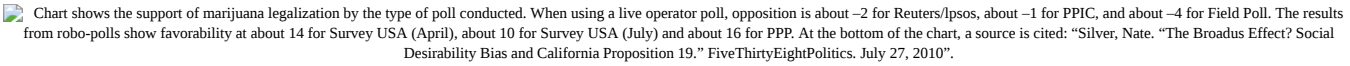
If they are embarrassed to admit how they would vote, they may lie to the interviewer. In the 1982 governor’s race in California, Tom Bradleywas far ahead in the polls, yet on Election Day he lost. This result was nicknamed the Bradley effect, on the theory that voters who answered the poll were afraid to admit they would not vote for a black man because it would appear politically incorrect and racist. In the 2016 presidential election, the level of support for Republican nominee Donald Trump may have been artificially low in the polls due to the fact that some respondents did not want to admit they were voting for Trump.

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

Nate Silver. 2010. “The Broadus Effect? Social Desirability Bias and California Proposition 19.” *FiveThirtyEightPolitics*. July 27, 2010. fivethirtyeight.com/features/...rability-bias/ (February 18, 2016).

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

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



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

PUSH POLLS

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

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

Kate Sheppard, “Top Texas Regulator: Could Russia be Behind City’s Proposed Fracking Ban?” *Huffington Post*, 16 July 2014. http://www.huffingtonpost.com/2014/0...n_5592661.html (February 18, 2016).

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

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

Summary

The purpose of a poll is to identify how a population feels about an issue or candidate. Many polling companies and news outlets use statisticians and social scientists to design accurate and scientific polls and to reduce errors. A scientific poll will try to create a representative and random sample to ensure the responses are similar to what the actual population of an area believes. Scientific polls also have lower margins of error, which means they better predict what the overall public or population thinks. Most polls are administered through phones, online, or via social media. Even in scientific polls, issues like timing, social pressure, lack of knowledge, and human nature can create results that do not match true public opinion. Polls can also be used as campaign devices to try to change a voter's mind on an issue or candidate.

The Bradley effect occurs when people _____.

a. say they will vote for a candidate based on the candidate's name
b. say they will vote against a candidate because of the candidate's race
c. say they will vote for a candidate but then vote against him or her
d. say they will vote in the next election but instead stay home

Which of the following is *not* part of a scientific poll design?

a. a leading question
b. a random sample
c. a representative sample
d. a low margin of error

A poll states that Hillary Clinton will receive 43 percent of the vote. There is an 8 percent margin of error. What do you think of the poll?

a. It is a good poll and the margin of error is small.
b. It is a good poll and the margin of error is acceptable.
c. It is a non-representative poll and the margin of error is too high.
d. The poll accurately predicts Clinton will receive 43 percent of the vote.

Why do pollsters interview random people throughout the country when trying to project which candidate will win a presidential election?

How have changes in technology made polling more difficult?

Glossary

Bradley effect
: the difference between a poll result and an election result in which voters gave a socially desirable poll response rather than a true response that might be perceived as racist

exit poll
: an election poll taken by interviewing voters as they leave a polling place

leading question
: a question worded to lead a respondent to give a desired answer

margin of error
: a number that states how far the poll results may be from the actual preferences of the total population of citizens

push poll
: politically biased campaign information presented as a poll in order to change minds

random sample

a limited number of people from the overall population selected in such a way that each has an equal chance of being chosen

representative sample

a group of respondents demographically similar to the population of interest

straw poll

an informal and unofficial election poll conducted with a non-random population

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9.4: What Does the Public Think?

Learning Objectives

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

- Explain why Americans hold a variety of views about politics, policy issues, and political institutions
- Identify factors that change public opinion
- Compare levels of public support for the branches of government

While attitudes and beliefs are slow to change, ideology can be influenced by events. A student might leave college with a liberal ideology but become more conservative as she ages. A first-year teacher may view unions with suspicion based on second-hand information but change his mind after reading newsletters and attending union meetings. These shifts may change the way citizens vote and the answers they give in polls. For this reason, political scientists often study when and why such changes in ideology happen, and how they influence our opinions about government and politicians.

EXPERIENCES THAT AFFECT PUBLIC OPINION

Ideological shifts are more likely to occur if a voter's ideology is only weakly supported by his or her beliefs. Citizens can also hold beliefs or opinions that are contrary or conflicting, especially if their knowledge of an issue or candidate is limited. And having limited information makes it easier for them to abandon an opinion. Finally, citizens' opinions will change as they grow older and separate from family.

Michael S. Lewis-Beck, William G. Jacoby, Helmut Norpoth, and Herbert F. Weisberg. 2008. *American Vote Revisited*. Ann Arbor: University of Michigan Press.

Citizens use two methods to form an opinion about an issue or candidate. The first is to rely on heuristics, shortcuts or rules of thumb (cues) for decision making. Political party membership is one of the most common heuristics in voting. Many voters join a political party whose platform aligns most closely with their political beliefs, and voting for a candidate from that party simply makes sense. A Republican candidate will likely espouse conservative beliefs, such as smaller government and lower taxes, that are often more appealing to a Republican voter. Studies have shown that up to half of voters make decisions using their political party identification, or party ID, especially in races where information about candidates is scarce.

Samuel Popkin. 2008. *The Reasoning Voter: Communication and Persuasion in Presidential Campaigns*. Chicago: University Of Chicago Press. Michael S. Lewis-Beck, William G. Jacoby, Helmut Norpoth, and Herbert F. Weisberg. 2008. *American Vote Revisited*. Ann Arbor: University of Michigan Press.

In non-partisan and some local elections, where candidates are not permitted to list their party identifications, voters may have to rely on a candidate's background or job description to form a quick opinion of a candidate's suitability. A candidate for judge may list "criminal prosecutor" as current employment, leaving the voter to determine whether a prosecutor would make a good judge.

The second method is to do research, learning background information before making a decision. Candidates, parties, and campaigns put out a large array of information to sway potential voters, and the media provide wide coverage, all of which is readily available online and elsewhere. But many voters are unwilling to spend the necessary time to research and instead vote with incomplete information.

Scott Ashworth, and Ethan Bueno De Mesquita. 2014. "Is Voter Competence Good for Voters? Information, Rationality, and Democratic Performance." *American Political Science Review* 108 (3): 565–587.

Gender, race, socio-economic status, and interest-group affiliation also serve as heuristics for decision making. Voters may assume female candidates have a stronger understanding about social issues relevant to women. Business owners may prefer to vote for a candidate with a college degree who has worked in business rather than a career politician. Other voters may look to see which candidate is endorsed by the National Organization of Women(NOW), because NOW's endorsement will ensure the candidate supports abortion rights.

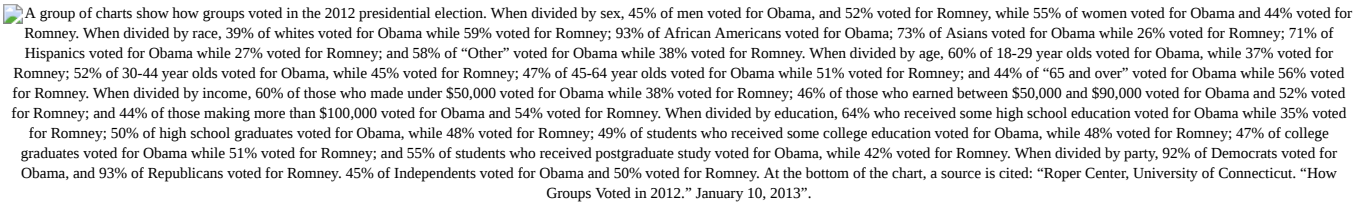
Opinions based on heuristics rather than research are more likely to change when the cue changes. If a voter begins listening to a new source of information or moves to a new town, the influences and cues he or she meets will change. Even if the voter is diligently looking for information to make an informed decision, demographic cues matter. Age, gender, race, and socio-economic

status will shape our opinions because they are a part of our everyday reality, and they become part of our barometer on whether a leader or government is performing well.

A look at the 2012 presidential election shows how the opinions of different demographic groups vary (Figure). For instance, 55 percent of women voted for Barack Obama and 52 percent of men voted for Mitt Romney. Age mattered as well—60 percent of voters under thirty voted for Obama, whereas 56 percent of those over sixty-five voted for Romney. Racial groups also varied in their support of the candidates. Ninety-three percent of African Americans and 71 percent of Hispanics voted for Obama instead of Romney.

Gallup. 2015. "U.S. Presidential Election Center." *Gallup*. June 6, 2015. www.gallup.com/poll/154559/US...on-Center.aspx (February 18, 2016).

These demographic effects are likely to be strong because of shared experiences, concerns, and ideas. Citizens who are comfortable with one another will talk more and share opinions, leading to more opportunities to influence or reinforce one another.


A group of charts show how groups voted in the 2012 presidential election. When divided by sex, 45% of men voted for Obama, and 52% voted for Romney, while 55% of women voted for Obama and 44% voted for Romney. When divided by race, 39% of whites voted for Obama while 59% voted for Romney; 93% of African Americans voted for Obama; 73% of Asians voted for Obama while 26% voted for Romney; 71% of Hispanics voted for Obama while 27% voted for Romney; and 58% of "Other" voted for Obama while 38% voted for Romney. When divided by age, 60% of 18-29 year olds voted for Obama, while 37% voted for Romney; 52% of 30-44 year olds voted for Obama, while 45% voted for Romney; 47% of 45-64 year olds voted for Obama while 51% voted for Romney; and 44% of "65 and over" voted for Obama while 56% voted for Romney. When divided by income, 60% of those who made under $50,000 voted for Obama while 38% voted for Romney; 46% of those who earned between $50,000 and $90,000 voted for Obama and 52% voted for Romney; and 44% of those making more than $100,000 voted for Obama and 54% voted for Romney. When divided by education, 64% who received some high school education voted for Obama while 35% voted for Romney; 50% of high school graduates voted for Obama, while 48% voted for Romney; 49% of students who received some college education voted for Obama, while 48% voted for Romney; 47% of college graduates voted for Obama while 51% voted for Romney; and 55% of students who received postgraduate study voted for Obama, while 42% voted for Romney. When divided by party, 92% of Democrats voted for Obama, and 93% of Republicans voted for Romney. 45% of Independents voted for Obama and 50% voted for Romney. At the bottom of the chart, a source is cited: "Roper Center, University of Connecticut. "How Groups Voted in 2012." January 10, 2013".

Breaking down voters by demographic groups may reveal very different levels of support for particular candidates or policies among the groups.

The political culture of a state can also have an effect on ideology and opinion. In the 1960s, Daniel Elazar researched interviews, voting data, newspapers, and politicians' speeches. He determined that states had unique cultures and that different state governments instilled different attitudes and beliefs in their citizens, creating political cultures. Some states value tradition, and their laws try to maintain longstanding beliefs. Other states believe government should help people and therefore create large bureaucracies that provide benefits to assist citizens. Some political cultures stress citizen involvement whereas others try to exclude participation by the masses.

State political cultures can affect the ideology and opinions of those who live in or move to them. For example, opinions about gun ownership and rights vary from state to state. Polls show that 61 percent of all Californians, regardless of ideology or political party, stated there should be more controls on who owns guns.

Josh Richman, "Field Poll: California Voters Favor Gun Controls Over Protecting Second Amendment Rights," *San Jose Mercury News*, 26 February 2013.

In contrast, in Texas, support for the right to carry a weapon is high. Fifty percent of self-identified Democrats—who typically prefer more controls on guns rather than fewer—said Texans should be allowed to carry a concealed weapon if they have a permit.

UT Austin. 2015. "Agreement with Concealed Carry Laws." *UT Austin Texas Politics Project*. February 2015. texaspolitics.utexas.edu/set/...-2015#party-id (February 18, 2016).

In this case, state culture may have affected citizens' feelings about the Second Amendment and moved them away from the expected ideological beliefs.

The workplace can directly or indirectly affect opinions about policies, social issues, and political leaders by socializing employees through shared experiences. People who work in education, for example, are often surrounded by others with high levels of education. Their concerns will be specific to the education sector and different from those in other workplaces. Frequent association with colleagues can align a person's thinking with theirs.

Workplace groups such as professional organizations or unions can also influence opinions. These organizations provide members with specific information about issues important to them and lobby on their behalf in an effort to better work environments, increase pay, or enhance shared governance. They may also pressure members to vote for particular candidates or initiatives they believe will help promote the organization's goals. For example, teachers' unions often support the Democratic Party because it has historically supported increased funding to public schools and universities.

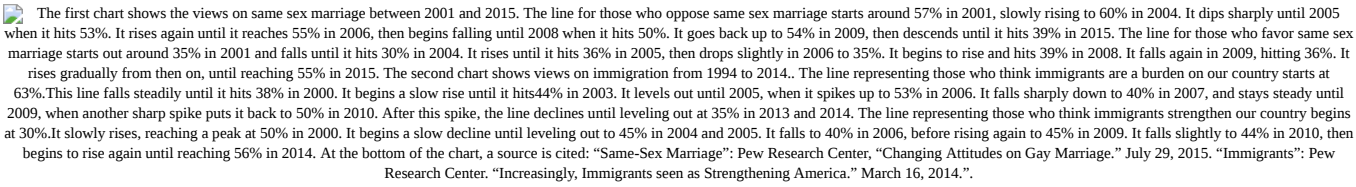
Important political opinion leaders, or political elite**s**, also shape public opinion, usually by serving as short-term cues that help voters pay closer attention to a political debate and make decisions about it. Through a talk program or opinion column, the elite commentator tells people when and how to react to a current problem or issue. Millennials and members of generation X (currently ages 34–49) long used Jon Stewart of *The Daily Show* and later Stephen Colbert of *The Colbert Report* as shortcuts to becoming informed about current events. In the same way, older generations trusted Tom Brokaw and *60 Minutes*.

Because an elite source can pick and choose the information and advice to provide, the door is open to covert influence if this source is not credible or honest. Voters must be able to trust the quality of the information. When elites lose credibility, they lose their audience. News agencies are aware of the relationship between citizens and elites, which is why news anchors for major networks are carefully chosen. When Brian Williams of NBC was accused of lying about his experiences in Iraq and New Orleans, he was suspended pending an investigation. Williams later admitted to several misstatements and apologized to the public, and he was removed from *The Nightly News*.

Stephen Battaglio, "Brian Williams Will Leave 'NBC Nightly News' and Join MSNBC," *LA Times*, 18 June 2015.

OPINIONS ABOUT POLITICS AND POLICIES

What *do* Americans think about their political system, policies, and institutions? Public opinion has not been consistent over the years. It fluctuates based on the times and events, and on the people holding major office (Figure). Sometimes a majority of the public express similar ideas, but many times not. Where, then, does the public agree and disagree? Let's look at the two-party system, and then at opinions about public policy, economic policy, and social policy.


The first chart shows the views on same sex marriage between 2001 and 2015. The line for those who oppose same sex marriage starts around 57% in 2001, slowly rising to 60% in 2004. It dips sharply until 2005 when it hits 53%. It rises again until it reaches 55% in 2006, then begins falling until 2008 when it hits 50%. It goes back up to 54% in 2009, then descends until it hits 39% in 2015. The line for those who favor same sex marriage starts out around 35% in 2001 and falls until it hits 30% in 2004. It rises until it hits 36% in 2005, then drops slightly in 2006 to 35%. It begins to rise and hits 39% in 2008. It falls again in 2009, hitting 36%. It rises gradually from then on, until reaching 55% in 2015. The second chart shows views on immigration from 1994 to 2014.. The line representing those who think immigrants are a burden on our country starts at 63%.This line falls steadily until it hits 38% in 2000. It begins a slow rise until it hits44% in 2003. It levels out until 2005, when it spikes up to 53% in 2006. It falls sharply down to 40% in 2007, and stays steady until 2009, when another sharp spike puts it back to 50% in 2010. After this spike, the line declines until leveling out at 35% in 2013 and 2014. The line representing those who think immigrants strengthen our country begins at 30%.It slowly rises, reaching a peak at 50% in 2000. It begins a slow decline until leveling out to 45% in 2004 and 2005. It falls to 40% in 2006, before rising again to 45% in 2009. It falls slightly to 44% in 2010, then begins to rise again until reaching 56% in 2014. At the bottom of the chart, a source is cited: "Same-Sex Marriage": Pew Research Center, "Changing Attitudes on Gay Marriage." July 29, 2015. "Immigrants": Pew Research Center. "Increasingly, Immigrants seen as Strengthening America." March 16, 2014.".

Public opinion may change significantly over time. Two issues that have undergone dramatic shifts in public opinion during the last twenty years are same-sex marriage and immigration.

The United States is traditionally a two-party system. Only Democrats and Republicans regularly win the presidency and, with few exceptions, seats in Congress. The majority of voters cast ballots only for Republicans and Democrats, even when third parties are represented on the ballot. Yet, citizens say they are frustrated with the current party system. Only 32 percent identify themselves as Democrats and only 23 percent as Republicans. Democratic membership has stayed relatively the same, but the Republican Party has lost about 6 percent of its membership over the last ten years, whereas the number of self-identified independents has grown from 30 percent in 2004 to 39 percent in 2014.

Pew Research Center. 2015. "Party Identification Trends, 1992–2014." *Pew Research Center*. April 7, 2015. www.people-press.org/2015/04/...nds-1992-2014/ (February 18, 2016).

Given these numbers, it is not surprising that 58 percent of Americans say a third party is needed in U.S. politics today.

Jeffrey Jones. 2014. "Americans Continue to Say a Third Political Party is Needed." *Gallup*. September 24, 2014. http://www.gallup.com/poll/177284/am...ty-needed.aspx (February 18, 2016).

Some of these changes in party allegiance may be due to generational and cultural shifts. Millennials and generation Xers are more likely to support the Democratic Party than the Republican Party. In recent polling, 51 percent of millennials and 49 percent of generation Xers stated they did, whereas only 35 percent and 38 percent, respectively, supported the Republican Party. Baby boomers (currently aged 50–68) are slightly less likely than the other groups to support the Democratic Party; only 47 percent reported doing so. The silent generation (born in the 1920s to early 1940s) is the only cohort whose members state they support the Republican Party as a majority.

Pew Research Center. 2015. "A Different Look at Generations and Partisanship." *Pew Research Center*. April 30, 2015. www.people-press.org/2015/04/...-partisanship/ (February 18, 2016).

Another shift in politics may be coming from the increasing number of multiracial citizens with strong cultural roots. Almost 7 percent of the population now identifies as biracial or multiracial, and that percentage is likely to grow. The number of citizens

identifying as both African American and white doubled between 2000 and 2010, whereas the number of citizens identifying as both Asian American and white grew by 87 percent. The Pew study found that only 37 percent of multiracial adults favored the Republican Party, while 57 percent favored the Democratic Party.

Pew Research Center. 2015. “Multiracial in America.” *Pew Research Center*. June 11, 2015. www.pewsocialtrends.org/2015/...al-in-america/ (February 18, 2016).

As the demographic composition of the United States changes and new generations become part of the voting population, public concerns and expectations will change as well.

At its heart, politics is about dividing scarce resources fairly and balancing liberties and rights. Public policy often becomes messy as politicians struggle to fix problems with the nation’s limited budget while catering to numerous opinions about how best to do so. While the public often remains quiet, simply answering public opinion polls or dutifully casting their votes on Election Day, occasionally citizens weigh in more audibly by protesting or lobbying.

Some policy decisions are made without public input if they preserve the way money is allocated or defer to policies already in place. But policies that directly affect personal economics, such as tax policy, may cause a public backlash, and those that affect civil liberties or closely held beliefs may cause even more public upheaval. Policies that break new ground similarly stir public opinion and introduce change that some find difficult. The acceptance of same-sex marriage, for example, pitted those who sought to preserve their religious beliefs against those who sought to be treated equally under the law.

Where does the public stand on economic policy? Only 26 percent of citizens surveyed in 2015 thought the U.S. economy was in excellent or good condition,

Pew Research Center. 2015. “Economic Conditions.” *Pew Research Center*. February 22, 2015. www.pewresearch.org/data-tren...ic-conditions/ (February 18, 2016).

yet 42 percent believed their personal financial situation was excellent to good.

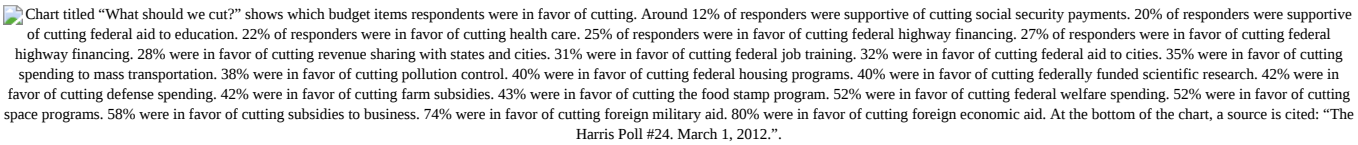
Pew Research Center. 2015. “Personal Finances.” *Pew Research Center*. January 11, 2015. www.pewresearch.org/data-tren...onal-finances/ (February 18, 2016).

While this seems inconsistent, it reflects the fact that we notice what is happening outside our own home. Even if a family’s personal finances are stable, members will be aware of friends and relatives who are suffering job losses or foreclosures. This information will give them a broader, more negative view of the economy beyond their own pocketbook.

When asked about government spending, the public was more united in wanting policy to be fiscally responsible without raising taxes. In 2011, nearly 73 percent of interviewed citizens believed the government was creating a deficit by spending too much money on social programs like welfare and food stamps, and only 22 percent wanted to raise taxes to pay for them.

Frank Newport. 2011. “Americans Blame Wasteful Government Spending for Deficit.” *Gallup*. April 29, 2011. http://www.gallup.com/poll/147338/Am...g-Deficit.aspx (February 18, 2016).

When polled on which programs to cut in order to balance the nation’s budget, however, respondents were less united (Figure). Nearly 21 percent said to cut education spending, whereas 22 percent wanted to cut spending on health care. Only 12 percent said to cut spending on Social Security. All these programs are used by nearly everyone at some time, which makes them less controversial and less likely to actually be cut.



When asked about budget cuts, poll respondents seldom favor cutting programs that directly affect them, such as Social Security or health care.

In general, programs that benefit only some Americans or have unclear benefits cause more controversy and discussion when the economy slows. Few citizens directly benefit from welfare and business subsidies, so it is not surprising that 52 percent of respondents wanted to cut back on welfare and 57 percent wanted to cut back business subsidies. While some farm subsidies

decrease the price of food items, like milk and corn, citizens may not be aware of how these subsidies affect the price of goods at the grocery store, perhaps explaining why 44 percent of respondents stated they would prefer to cut back on agricultural subsidies.

Harris Poll Online. 2012. “Cutting Government Spending May be Popular But Majorities of the Public Oppose Cuts in Many Big Ticket Items in the Budget.” *Harris Poll Online*. March 1, 2012. www.harrisinteractive.com/New...ctl/ReadCustom percent20Default/Default.aspx (February 18, 2016); Frank Newport, and Lydia Saad, 2011. “Americans Oppose Cuts in Education, Social Security, Defense.” *Gallup*. January 2, 2011. http://www.gallup.com/poll/145790/Am...y-Defense.aspx (February 18, 2016).

Social policy consists of government’s attempts to regulate public behavior in the service of a better society. To accomplish this, government must achieve the difficult task of balancing the rights and liberties of citizens. A person’s right to privacy, for example, might need to be limited if another person is in danger. But to what extent should the government intrude in the private lives of its citizens? In a recent survey, 54 percent of respondents believed the U.S. government was too involved in trying to deal with issues of morality.

Pew Research Center. 2011. “Domestic Issues and Social Policy.” *Pew Research Center*. May 4, 2011. www.people-press.org/2011/05/...social-policy/ (February 18, 2016).

Abortion is a social policy issue that has caused controversy for nearly a century. One segment of the population wants to protect the rights of the unborn child. Another wants to protect the bodily autonomy of women and the right to privacy between a patient and her doctor. The divide is visible in public opinion polls, where 51 percent of respondents said abortion should be legal in most cases and 43 percent said it should be illegal in most cases. The Affordable Care Act, which increased government involvement in health care, has drawn similar controversy. In a 2015 poll, 53 percent of respondents disapproved of the act, a 9-percent increase from five years before. Much of the public’s frustration comes from the act’s mandate that individuals purchase health insurance or pay a fine (in order to create a large enough pool of insured people to reduce the overall cost of coverage), which some see as an intrusion into individual decision making.

Pew Research Center. 2015. “Views of Health Care Law, 2010-2015.” *Pew Research Center*. March 3, 2015. www.pewresearch.org/fact-tank.../ft_acaapprove (February 18, 2016).

Laws allowing same-sex marriage raise the question whether the government should be defining marriage and regulating private relationships in defense of personal and spousal rights. Public opinion has shifted dramatically over the last twenty years. In 1996, only 27 percent of Americans felt same-sex marriage should be legal, but recent polls show support has increased to 54 percent.

Pew Research Center. 2014. “Gun Control.” *Pew Research Center*. December 7, 2014. www.pewresearch.org/data-tren...es/gun-control (February 18, 2016).

Despite this sharp increase, a number of states had banned same-sex marriage until the Supreme Court decided, in *Obergefell v. Hodges* (2015), that states were obliged to give marriage licenses to couples of the same sex and to recognize out-of-state, same-sex marriages.

Obergefell v. Hodges, 576 U.S. ___ (2015).

Some churches and businesses continue to argue that no one should be compelled by the government to recognize or support a marriage between members of the same sex if it conflicts with their religious beliefs.

National Conference of State Legislatures. 2015. “Same Sex Marriage Laws.” *National Conference of State Legislatures*. June 26, 2015. http://www.ncsl.org/research/human-s...iage-laws.aspx (February 18, 2016).

Undoubtedly, the issue will continue to cause a divide in public opinion.

Another area where social policy must balance rights and liberties is public safety. Regulation of gun ownership incites strong emotions, because it invokes the Second Amendment and state culture. Of those polled nationwide, 52 percent believed government should protect the right of citizens to own guns, while 46 percent felt there should be stronger controls over gun ownership.

Pew Research Center. 2014. “Gun Control.” *Pew Research Center*. December 7, 2014. www.pewresearch.org/data-tren...es/gun-control (February 18, 2016).

These numbers change from state to state, however, because of political culture. Immigration similarly causes strife, with citizens fearing increases in crime and social spending due to large numbers of people entering the United States illegally. Yet, 72 percent of respondents did believe there should be a path to citizenship for non-documented aliens already in the country. And while the

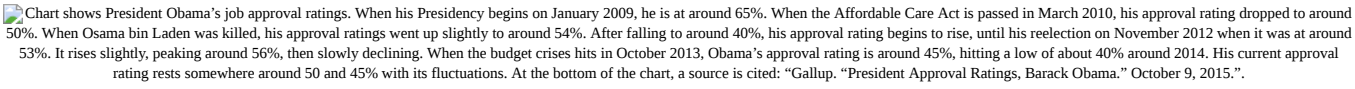
national government's drug policy still lists marijuana as an illegal substance, 45 percent of respondents stated they would agree if the government legalized marijuana.

Pew Research Center. 2011. "Domestic Issues and Social Policy." May 4, 2011. *Pew Research Center*. www.people-press.org/2011/05/...-social-policy (February 18, 2016).

PUBLIC OPINION AND POLITICAL INSTITUTIONS

Public opinion about American institutions is measured in public approval ratings rather than in questions of choice between positions or candidates. The congressional and executive branches of government are the subject of much scrutiny and discussed daily in the media. Polling companies take daily approval polls of these two branches. The Supreme Court makes the news less frequently, and approval polls are more likely after the court has released major opinions. All three branches, however, are susceptible to swings in public approval in response to their actions and to national events. Approval ratings are generally not stable for any of the three. We next look at each in turn.

The president is the most visible member of the U.S. government and a lightning rod for disagreement. Presidents are often blamed for the decisions of their administrations and political parties, and are held accountable for economic and foreign policy downturns. For these reasons, they can expect their approval ratings to slowly decline over time, increasing or decreasing slightly with specific events. On average, presidents enjoy a 66 percent approval rating when starting office, but it drops to 53 percent by the end of the first term. Presidents serving a second term average a beginning approval rating of 55.5 percent, which falls to 47 percent by the end of office. President Obama's presidency has followed the same trend. He entered office with a public approval rating of 67 percent, which fell to 54 percent by the third quarter, dropped to 52 percent after his reelection, and, as of August 2015, was at 46 percent (Figure).


Chart shows President Obama's job approval ratings. When his Presidency begins on January 2009, he is at around 65%. When the Affordable Care Act is passed in March 2010, his approval rating dropped to around 50%. When Osama bin Laden was killed, his approval ratings went up slightly to around 54%. After falling to around 40%, his approval rating begins to rise, until his reelection on November 2012 when it was at around 53%. It rises slightly, peaking around 56%, then slowly declining. When the budget crises hits in October 2013, Obama's approval rating is around 45%, hitting a low of about 40% around 2014. His current approval rating rests somewhere around 50 and 45% with its fluctuations. At the bottom of the chart, a source is cited: "Gallup. "President Approval Ratings, Barack Obama." October 9, 2015.".

As President Obama's ratings demonstrate, presidential approval ratings generally decline over time but may fluctuate based on specific events or policies.

Events during a president's term may spike his or her public approval ratings. George W. Bush's public approval rating jumped from 51 percent on September 10, 2001, to 86 percent by September 15 following the 9/11 attacks. His father, George H. W. Bush, had received a similar spike in approval ratings (from 58 to 89 percent) following the end of the first Persian Gulf War in 1991.

Gallup. 2015. "Presidential Approval Ratings – George W. Bush." *Gallup*. June 20, 2015. http://www.gallup.com/poll/116500/Pr...orge-Bush.aspx (February 18, 2016).

These spikes rarely last more than a few weeks, so presidents try to quickly use the political capital they bring. For example, the 9/11 rally effect helped speed a congressional joint resolution authorizing the president to use troops, and the "global war on terror" became a reality.

115 STAT. 2001. "224. Public Law 107-40. Joint Resolution." 107th Congress. http://www.gpo.gov/fdsys/pkg/PLAW-10...-107publ40.pdf (February 18, 2016).

The rally was short-lived, and support for the wars in Iraq and Afghanistan quickly deteriorated post-2003.

Pew Research Center. 2008. "Public Attitudes Towards the War in Iraq: 2003-2008." *Pew Research Center*. March 19, 2008. www.pewresearch.org/2008/03/1...iraq-20032008/ (February 18, 2016); Pew Research Center. 2014. "More Now See Failure than Success in Iraq, Afghanistan." *Pew Research Center*. January 30, 2014. www.people-press.org/2014/01/...q-afghanistan/ (February 18, 2016).

Some presidents have had higher or lower public approval than others, though ratings are difficult to compare, because national and world events that affect presidential ratings are outside a president's control. Several chief executives presided over failing economies or wars, whereas others had the benefit of strong economies and peace. Gallup, however, gives an average approval rating for each president across the entire period served in office. George W. Bush's average approval rating from 2001 to 2008 was 49.4 percent. Ronald Reagan's from 1981 to 1988 was 52.8 percent, despite his winning all but thirteen electoral votes in his reelection bid. Bill Clinton's average approval from 1993 to 2000 was 55.1 percent, including the months surrounding the Monica

Lewinsky scandal and his subsequent impeachment. To compare other notable presidents, John F. Kennedy averaged 70.1 percent and Richard Nixon 49 percent.

Gallup. 2015. “Presidential Job Approval Center.” *Gallup*. June 20, 2015. www.gallup.com/poll/124922/Pr...campaign=tiles (February 18, 2016).

Kennedy’s average was unusually high because his time in office was short; he was assassinated before he could run for reelection, leaving less time for his ratings to decline. Nixon’s unusually low approval ratings reflect several months of media and congressional investigations into his involvement in the Watergate affair, as well as his resignation in the face of likely impeachment.

Gallup polling has tracked approval ratings for all presidents since Harry Truman. The Presidential Job Approval Centerallows you to compare weekly approval ratings for all tracked presidents, as well as their average approval ratings.

PUBLIC MOOD AND WATERSHED MOMENTS

Polling is one area of U.S. politics in which political practitioners and political science scholars interact. Each election cycle, political scientists help media outlets interpret polling, statistical data, and election forecasts. One particular watershed moment in this regard occurred when Professor James Stimson, of the University of North Carolina at Chapel Hill, developed his aggregated measure of public mood. This measure takes a variety of issue positions and combines them to form a general ideology about the government. According to Professor Stimson, the American electorate became more conservative in the 1970s and again in the 1990s, as demonstrated by Republican gains in Congress. With this public mood measure in mind, political scientists can explain why and when Americans allowed major policy shifts. For example, the Great Society’s expansion of welfare and social benefits occurred during the height of liberalism in the mid-1960s, while the welfare cuts and reforms of the 1990s occurred during the nation’s move toward conservatism. Tracking conservative and liberal shifts in the public’s ideology allows policy analysts to predict whether voters are likely to accept or reject major policies.

What other means of measuring the public mood do you think might be effective and reliable? How would you implement them? Do you agree that watershed moments in history signal public mood changes? If so, give some examples. If not, why not?

Congress as an institution has historically received lower approval ratings than presidents, a striking result because individual senators and representatives are generally viewed favorably by their constituents. While congressional representatives almost always win reelection and are liked by their constituents back home, the institution itself is often vilified as representing everything that is wrong with politics and partisanship.

As of August 2015, public approval of Congress sat at around 20 percent.

Gallup. 2015. “Congress and the Public.” *Gallup*. June 21, 2015. http://www.gallup.com/poll/1600/Congress-Public.aspx (February 18, 2016).

For most of the last forty years, congressional approval levels have bounced between 20 percent and 60 percent, but in the last fifteen years they have regularly fallen below 40 percent. Like President George W. Bush, Congress experienced a short-term jump in approval ratings immediately following 9/11, likely because of the rallying effect of the terrorist attacks. Congressional approval had dropped back below 50 percent by early 2003 (Figure).



Chart shows congressional job approval ratings from 1974 to 2015. Starting around 30% in 1974, it rises slightly to 32% in 1975 before dipping to 25% in 1976. After the dip, it spikes again to35% in 1977, before falling again to 20% in 1979. It rises to 38% in 1981, then falls again in 1982 to 30 %. There is a slow increase to 41% in 1986, where it levels out until 1988, when it begins to drop until it reaches 30% in 1990. It rebounds slightly to 31% in 1991, but falls drastically to 20% in 1992. A sharp increase in 1993 to 25% leads to a steady increase of approval ratings until 200 when it reaches 50%. A drastic spike in 2001 shoots approval ratings up to 82%, and a sharp decline lands approval ratings back at 50% by 2003. It levels off for a year, before falling again to 28% in 2006. A small spike in 2007puts it at 35%, before it falls down to 20% in 2009. There is another small increase to 24% in 2010, then another decrease to 10% in 2013. The chart ends with the approval rating at 15% in 2015. At the bottom of the chart, a source is cited: “Gallup. “Congress and the Public.” September 13, 2015.”.

Congressional approval ratings over the past forty years have generally fallen between 20 and 50 percent; however, these ratings spiked to over 80 percent in the wake of the terrorist attacks on September 11, 2001.

While presidents are affected by foreign and domestic events, congressional approval is mainly affected by domestic events. When the economy rebounds or gas prices drop, public approval of Congress tends to go up. But when party politics within Congress becomes a domestic event, public approval falls. The passage of revenue bills has become an example of such an event, because deficits require Congress to make policy decisions before changing the budget. Deficit and debt are not new to the United States. Congress and presidents have attempted various methods of controlling debt, sometimes successfully and sometimes not. In the past three decades alone, however, several prominent examples have shown how party politics make it difficult for Congress to agree on a budget without a fight, and how these fights affect public approval.

In 1995, Democratic president Bill Clinton and the Republican Congress hit a notable stalemate on the national budget. In this case, the Republicans had recently gained control of the House of Representatives and disagreed with Democrats and the president on how to cut spending and reduce the deficit. The government shut down twice, sending non-essential employees home for a few days in November, and then again in December and January.

Neil Irwin, "The 1995 Shutdown, from a Budget Official's Perspective," *Washington Post*, 27 September 2013.

Congressional approval fell during the event, from 35 to 30 percent.

Gallup. 2015. "Congress and the Public." *Gallup*. June 21, 2015. http://www.gallup.com/poll/1600/Congress-Public.aspx (February 18, 2016); Jeffrey Jones. 2007. "Congress Approval Rating Matches Historical Low." *Gallup*. August 21, 2007. http://www.gallup.com/poll/28456/con...rical-low.aspx (February 18, 2016).

Divisions between the political parties, inside the Republican Party, and between Congress and the president became more pronounced over the next fifteen years, with the media closely covering the political strife.

Dan Merica. 2013. "1995 and 2013: Three Differences Between the Two Shutdowns." *CNN*. October 4, 2013. www.cnn.com/2013/10/01/politi...ent-shutdowns/ (February 18, 2016).

In 2011, the United States reached its debt ceiling, or maximum allowed debt amount. After much debate, the Budget Control Actwas passed by Congress and signed by President Obama. The act increased the debt ceiling, but it also reduced spending and created automatic cuts, called sequestrations, if further legislation did not deal with the debt by 2013. When the country reached its new debt ceiling of $16.4 trillion in 2013, short-term solutions led to Congress negotiating both the debt ceiling and the national budget at the same time. The timing raised the stakes of the budget, and Democrats and Republicans fought bitterly over the debt ceiling, budget cuts, and taxes. Inaction triggered the automatic cuts to the budget in areas like defense, the courts, and public aid. By October, approximately 800,000 federal employees had been sent home, and the government went into partial shut-down for sixteen days before Congress passed a bill to raise the debt ceiling.

Paul Lewis, "US Shutdown Drags Into Second Day as Republicans Eye Fresh Debt Ceiling Crisis," *Guardian*, 2 October 2013.

The handling of these events angered Americans, who felt the political parties needed to work together to solve problems rather than play political games. During the 2011 ceiling debate, congressional approval fell from 18 to 13 percent, while in 2013, congressional approval fell to a new low of 9 percent in November.

Gallup. 2015. "Congress and the Public." *Gallup*. June 21, 2015. http://www.gallup.com/poll/1600/Congress-Public.aspx (February 18, 2016).

The Supreme Court generally enjoys less visibility than the other two branches of government, which leads to more stable but also less frequent polling results. Indeed, 22 percent of citizens surveyed in 2014 had never heard of Chief Justice John Roberts, the head of the Supreme Court.

Andrew Dugan. 2014. "Americans' Approval of Supreme Court New All-Time Low." *Gallup*. July 19, 2014. http://www.gallup.com/poll/163586/am...-time-low.aspx (February 18, 2016).

The court is protected by the justices' non-elected, non-political positions, which gives them the appearance of integrity and helps the Supreme Court earn higher public approval ratings than presidents and Congress. To compare, between 2000 and 2010, the court's approval rating bounced between 50 and 60 percent. During this same period, Congress had a 20 to 40 percent approval rating.

The Supreme Court's approval rating is also less susceptible to the influence of events. Support of and opinions about the court are affected when the justices rule on highly visible cases that are of public interest or other events occur that cause citizens to become aware of the court.

James L. Gibson, and Gregory A. Caldeira. 2009. "Knowing the Supreme Court? A Reconsideration of Public Ignorance of the High Court." *Journal of Politics* 71 (2): 429–441.

For example, following the *Bush v. Gore* case (2000), in which the court instructed Florida to stop recounting ballots and George W. Bush won the Electoral College, 80 percent of Republicans approved of the court, versus only 42 percent of Democrats.

Bush v. Gore, 531 U.S. 98 (2000).

Twelve years later, when the Supreme Court's ruling in *National Federation of Independent Business v. Sebelius* (2012) let stand the Affordable Care Act's requirement of individual coverage, approval by Democrats increased to 68 percent, while Republican

support dropped to 29 percent.

National Federation of Independent Business v. Sebelius, 567 U.S. ___ (2012); Andrew Dugan. 2014. "Americans' Approval of Supreme Court New All-Time Low." *Gallup*. July 19, 2014. http://www.gallup.com/poll/163586/am...-time-low.aspx (February 18, 2016).

Currently, following the handing down of decisions in *King v. Burwell*(2015) and *Obergefell v. Hodges* (2015), which allowed the Affordable Care Act's subsidies and prohibited states from denying same-sex marriage, respectively, 45 percent of people said they approved of the way the Supreme Court handled its job, down 4 percent from before the decisions.

King v. Burwell, 576 U.S. ___ (2015); Gallup Polling. 2015. "Supreme Court." *Gallup Polling*. http://www.gallup.com/poll/4732/supreme-court.aspx (February 18, 2016).

Summary

When citizens change their sources of information, their opinions may change. The influence of elites and workplaces, life experiences, and state political culture can all help change our opinions. Economic and social policies are likely to cause controversy if the government has to serve the needs of many different groups or balance rights and liberties, all with limited resources.

What Americans think about their government institutions shifts over time as well. Overall approval for presidents begins high and drops over time, with expected increases and decreases occurring due to domestic and international events. Approval for Congress changes more dramatically with domestic events and partisan behavior. The public has a lower opinion of Congress than of the president, and recent congressional approval levels have hovered between 10 and 20 percent. The Supreme Court has the most stable public approval ratings, possibly due to its less visible nature. But the court's ratings can be affected by controversial decisions, such as its 2015 decisions on the Affordable Care Act and same-sex marriage.

Why are social policies controversial?

1. They require people to accept the authority of the government.
2. They require government to balance the rights and liberties of different groups.
3. They require the government to increase spending.
4. They require a decrease in regulations and laws.

Which factor affects congressional approval ratings the most?

1. presidential actions
2. foreign events
3. Supreme Court actions
4. domestic events

Which institution has the highest average public approval ratings?

1. the presidency
2. the U.S. House of Representatives
3. the U.S. Senate
4. the Supreme Court

Why might one branch's approval ratings be higher than another's?

When are social and economic issues more likely to cause polarization in public opinion?

Glossary

heuristics

shortcuts or rules of thumb for decision making

political culture

the prevailing political attitudes and beliefs within a society or region

political elite

a political opinion leader who alerts the public to changes or problems

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9.5: The Effects of Public Opinion

Learning Objectives

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

- Explain the circumstances that lead to public opinion affecting policy
- Compare the effects of public opinion on government branches and figures
- Identify situations that cause conflicts in public opinion

Public opinion polling is prevalent even outside election season. Are politicians and leaders listening to these polls, or is there some other reason for them? Some believe the increased collection of public opinion is due to growing support of delegate representation. The theory of delegate representation assumes the politician is in office to be the voice of the people.

Donald Mccrone, and James Kuklinski. 1979. "The Delegate Theory of Representation." *American Journal of Political Science* 23 (2): 278–300.

If voters want the legislator to vote for legalizing marijuana, for example, the legislator should vote to legalize marijuana. Legislators or candidates who believe in delegate representation may poll the public before an important vote comes up for debate in order to learn what the public desires them to do.

Others believe polling has increased because politicians, like the president, operate in permanent campaign mode. To continue contributing money, supporters must remain happy and convinced the politician is listening to them. Even if the elected official does not act in a manner consistent with the polls, he or she can mollify everyone by explaining the reasons behind the vote.

Norman Ornstein, and Thomas Mann, eds. 2000. *The Permanent Campaign and Its Future*. Washington: American Enterprise Institute for Public Policy Research and the Brookings Institution.

Regardless of why the polls are taken, studies have not clearly shown whether the branches of government consistently act on them. Some branches appear to pay closer attention to public opinion than other branches, but events, time periods, and politics may change the way an individual or a branch of government ultimately reacts.

PUBLIC OPINION AND ELECTIONS

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

Paul Hitlin. 2013. "The 2016 Presidential Media Primary Is Off to a Fast Start." *Pew Research Center*. October 3, 2013. www.pewresearch.org/fact-tank...-a-fast-start/ (February 18, 2016).

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

Pew Research Center, 2015. "Hillary Clinton's Favorability Ratings over Her Career." *Pew Research Center*. June 6, 2015. www.pewresearch.org/wp-conten...er-her-career/ (February 18, 2016).

During presidential primary season, we see examples of the bandwagon effect, in which the media pays more attention to candidates who poll well during the fall and the first few primaries. Bill Clinton was nicknamed the "Comeback Kid" in 1992, after he placed second in the New Hampshire primary despite accusations of adultery with Gennifer Flowers. The media's attention on Clinton gave him the momentum to make it through the rest of the primary season, ultimately winning the Democratic nomination and the presidency.

Wondering how your favorite candidate is doing in the polls? The site RealClearPolitics tracks a number of major polling sources on the major elections, including the presidential and Senate elections.

Polling is also at the heart of horserace coverage, in which, just like an announcer at the racetrack, the media calls out every candidate's move throughout the presidential campaign. Horserace coverage can be neutral, positive, or negative, depending upon what polls or facts are covered (Figure). During the 2012 presidential election, the Pew Research Center found that both Mitt

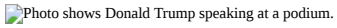
Romney and President Obamareceived more negative than positive horserace coverage, with Romney's growing more negative as he fell in the polls.

Pew Research Center. 2012. "Winning the Media Campaign." *Pew Research Center*. November 2, 2012. www.journalism.org/2012/11/02...campaign-2012/ (February 18, 2016).

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

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

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



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

SHOULD EXIT POLLS BE BANNED?

Exit polling seems simple. An interviewer stands at a polling place on Election Day and asks people how they voted. But the reality is different. Pollsters must select sites and voters carefully to ensure a representative and random poll. Some people refuse to talk and others may lie. The demographics of the polled population may lean more towards one party than another. Absentee and early voters cannot be polled. Despite these setbacks, exit polls are extremely interesting and controversial, because they provide early information about which candidate is ahead.

In 1985, a so-called gentleman's agreement between the major networks and Congress kept exit poll results from being announced before a state's polls closed.

Zack Nauth, "Networks Won't Use Exit Polls in State Forecasts," *Los Angeles Times*, 18 January 1985.

This tradition has largely been upheld, with most media outlets waiting until 7 p.m. or later to disclose a state's returns. Internet and cable media, however, have not always kept to the agreement. Sources like Matt Drudge have been accused of reporting early, and sometimes incorrect, exit poll results.

On one hand, delaying results may be the right decision. Studies suggest that exit polls *can* affect voter turnout. Reports of close races may bring additional voters to the polls, whereas apparent landslides may prompt people to stay home. Other studies note that almost anything, including bad weather and lines at polling places, dissuades voters. Ultimately, it appears exit poll reporting affects turnout by up to 5 percent.

Seymour Sudman. 1986. "Do Exit Polls Influence Voting Behavior? *The Public Opinion Quarterly* 50 (3): 331–339.

On the other hand, limiting exit poll results means major media outlets lose out on the chance to share their carefully collected data, leaving small media outlets able to provide less accurate, more impressionistic results. And few states are affected anyway, since the media invest only in those where the election is close. Finally, an increasing number of voters are now voting up to two weeks early, and these numbers are updated daily without controversy.

What do you think? Should exit polls be banned? Why or why not?

Public opinion polls also affect how much money candidates receive in campaign donations. Donors assume public opinion polls are accurate enough to determine who the top two to three primary candidates will be, and they give money to those who do well. Candidates who poll at the bottom will have a hard time collecting donations, increasing the odds that they will continue to do poorly. This was apparent in the run-up to the 2016 presidential election. Bernie Sanders, Hillary Clinton, and Martin O'Malley each campaigned in the hope of becoming the Democratic presidential nominee. In June 2015, 75 percent of Democrats likely to vote in their state primaries said they would vote for Clinton, while 15 percent of those polled said they would vote for Sanders. Only 2 percent said they would vote for O'Malley.

Patrick O'Connor. 2015. "WSJ/NBC Poll Finds Hillary Clinton in a Strong Position." *Wall Street Journal*. June 23, 2015. www.wsj.com/articles/new-poll...als-1435012049.

During this same period, Clinton raised $47 million in campaign donations, Sanders raised $15 million, and O'Malley raised $2 million.

Federal Elections Commission. 2015. "Presidential Receipts." www.fec.gov/press/summaries/2...ts_2015_q2.pdf (February 18, 2016).

By September 2015, 23 percent of likely Democratic voters said they would vote for Sanders,

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

and his summer fundraising total increased accordingly.

Dan Merica, and Jeff Zeleny. 2015. "Bernie Sanders Nearly Outraises Clinton, Each Post More Than $20 Million." *CNN*. October 1, 2015. www.cnn.com/2015/09/30/politi...f=rss_politics (February 18, 2016).

Presidents running for reelection also must perform well in public opinion polls, and being in office may not provide an automatic advantage. Americans often think about both the future and the past when they decide which candidate to support.

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

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

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

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

PUBLIC OPINION AND GOVERNMENT

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

The short answer is "sometimes." The public is not perfectly informed about politics, so politicians realize public opinion may not always be the right choice. Yet many political studies, from the *American Voter*in the 1920s to the *American Voter Revisited* in the 2000s, have found that voters behave rationally despite having limited information. Individual citizens do not take the time to become fully informed about all aspects of politics, yet their collective behavior and the opinions they hold as a group make sense. They appear to be informed just enough, using preferences like their political ideology and party membership, to make decisions and hold politicians accountable during an election year.

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

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

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

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

Individually, of course, politicians cannot predict what will happen in the future or who will oppose them in the next few elections. They can look to see where the public is in agreement as a body. If public mood changes, the politicians may change positions to match the public mood. The more savvy politicians look carefully to recognize when shifts occur. When the public is more or less liberal, the politicians may make slight adjustments to their behavior to match. Politicians who frequently seek to win office, like

House members, will pay attention to the long- and short-term changes in opinion. By doing this, they will be less likely to lose on Election Day.

Stimson et al, “Dynamic Representation.”

Presidents and justices, on the other hand, present a more complex picture.

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

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

Stimson et al, “Dynamic Representation.”

But another author found that the public’s level of liberalness is ignored when conservative presidents, such as Ronald Reagan or George W. Bush, are elected and try to lead. In one example, our five most recent presidents’ moods varied from liberal to non-liberal, while public sentiment stayed consistently liberal.

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

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

Overall, it appears that presidents try to move public opinion towards personal positions rather than moving themselves towards the public’s opinion.

Wood, *Myth of Presidential Representation*.

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

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

In contrast, President Donald Trump’s victory over Democratic nominee Hillary Clinton was a closer contest. While Trump finished with a solid lead in the Electoral College, Clinton actually received more votes across the nation, leading the popular vote.

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

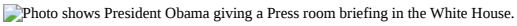
Increasing partisanship has made it more difficult for presidents to use their power to get their own preferred issues through Congress, however, especially when the president’s party is in the minority in Congress.

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

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

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

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



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

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

Pew Research Center. 2013. "Public Opinion Runs Against Syrian Airstrikes." *Pew Research Center*. September 4, 2013. www.people-press.org/2013/09/...an-airstrikes/ (February 18, 2016).

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

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

Paul Bedard. 2013. "Poll-Crazed Clinton Even Polled on His Dog's Name." *Washington Examiner*. April 30, 2013. www.washingtonexaminer.com/po...rticle/2528486.

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

While presidents have at most only two terms to serve and work, members of Congress can serve as long as the public returns them to office. We might think that for this reason public opinion is important to representatives and senators, and that their behavior, such as their votes on domestic programs or funding, will change to match the expectation of the public. In a more liberal time, the public may expect to see more social programs. In a non-liberal time, the public mood may favor austerity, or decreased government spending on programs. Failure to recognize shifts in public opinion may lead to a politician's losing the next election.

Stimson et al, "Dynamic Representation."

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

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

In spite of this, we still see policy shifts in Congress, often matching the policy preferences of the public. When the shifts happen within the House, they are measured by the way members vote. The study's authors hypothesize that House members alter their

votes to match the public mood, perhaps in an effort to strengthen their electoral chances.

Stimson et al, “Dynamic Representation.”

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

Stimson et al, “Dynamic Representation.”

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

The website of the Policy Agendas Project details a National Science Foundation-funded policy project to provide data on public opinion, presidential public approval, and a variety of governmental measures of activity. All data are coded by policy topic, so you can look for trends in a policy topic of interest to you to see whether government attention tracks with public opinion.

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

Studies that look at the connection between the Supreme Court and public opinion are contradictory. Early on, it was believed that justices were like other citizens: individuals with attitudes and beliefs who would be affected by political shifts.

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

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

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

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

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

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

Kevin T. McGuire, and James A. Stimson. 2004. “The Least Dangerous Branch Revisited: New Evidence on Supreme Court Responsiveness to Public Preferences.” *Journal of Politics* 66 (4): 1018–1035.

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

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

A second study determined that public opinion is more likely to affect ignored cases than heavily reported ones.

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

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

Town of Greece v. Galloway 572 U.S. ___ (2014).

The fact that 78 percent of U.S. adults recently said religion is fairly to very important to their lives

Gallup. 2015. "Religion." *Gallup*. June 18, 2015. http://www.gallup.com/poll/1690/Religion.aspx (February 18, 2016).

and 61 percent supported prayer in school

Rebecca Riffkin. 2015. "In U.S., Support for Daily Prayer in Schools Dips Slightly." *Gallup*. September 25, 2015. http://www.gallup.com/poll/177401/su...-slightly.aspx.

may explain why public support for the Supreme Court did not fall after this decision.

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

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

Stimson et al, "Dynamic Representation."

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

Summary

Public opinion polls have some effect on politics, most strongly during election season. Candidates who do well in polls receive more media coverage and campaign donations than candidates who fare poorly. The effect of polling on government institutions is less clear. Presidents sometimes consider polls when making decisions, especially if the polls reflect high approval. A president who has an electoral mandate can use that high public approval rating to push policies through Congress. Congress is likely to be aware of public opinion on issues. Representatives must continually raise campaign donations for bi-yearly elections. For this reason, they must keep their constituents and donors happy. Representatives are also likely to change their voting behavior if public opinion changes. Senators have a longer span between elections, which gives them time to make decisions independent of opinion and then make amends with their constituents. Changes in public opinion do not affect senators' votes, but they do cause senators to lose reelection. It is less clear whether Supreme Court justices rule in ways that maintain the integrity of the branch or that keep step with the majority opinion of the public, but public approval of the court can change after high-profile decisions.

How do polls affect presidential elections?

1. Polls help voters research information about each of the candidates.
2. Polls tell voters the issues that candidates support.
3. Polls identify the top candidates and the media interview those candidates.
4. Polls explain which candidates should win the election.

Presidential approval ratings _____ over a president's term of office.

1. increase
2. decline
3. stay relatively stable
4. seesaw

Which body of government is least susceptible to public opinion polls?

1. the president
2. U.S. Senate
3. U.S. House of Representatives
4. U.S. Supreme Court

Why would House of Representative members be more likely than the president to follow public opinion?

How do the media use public opinion polls during election season?

Why is diffuse support important to maintaining a stable democracy? What happens when a government does not have diffuse support?

What are the ways the media socialize a person?

Is public opinion generally clear, providing broad signals to elected leaders about what needs to be done? Why or why not?

When should political leaders *not* follow public opinion, and why?

Why should a poll be scientific rather than informal?

What heuristics, or cues, do voters use to pick a presidential candidate? Are these a good way to pick a president?

Alvarez, Michael, and John Brehm. 2002. *Hard Choices, Easy Answers: Values, Information and American Public Opinion.*Princeton: Princeton University Press.

Campbell, Angus, Philip Converse, Warren Miller, and Donald Stokes. 1980. *The American Voter: Unabridged Edition.* Chicago: University of Chicago Press.

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Downs, Anthony. 1957. *An Economic Theory of Democracy.* New York: Harper.

Lewis-Beck, Michael S., Helmut Norpoth, William Jacoby, and Herbert Weisberg. 2008. *The American Voter Revisited.* Ann Arbor: University of Michigan Press.

Lippmann, Walter. 1922. *Public Opinion.* New York: Harcourt, Brace and Co.

Lupia, Arthur, and Mathew McCubbins. 1998. *The Democratic Dilemma.* Cambridge: Cambridge University Press.

Pew Research Center (http://www.pewresearch.org/).

Real Clear Politics' Polling Center (http://www.realclearpolitics.com/epolls/latest_polls/).

Zaller, John. 1992. *The Nature and Origins of Mass Opinion.*Cambridge: Cambridge University Press.

Glossary

bandwagon effect

increased media coverage of candidates who poll high

favorability poll

a public opinion poll that measures a public's positive feelings about a candidate or politician

horserace coverage

day-to-day media coverage of candidate performance in the election

theory of delegate representation

a theory that assumes the politician is in office to be the voice of the people and to vote only as the people want

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CHAPTER OVERVIEW

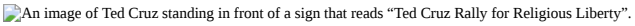
10: Voting and Elections

Topic hierarchy

10.1: Introduction
10.2: Voter Registration
10.3: Voter Turnout
10.4: Elections
10.5: Campaigns and Voting
10.6: Direct Democracy

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10.1: Introduction



Senator Ted Cruz (R-TX) hosts a Rally for Religious Liberty at Bob Jones University, a Christian university in Greenville, South Carolina, on November 14, 2015. Cruz announced his campaign for president on March 23, 2015, at Liberty University in Lynchburg, Virginia. (credit: modification of work by Jamelle Bouie)

The first Republican candidate to throw a hat into the ring for 2016, Ted Cruz had been preparing for his presidential run since 2013 when he went hunting in Iowa and vacationed in New Hampshire, both key states in the nomination process.

Margaret Carlson, “In Iowa, Ted Cruz Shoots Ducks in a Barrel,” *Bloomberg View*, 29 October 2013; Steve Peoples, “Sen. Ted Cruz of Texas Heading to New Hampshire,” *San Jose Mercury News*, 13 July 2013.

He had also strongly opposed the Affordable Care Act while showcasing his family side by reading *Green Eggs and Ham* aloud in a filibuster attack on the act.

“Cruz Filibusters with ‘Green Eggs and Ham,’ ‘Redneck Rules,’” 30 July 2015, http://abcnews.go.com/GMA/video/tea-...acare-20366644.

If Cruz had been campaigning all along, why make a grand announcement at Liberty University in 2015?

First, by officially declaring his candidacy at Liberty University, whose stated mission is to provide “a world-class education with a solid Christian foundation,” Cruz sought to demonstrate that his values were the same as those of the Christian students before him (Figure).

Brandie Peterson, “Election 2016: Why Ted Cruz Picked Liberty University,” *CNN*, 23 March 2015.

Second, the speech reminded Christians to vote. As Cruz told the students, “imagine millions of young people coming together and standing together, saying ‘we will stand for liberty.’”

“Transcript: Ted Cruz’s Speech at Liberty University,” *Washington Post*, 23 March 2015.

Like candidates for office at all levels of U.S. government, Cruz understood that campaigns must reach out to the voters and compel them to vote or the candidate will fail miserably. But what brings voters to the polls, and how do they make their voting decisions? Those are just two of the questions about voting and elections this chapter will explore.

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10.2: Voter Registration

Learning Objectives

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

- Identify ways the U.S. government has promoted voter rights and registration
- Summarize similarities and differences in states' voter registration methods
- Analyze ways states increase voter registration and decrease fraud

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

VOTER REGISTRATION ACROSS THE UNITED STATES

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

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

Stephen Medvic. 2014. *Campaigns and Elections: Players and Processes*, 2nd ed. New York: Routledge.

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

Guinn v. United States, 238 U.S. 347 (1915).

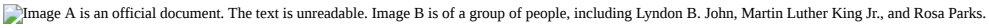
States also ignored instances of violence and intimidation against African Americans wanting to register or vote.

Medvic, *Campaigns and Elections*.

The ratification of the Twenty-Fourth Amendment in 1964 ended poll taxes, but the passage of the Voting Rights Act (VRA) in 1965 had a more profound effect (Figure). The act protected the rights of minority voters by prohibiting state laws that denied voting rights based on race. The VRA gave the attorney general of the United States authority to order federal examiners to areas with a history of discrimination. These examiners had the power to oversee and monitor voter registration and elections. States found to violate provisions of the VRA were required to get any changes in their election laws approved by the U.S. attorney general or by going through the court system. However, in *Shelby County v. Holder*(2013), the Supreme Court, in a 5–4 decision, threw out the standards and process of the VRA, effectively gutting the landmark legislation.

Shelby County v. Holder, 570 U.S. ___ (2013).

This decision effectively pushed decision-making and discretion for election policy in VRA states to the state and local level. Several such states subsequently made changes to their voter ID laws and North Carolina changed its plans for how many polling places were available in certain areas. The extent to which such changes will violate equal protection is unknown in advance, but such changes often do not have a neutral effect.



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

The effects of the VRA were visible almost immediately. In Mississippi, only 6.7 percent of blacks were registered to vote in 1965; however, by the fall of 1967, nearly 60 percent were registered. Alabama experienced similar effects, with African American registration increasing from 19.3 percent to 51.6 percent. Voter turnout across these two states similarly increased. Mississippi went from 33.9 percent turnout to 53.2 percent, while Alabama increased from 35.9 percent to 52.7 percent between the 1964 and 1968 presidential elections.

Bernard Grofman, Lisa Handley, and Richard G. Niemi. 1992. *Minority Representation and the Quest for Voting Equality*. New York: Cambridge University Press, 25.

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

"The Canvass," April 2014, Issue 48, http://www.ncsl.org/research/electio...pril-2014.aspx.

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

HOW DOES SOMEONE REGISTER TO VOTE?

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

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

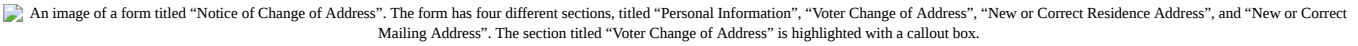
In all states except North Dakota, a citizen wishing to vote must complete an application. Whether the form is online or on paper, the prospective voter will list his or her name, residency address, and in many cases party identification (with Independent as an option) and affirm that he or she is competent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

Another aspect of registering to vote is the timeline. States may require registration to take place as much as thirty days before voting, or they may allow same-day registration. Maine first implemented same-day registration in 1973. Fourteen states and the District of Columbia now allow voters to register the day of the election if they have proof of residency, such as a driver's license or utility bill. Many of the more populous states (e.g., Michigan and Texas), require registration forms to be mailed thirty days before an election. Moving means citizens must re-register or update addresses (Figure). College students, for example, may have

to re-register or update addresses each year as they move. States that use same-day registration had a 4 percent higher voter turnout in the 2012 presidential election than states that did not.

Ibid.

Yet another consideration is how far in advance of an election one must apply to change one's political party affiliation. In states with closed primaries, it is important for voters to be allowed to register into whichever party they prefer. This issue came up during the 2016 presidential primaries in New York, where there is a lengthy timeline for changing your party affiliation.


An image of a form titled "Notice of Change of Address". The form has four different sections, titled "Personal Information", "Voter Change of Address", "New or Correct Residence Address", and "New or Correct Mailing Address". The section titled "Voter Change of Address" is highlighted with a callout box.

Moving requires a voter to re-register or update his or her address in the system. Depending on the state, this notification can sometimes be completed through the Department of Motor Vehicles, as in California.

Some attempts have been made to streamline voter registration. The National Voter Registration Act (1993), often referred to as Motor Voter, was enacted to expedite the registration process and make it as simple as possible for voters. The act required states to allow citizens to register to vote when they sign up for driver's licenses and Social Security benefits. On each government form, the citizen need only mark an additional box to also register to vote. Unfortunately, while increasing registrations by 7 percent between 1992 and 2012, Motor Voter did not dramatically increase voter turnout.

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

In fact, for two years following the passage of the act, voter turnout decreased slightly.

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

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

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

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

Russell Berman, "Should Voter Registration Be Automatic?" *Atlantic*, 20 March 2015; Maria L. La Ganga, "Under New Oregon Law, All Eligible Voters are Registered Unless They Opt Out," *Los Angeles Times*, 17 March 2015.

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

"'Unusable' Voter Rolls," *Wall Street Journal*, 7 November 2000.

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

"One Hundred Seventh Congress of the United States of America at the Second Session," 23 January 2002. www.eac.gov/assets/1/workflow...ng/Page/41.PDF.

Over a decade later, there has been some progress. In Louisiana, voters are placed on ineligible lists if a voting registrar is notified that they have moved or become ineligible to vote. If the voter remains on this list for two general elections, his or her registration is cancelled. In Oklahoma, the registrar receives a list of deceased residents from the Department of Health.

"Voter List Accuracy,"11 February 2014. http://www.ncsl.org/research/electio...-accuracy.aspx

Twenty-nine states now participate in the Interstate Voter Registration Crosscheck Program, which allows states to check for duplicate registrations.

Brad Bryant and Kay Curtis, eds. December 2013. "Interstate Crosscheck Program Grows," http://www.kssos.org/forms/communica...nsas/dec13.pdf.

At the same time, Florida's use of the federal Systematic Alien Verification for Entitlements (SAVE) database has proven to be controversial, because county elections supervisors are allowed to remove voters deemed ineligible to vote.

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

Despite these efforts, a study commissioned by the Pew Charitable Trust found twenty-four million voter registrations nationwide were no longer valid.

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

Pew is now working with eight states to update their voter registration rolls and encouraging more states to share their rolls in an effort to find duplicates.

Fessler, "Study: 1.8 Million Dead People Still Registered to Vote."

The National Association of Secretaries of State maintains a website that directs users to their state's information regarding voter registration, identification policies, and polling locations.

WHO IS ALLOWED TO REGISTER?

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

"Felon Voting Rights," 15 July 2014. http://www.ncsl.org/research/electio...ng-rights.aspx.

On the other end of the spectrum, Vermont does not limit voting based on incarceration unless the crime was election fraud.

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

Maine citizens serving in Maine prisons also may vote in elections.

Beyond those jailed, some citizens have additional expectations placed on them when they register to vote. Wisconsin requires that voters "not wager on an election," and Vermont citizens must recite the "Voter's Oath" before they register, swearing to cast votes with a conscience and "without fear or favor of any person."

"Voter's Qualifications and Oath," https://votesmart.org/elections/ball...h#.VjQOJH6rS00 (November 12, 2015).

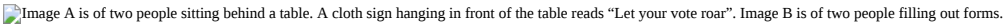
WHERE TO REGISTER?

Across the United States, over twenty million college and university students begin classes each fall, many away from home. The simple act of moving away to college presents a voter registration problem. Elections are local. Each citizen lives in a district with state legislators, city council or other local elected representatives, a U.S. House of Representatives member, and more. State and national laws require voters to reside in their districts, but students are an unusual case. They often hold temporary residency while at school and return home for the summer. Therefore, they have to decide whether to register to vote near campus or vote back in their home district. What are the pros and cons of each option?

Maintaining voter registration back home is legal in most states, assuming a student holds only temporary residency at school. This may be the best plan, because students are likely more familiar with local politicians and issues. But it requires the student to either go home to vote or apply for an absentee ballot. With classes, clubs, work, and more, it may be difficult to remember this task. One study found that students living more than two hours from home were less likely to vote than students living within thirty minutes of campus, which is not surprising.

Richard Niemi and Michael Hanmer. 2010. “Voter Turnout Among College Students: New Data and a Rethinking of Traditional Theories,” *Social Science Quarterly* 91, No. 2: 301–323.

Registering to vote near campus makes it easier to vote, but it requires an extra step that students may forget (Figure). And in many states, registration to vote in a November election takes place in October, just when students are acclimating to the semester. They must also become familiar with local candidates and issues, which takes time and effort they may not have. But they will not have to travel to vote, and their vote is more likely to affect their college and local town.



On National Voter Registration Day in 2012, Roshaunda McLean (a, left), campus director of the Associated Students of the University of Missouri, and David Vaughn (a, right), a Missouri Student Association senator, register voters on campus. Cassie Dorman (b, left) and Samantha Peterson (b, right), both eighteen years old, were just two of the University of Missouri students registering to vote for the first time. (credit a, b: modification of work by “KOMUnews”/Flickr)

Have you registered to vote in your college area, or will you vote back home? What factors influenced your decision about where to vote?

Summary

Voter registration varies from state to state, depending on local culture and concerns. In an attempt to stop the disenfranchisement of black voters, Congress passed the Voting Rights Act (1965), which prohibited states from denying voting rights based on race, and the Supreme Court determined grandfather clauses and other restrictions were unconstitutional. Some states only require that a citizen be over eighteen and reside in the state. Others include additional requirements. Some states require registration to occur thirty days prior to an election, and some allow voters to register the same day as the election.

Following the passage of the Help America Vote Act (2002), states are required to maintain accurate voter registration rolls and are working harder to register citizens and update records. Registering has become easier over the years; the National Voter Registration Act (1993) requires states to add voter registration to government applications, while an increasing number of states are implementing novel approaches such as online voter registration and automatic registration.

Which of the following makes it easy for a citizen to register to vote?

1. grandfather clause
2. lengthy residency requirement
3. National Voter Registration Act
4. competency requirement

Which of the following is a reason to make voter registration more difficult?

1. increase voter turnout
2. decrease election fraud
3. decrease the cost of elections
4. make the registration process faster

What unusual step did Oregon take to increase voter registration?

1. The state automatically registers all citizens over eighteen to vote.
2. The state ended voter registration.
3. The state sends every resident a voter registration ballot.
4. The state allows online voter registration.

What effect did the National Voter Registration Act have on voter registration?

What challenges do college students face with regard to voter registration?

Glossary

residency requirement

the stipulation that citizen must live in a state for a determined period of time before a citizen can register to vote as a resident of that state

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10.3: Voter Turnout

Learning Objectives

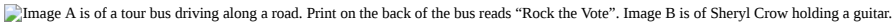
By the end of this section, you will be able to:

- Identify factors that motivate registered voters to vote
- Discuss circumstances that prevent citizens from voting
- Analyze reasons for low voter turnout in the United States

Campaign managers worry about who will show up at the polls on Election Day. Will more Republicans come? More Democrats? Will a surge in younger voters occur this year, or will an older population cast ballots? We can actually predict with strong accuracy who is likely to vote each year, based on identified influence factors such as age, education, and income. Campaigns will often target each group of voters in different ways, spending precious campaign dollars on the groups already most likely to show up at the polls rather than trying to persuade citizens who are highly unlikely to vote.

COUNTING VOTERS

Low voter turnout has long caused the media and others to express concern and frustration. A healthy democratic society is expected to be filled with citizens who vote regularly and participate in the electoral process. Organizations like Rock the Vote and Project Vote Smart (Figure) work alongside MTV to increase voter turnout in all age groups across the United States. But just how low is voter turnout? The answer depends on who is calculating it and how. There are several methods, each of which highlights a different problem with the electoral system in the United States.



Rock the Vote works with musicians and other celebrities across the country to encourage and register young people to vote (a). Sheryl Crow was one of Rock the Vote’s strongest supporters in the 2008 election, subsequently performing at the Midwest Inaugural Ball in January 2009 (b). (credit a: modification of work by Jeff Kramer; credit b: modification of work by “cliff1066”/Flickr)

Interested in mobilizing voters? Explore Rock the Vote and The Voter Participation Center for more information.

Calculating voter turnout begins by counting how many ballots were cast in a particular election. These votes must be cast on time, either by mail or in person. The next step is to count how many people *could* have voted in the same election. This is the number that causes different people to calculate different turnout rates. The complete population of the country includes all people, regardless of age, nationality, mental capacity, or freedom. We can count subsections of this population to calculate voter turnout. For instance, the next largest population in the country is the voting-age population (VAP), which consists of persons who are eighteen and older. Some of these persons may not be eligible to vote in their state, but they are included because they are of age to do so.

Michael P. McDonald and Samuel Popkin. 2001. “Myth of the Vanishing Voter,” *American Political Science Review* 95, No. 4: 963–974; See also, “What is the Voting-Age Population (VAP) and the Voting-Eligible Population (VEP)?” www.electproject.org/home/vot...aq/denominator (November 12, 2015).

An even smaller group is the voting-eligible population (VEP), citizens eighteen and older who, whether they have registered or not, are eligible to vote because they are citizens, mentally competent, and not imprisoned. If a state has more stringent requirements, such as not having a felony conviction, citizens counted in the VEP must meet those criteria as well. This population is much harder to measure, but statisticians who use the VEP will generally take the VAP and subtract the state’s prison population and any other known group that cannot vote. This results in a number that is somewhat theoretical; however, in a way, it is more accurate when determining voter turnout.

McDonald and Popkin, “Myth of the Vanishing Voter,” 963–974.

The last and smallest population is registered voters, who, as the name implies, are citizens currently registered to vote. Now we can appreciate how reports of voter turnout can vary. As Figure shows, although 87 percent of registered voters voted in the 2012 presidential election, this represents only 42 percent of the total U.S. population. While 42 percent is indeed low and might cause alarm, some people included in it are under eighteen, not citizens, or unable to vote due to competency or prison status. The next

number shows that just over 57 percent of the voting-age population voted, and 60 percent of the voting-eligible population. The best turnout ratio is calculated using the smallest population: 87 percent of registered voters voted. Those who argue that a healthy democracy needs high voter turnout will look at the voting-age population or voting-eligible population as proof that the United States has a problem. Those who believe only informed and active citizens should vote point to the registered voter turnout numbers instead.


A chart showing the percent of the population that votes in the United States. The first box is labeled “Total population = 313, 914, 040”. Within that box is a box labeled “Voting-age population (VAP) = 235,248,040”. Within that box is a box labeled “Voting-eligible population (VEP) = 222,381,268, 57% of voting-age population (VAP) voted”. Within that box is a box labeled “Registered Voters = 153,157,000, 60% of voting-eligible population (VEP) voted”. Within that box is a box labeled “Votes in 2012 election = 132,948,000, 87% of registered voters voted”.

There are many ways to measure voter turnout depending on whether we calculate it using the total population, the voting-age population (VAP), the voting-eligible population (VEP), or the total number of registered voters.

WHAT FACTORS DRIVE VOTER TURNOUT?

Political parties and campaign managers approach every population of voters differently, based on what they know about factors that influence turnout. Everyone targets likely voters, which are the category of registered voters who vote regularly. Most campaigns also target registered voters in general, because they are more likely to vote than unregistered citizens. For this reason, many polling agencies ask respondents whether they are already registered and whether they voted in the last election. Those who are registered and did vote in the last election are likely to have a strong interest in politics and elections and will vote again, provided they are not angry with the political system or politicians.

Some campaigns and civic groups target members of the voting-eligible population who are not registered, especially in states that are highly contested during a particular election. The Association of Community Organizations for Reform Now (ACORN), which is now defunct, was both lauded and criticized for its efforts to get voters in low socio-economic areas registered during the 2008 election.

Michael B. Farrell. September 16, 2009. “What is the ACORN Controversy About?” *Christian Science Monitor*, www.csmonitor.com/USA/Politic...troversy-about.

Similarly, interest groups in Los Angeles were criticized for registering homeless citizens as a part of an effort to gather signatures to place propositions on the ballot.

Jennifer Steinhauer, “Opponents of California Ballot Initiative Seek Inquiry,” *New York Times*, 21 November 2007.

These potential voters may not think they can vote, but they might be persuaded to register and then vote if the process is simplified or the information they receive encourages them to do so.

Campaigns also target different age groups with different intensity, because age is a relatively consistent factor in predicting voting behavior. Those between eighteen and twenty-five are least likely to vote, while those sixty-five to seventy-four are most likely. One reason for lower voter turnout among younger citizens may be that they move frequently.

Lori A. Demeter. 2010. “The Reluctant Voter: Is Same Day Registration the Skeleton Key?” *International Journal of Business and Social Science* 1, No. 1: 191–193.

Another reason may be circular: Youth are less active in government and politics, leading the parties to neglect them. When people are neglected, they are in turn less likely to become engaged in government.

Jane Eisner. 2004. *Taking Back the Vote: Getting American Youth Involved in Our Democracy.* Boston: Beacon Press.

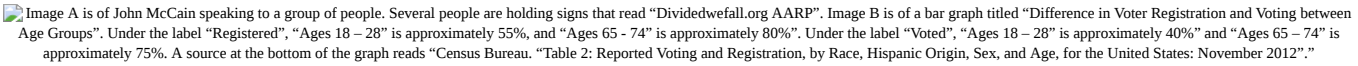
They may also be unaware of what a government provides. Younger people are often still in college, perhaps working part-time and earning low wages. They are unlikely to be receiving government benefits beyond Pell Grants or government-subsidized tuition and loans. They are also unlikely to be paying taxes at a high rate. Government is a distant concept rather than a daily concern, which may drive down turnout.

NOT_CONVERTED_YET: para

In 2012, for example, the Census Bureau reported that only 53.6 percent of eligible voters between the ages of eighteen and twenty-four registered and 41.2 percent voted, while 79.7 percent of sixty-five to seventy-four-year-olds registered and 73.5 percent voted.

“Table 2. Reported Voting and Registration, by Race, Hispanic Origin, Sex, and Age, for the United States: November 2012,” www.census.gov/hhes/www/socd...12/tables.html (November 6, 2015).

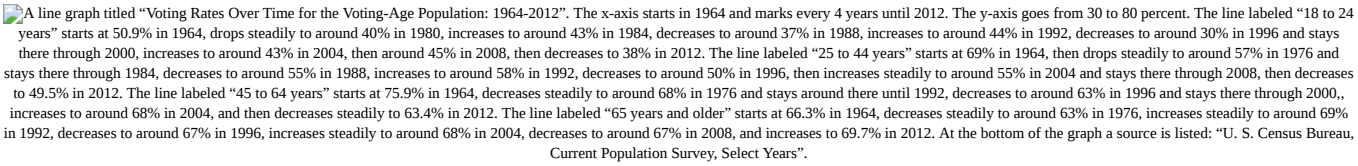
Once a person has retired, reliance on the government will grow if he or she draws income from Social Security, receives health care from Medicare, and enjoys benefits such as transportation and social services from state and local governments (Figure).


Image A is of John McCain speaking to a group of people. Several people are holding signs that read “Dividedwefall.org AARP”. Image B is of a bar graph titled “Difference in Voter Registration and Voting between Age Groups”. Under the label “Registered”, “Ages 18 – 28” is approximately 55%, and “Ages 65 - 74” is approximately 80%”. Under the label “Voted”, “Ages 18 – 28” is approximately 40%” and “Ages 65 – 74” is approximately 75%. A source at the bottom of the graph reads “Census Bureau. “Table 2: Reported Voting and Registration, by Race, Hispanic Origin, Sex, and Age, for the United States: November 2012”.”

On January 7, 2008, John McCain campaigned in New Hampshire among voters holding AARP signs (a). AARP, formerly the American Association of Retired Persons, is one of the most influential interest groups because senior citizens are known to vote at nearly double the rate of young people (b), thanks in part to their increased reliance on government programs as they age. (credit a: modification of work by Ryan Glenn)

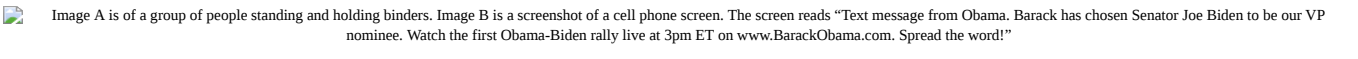
Due to consistently low turnout among the young, several organizations have made special efforts to demonstrate to younger citizens that voting is an important activity. Rock the Vote began in 1990, with the goal of bringing music, art, and pop culture together to encourage the youth to participate in government. The organization hosts rallies, festivals, and concerts that also register voters and promote voter awareness, bringing celebrities and musicians to set examples of civic involvement. Rock the Vote also maintains a website that helps young adults find out how to register in their state. Citizen Change, started by Sean “Diddy” Combs and other hip hop artists, pushed slogans such as “Vote or Die” during the 2004 presidential election in an effort to increase youth voting turnout. These efforts may have helped in 2004 and 2008, when the number of youth voting in the presidential elections increased (Figure).

Jose Antonio Vargas, “Vote or Die? Well, They Did Vote,” *Washington Post*, 9 November 2004; Melissa Dahl. 5 November 2008. “Youth Vote May Have Been Key in Obama’s Win,” http://www.nbcnews.com/id/27525497/n...ey-obamas-win/.


A line graph titled “Voting Rates Over Time for the Voting-Age Population: 1964-2012”. The x-axis starts in 1964 and marks every 4 years until 2012. The y-axis goes from 30 to 80 percent. The line labeled “18 to 24 years” starts at 50.9% in 1964, drops steadily to around 40% in 1980, increases to around 43% in 1984, decreases to around 37% in 1988, increases to around 44% in 1992, decreases to around 30% in 1996 and stays there through 2000, increases to around 43% in 2004, then around 45% in 2008, then decreases to 38% in 2012. The line labeled “25 to 44 years” starts at 69% in 1964, then drops steadily to around 57% in 1976 and stays there through 1984, decreases to around 55% in 1988, increases to around 58% in 1992, decreases to around 50% in 1996, then increases steadily to around 55% in 2004 and stays there through 2008, then decreases to 49.5% in 2012. The line labeled “45 to 64 years” starts at 75.9% in 1964, decreases steadily to around 68% in 1976 and stays around there until 1992, decreases to around 63% in 1996 and stays there through 2000,, increases to around 68% in 2004, and then decreases steadily to 63.4% in 2012. The line labeled “65 years and older” starts at 66.3% in 1964, decreases steadily to around 63% in 1976, increases steadily to around 69% in 1992, decreases to around 67% in 1996, increases steadily to around 68% in 2004, decreases to around 67% in 2008, and increases to 69.7% in 2012. At the bottom of the graph a source is listed: “U. S. Census Bureau, Current Population Survey, Select Years”.

MAKING A DIFFERENCE

In 2008, for the first time since 1972, a presidential candidate intrigued America’s youth and persuaded them to flock to the polls in record numbers. Barack Obama not only spoke to young people’s concerns but his campaign also connected with them via technology, wielding texts and tweets to bring together a new generation of voters (Figure).


Image A is of a group of people standing and holding binders. Image B is a screenshot of a cell phone screen. The screen reads “Text message from Obama. Barack has chosen Senator Joe Biden to be our VP nominee. Watch the first Obama-Biden rally live at 3pm ET on www.BarackObama.com. Spread the word!”

On November 5, 2008, union members get ready to hit the streets in Milwaukee, Wisconsin, to “get out the vote” (GOTV) for Barack Obama (a). On August 23, 2008, the Obama campaign texted supporters directly in order to announce that he had selected Senator Joe Biden (D-DE) as his running mate (b). (credit a: modification of work by Casie Yoder; credit b: modification of work by “brownpau”/Flickr)

The high level of interest Obama inspired among college-aged voters was a milestone in modern politics. Since the 1971 passage of the Twenty-Sixth Amendment, which lowered the voting age from 21 to 18, voter turnout in the under-25 range has been low. While opposition to the Vietnam War and the military draft sent 50.9 percent of 21- to 24-year-old voters to the polls in 1964, after 1972, turnout in that same age group dropped to below 40 percent as youth became disenchanted with politics. In 2008, however, it briefly increased to 45 percent from only 32 percent in 2000. Yet, despite high interest in Obama’s candidacy in 2008, younger voters were less enchanted in 2012—only 38 percent showed up to vote that year.

Thom File, “Young-Adult Voting: An Analysis of Presidential Elections 1964-2012,” *United States Census Bureau*, P20-573, April 2014, https://www.census.gov/prod/2014pubs/p20-573.pdf.

What qualities should a presidential or congressional candidate show in order to get college students excited and voting? Why?

A citizen’s socioeconomic status—the combination of education, income, and social status—may also predict whether he or she will vote. Among those who have completed college, the 2012 voter turnout rate jumps to 75 percent of eligible voters, compared to about 52.6 percent for those who have completed only high school.

"Table 5. Reported Voting and Registration, by Age, Sex, and Educational Attainment: November 2012," www.census.gov/hhes/www/socd...12/tables.html (November 6, 2015).

This is due in part to the powerful effect of education, one of the strongest predictors of voting turnout. Income also has a strong effect on the likelihood of voting. Citizens earning $100,000 to $149,999 a year are very likely to vote and 76.9 percent of them do, while only 50.4 percent of those who earn $15,000 to $19,999 vote.

"Table 7. Reported Voting and Registration of Family Members, by Age and Family Income: November 2012," www.census.gov/hhes/www/socd...12/tables.html (November 5, 2015).

Once high income and college education are combined, the resulting high socioeconomic status strongly predicts the likelihood that a citizen will vote.

Race is also a factor. Caucasians turn out to vote in the highest numbers, with 63 percent of white citizens voting in 2012. In comparison, 62 percent of African Americans, 31.3 percent of Asian Americans, and 31.8 percent of Hispanic citizens voted in 2012. Voting turnout can increase or decrease based upon the political culture of a state, however. Hispanics, for example, often vote in higher numbers in states where there has historically been higher Hispanic involvement and representation, such as New Mexico, where 49 percent of Hispanic voters turned out in 2012.

"Table 4b. Reported Voting and Registration, by Sex, Race and Hispanic Origin, for States: November 2012," www.census.gov/hhes/www/socd...12/tables.html (November 2, 2015).

In 2016, while Donald Trump rode a wave of discontent among white voters to the presidency, the fact that Hillary Clinton nearly beat him has much to do with the record turnout of Latinos in response to numerous remarks on immigration that Trump made throughout his campaign. Record Latino turnouts were seen in many states, including California, Arizona, Nevada, Florida, and North Carolina.

Steven Shepard. 6 November 2016. "Latino voting surge rattles Trump campaign," www.politico.com/story/2016/1...ampaign-230804 (November 9, 2016).

While less of a factor today, gender has historically been a factor in voter turnout. After 1920, when the Nineteenth Amendment gave women the right to vote, women began slowly turning out to vote, and now they do so in high numbers. Today, more women vote than men. In 2012, 59.7 percent of men and 63.7 percent of women reported voting.

"Table 1. Reported Voting and Registration, by Sex and Single Years of Age: November 2012," www.census.gov/hhes/www/socd...12/tables.html (November 2, 2015).

While women do not vote exclusively for one political party, 41 percent are likely to identify as Democrats and only 25 percent are likely to identify as Republicans.

Frank Newport. 12 June 2009. "Women More Likely to Be Democrats, Regardless of Age," http://www.gallup.com/poll/120839/wo...dless-age.aspx.

In 2016, while women turned out to vote in record numbers,

Chris Bowers. 4 November 2016. "This is awesome: Women voting at higher rates than men relative to 2012 in EVERY STATE," www.dailykos.com/story/2016/1...in-EVERY-STATE (November 9, 2016).

the margin that Hillary Clinton won was more narrow in Florida than many presumed it would be and may have helped Donald Trump win that state. Even after allegations of sexual assault and revelations of several instances of sexism by Mr. Trump, Clinton only won 54 percent of the women's vote in Florida. In contrast, rural voters voted overwhelmingly for Trump, at much higher rates than they had for Mitt Romney in 2012.

Check out this website to find out who is voting and who isn't.

WHAT FACTORS DECREASE VOTER TURNOUT?

Just as political scientists and campaign managers worry about who does vote, they also look at why people choose to stay home on Election Day. Over the years, studies have explored why a citizen might not vote. The reasons range from the obvious excuse of being too busy (19 percent) to more complex answers, such as transportation problems (3.3 percent) and restrictive registration laws (5.5 percent).

"Table 10. Reported Voting and Registration, by Sex and Single Years of Age: November 2012," www.census.gov/hhes/www/socd...12/tables.html (November 2, 2015).

With only 57 percent of our voting-age population (VAP) voting in the presidential election of 2012,

Table 1. Reported Voting and Registration, by Sex and Single Years of Age: November 2012. Calculated using total number of people voted divided by total population.

however, we should examine why the rest do not participate.

One prominent reason for low national turnout is that participation is not mandated. Some countries, such as Belgium and Turkey, have compulsory voting laws, which require citizens to vote in elections or pay a fine. This helps the two countries attain VAP turnouts of 87 percent and 86 percent, respectively, compared to the U.S. turnout of 54 percent. Sweden and Germany automatically register their voters, and 83 percent and 66 percent vote, respectively. Chile's decision to move from compulsory voting to voluntary voting caused a drop in participation from 87 percent to 46 percent.

Drew Desilver. 6 May 2015. "U.S. Voter Turnout trails Most Developed Countries," www.pewresearch.org/fact-tank...oped-countries.

Do you wonder what voter turnout looks like in other developed countries? Visit the Pew Research Center report on international voting turnout to find out.

Low turnout also occurs when some citizens are not allowed to vote. One method of limiting voter access is the requirement to show identification at polling places. In 2005, the Indiana legislature passed the first strict photo identification law. Voters must provide photo identification that shows their names match the voter registration records, clearly displays an expiration date, is current or has expired only since the last general election, and was issued by the state of Indiana or the U.S. government. Student identification cards that meet the standards and are from an Indiana state school are allowed.

"Photo ID Law," http://www.in.gov/sos/elections/2401.htm (November 1, 2015).

Indiana's law allows voters without an acceptable identification to obtain a free state identification card.

"Obtaining a Photo ID," http://www.in.gov/sos/elections/2625.htm (November 1, 2015).

The state also extended service hours for state offices that issue identification in the days leading up to elections.

"Media Information Guide for Indiana 2014 General Election," www.state.in.us/sos/elections...11.03.2014.pdf (November 13, 2015).

The photo identification law was quickly contested. The American Civil Liberties Union and other groups argued that it placed an unfair burden on people who were poor, older, or had limited finances, while the state argued that it would prevent fraud. In *Crawford v. Marion County Election Board* (2008), the Supreme Court decided that Indiana's voter identification requirement was constitutional, although the decision left open the possibility that another case might meet the burden of proof required to overturn the law.

David Stout, "Supreme Court Upholds Voter Identification Law in Indiana," *New York Times*, 29 April 2008; *Crawford v. Marion County Election Board*, 553 U.S. 181 (2008).

In 2011, Texas passed a strict photo identification law for voters, allowing concealed-handgun permits as identification but not student identification. The Texas law was blocked by the Obama administration before it could be implemented, because Texas was on the Voting Rights Act's preclearance list. Other states, such as Alabama, Alaska, Arizona, Georgia, and Virginia similarly had laws and districting changes blocked.

"Jurisdictions Previously Covered by Section 5," www.justice.gov/crt/jurisdict...ered-section-5 (November 1, 2015).

As a result, Shelby County, Alabama, and several other states sued the U.S. attorney general, arguing the Voting Rights Act's preclearance list was unconstitutional and that the formula that determined whether states had violated the VRA was outdated. In *Shelby County v. Holder* (2013), the Supreme Court agreed. In a 5–4 decision, the justices in the majority said the formula for placing states on the VRA preclearance list was outdated and reached into the states' authority to oversee elections.

Shelby County v. Holder, 570 U.S. ___ (2013).

States and counties on the preclearance list were released, and Congress was told to design new guidelines for placing states on the list.

Following the *Shelby* decision, Texas implemented its photo identification law, leading plaintiffs to bring cases against the state, charging that the law disproportionally affects minority voters.

Veasey v. Perry, 574 U. S. ___ (2014).

Alabama, Georgia, and Virginia similarly implemented their photo identification laws, joining Kansas, South Carolina, Tennessee, and Wisconsin. Some of these states offer low-cost or free identification for the purposes of voting or will offer help with the completion of registration applications, but citizens must provide birth certificates or other forms of identification, which can be difficult and/or costly to obtain.

Opponents of photo identification laws argue that these restrictions are unfair because they have an unusually strong effect on some demographics. One study, done by Reuters, found that requiring a photo ID would disproportionally prevent citizens aged 18–24, Hispanics, and those without a college education from voting. These groups are unlikely to have the right paperwork or identification, unlike citizens who have graduated from college. The same study found that 4 percent of households with yearly incomes under $25,000 said they did not have an ID that would be considered valid for voting.

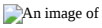
Another reason for not voting is that polling places may be open only on Election Day. This makes it difficult for voters juggling school, work, and child care during polling hours (Figure). Many states have tried to address this problem with early voting, which opens polling places as much as two weeks early. Texas opened polling places on weekdays and weekends in 1988 and initially saw an increase in voting in gubernatorial and presidential elections, although the impact tapered off over time.

Stefan D. Haag, "Early Voting in Texas: What are the Effects?" *Austin Community College CPPPS Report*, www.austincc.edu/cppps/earlyv...ll/report5.pdf (November 1, 2015).

Other states with early voting, however, showed a decline in turnout, possibly because there is less social pressure to vote when voting is spread over several days.

Rich Morin. 23 September 2013. "Early Voting Associated with Lower Turnout," www.pewresearch.org/fact-tank...-lower-turnout.

Early voting was used in a widespread manner across most states in 2016, including Nevada, where 60 percent of votes were cast prior to Election Day.



On February 5, 2008, dubbed "Super Duper Tuesday" by the press, twenty-four states held caucuses or primary elections—the largest simultaneous number of state presidential primary elections in U.S. history. As a result, over half the Democratic delegates were allocated unusually early in the election season. This polling station, on the Stanford University campus in Palo Alto, California, had long lines, commonly seen only on Election Day, and nearly ran out of Democratic ballots. (credit: Josh Thompson)

In a similar effort, Oregon, Colorado, and Washington have moved to a mail-only voting system in which there are no polling locations, only mailed ballots. These states have seen a rise in turnout, with Colorado's numbers increasing from 1.8 million votes in the 2010 congressional elections to 2 million votes in the 2014 congressional elections.

The Denver Post Editorial Board, "A Vote of Confidence for Mail Elections in Colorado," *Denver Post*, 10 November 2014.

One argument against early and mail-only voting is that those who vote early cannot change their minds during the final days of the campaign, such as in response to an "October surprise," a highly negative story about a candidate that leaks right before Election Day in November. (For example, a week before the 2000 election, a *Dallas Morning News* journalist reported that George W. Bush had lied about whether he had been arrested for driving under the influence.

Brian Knowlton, "Disclosure of His 1976 Arrest for Drunken Driving Shakes Campaign, but Voter Reaction Is Uncertain: A November Surprise for Bush," *New York Times*, 4 November 2000.

) In 2016, two such stories, one for each nominee, broke just prior to Election Day. First, the Billy Bush Access Hollywood tape showed a braggadocian Donald Trump detailing his ability to do what he pleases with women, including grabbing at their genitals. This tape led some Republican officeholders, such as Senator Jeff Flake (R-AZ), to disavow Trump. However, perhaps eclipsing this episode was the release by FBI director James Comey of a letter to Congress re-opening the Hillary Clinton email investigation a mere eleven days prior to the election. It is impossible to know the exact dynamics of how someone decides to vote, but one theory is that women jumped from Trump after the Access Hollywood tape emerged, only to go back to supporting him when the FBI seemed to reopen its investigation.

Apathy may also play a role. Some people avoid voting because their vote is unlikely to make a difference or the election is not competitive. If one party has a clear majority in a state or district, for instance, members of the minority party may see no reason to vote. Democrats in Utah and Republicans in California are so outnumbered that they are unlikely to affect the outcome of an election, and they may opt to stay home. Because the presidential candidate with the highest number of popular votes receives all of Utah's and California's electoral votes, there is little incentive for some citizens to vote: they will never change the outcome of the state-level election. These citizens, as well as those who vote for third parties like the Green Party or the Libertarian Party, are sometimes referred to as the chronic minority. While third-party candidates sometimes win local or state office or even dramatize an issue for national discussion, such as when Ross Perot discussed the national debt during his campaign as an independent presidential candidate in 1992, they never win national elections.

Finally, some voters may view non-voting as a means of social protest or may see volunteering as a better way to spend their time. Younger voters are more likely to volunteer their time rather than vote, believing that serving others is more important than voting.

Harvard IOP, "Trump, Carson Lead Republican Primary; Sanders Edging Clinton Among Democrats, Harvard IOP Poll Finds," news release, December 10, 2015, www.iop.harvard.edu/harvard-iop-fall-2015-poll.

Possibly related to this choice is voter fatigue. In many states, due to our federal structure with elections at many levels of government, voters may vote many times per year on ballots filled with candidates and issues to research. The less time there is between elections, the lower the turnout.

C. Rallings, M. Thrasher, and G. Borisyuk. 2003. "Seasonal Factors, Voter Fatigue and the Costs of Voting," *Electoral Studies* 22, No. 1: 65–79.

Summary

Some believe a healthy democracy needs many participating citizens, while others argue that only informed citizens should vote. When turnout is calculated as a percentage of the voting-age population (VAP), it often appears that just over half of U.S. citizens vote. Using the voting-eligible population (VEP) yields a slightly higher number, and the highest turnout, 87 percent, is calculated as a percentage of registered voters. Citizens older than sixty-five and those with a high income and advanced education are very likely to vote. Those younger than thirty years old, especially if still in school and earning low income, are less likely to vote.

Hurdles in a state's registration system and a high number of yearly elections may also decrease turnout. Some states have turned to early voting and mail-only ballots as ways to combat the limitations of one-day and weekday voting. The Supreme Court's decision in *Shelby v. Holder* led to states' removal from the Voting Rights Act's preclearance list. Many of these states implemented changes to their election laws, including the requirement to show photo identification before voting. Globally, the United States experiences lower turnout than other nations; some counties automatically register citizens or require citizens to vote.

If you wanted to prove the United States is suffering from low voter turnout, a calculation based on which population would yield the lowest voter turnout rate?

1. registered voters
2. voting-eligible population
3. voting-age population
4. voters who voted in the last election

What characterizes those most likely to vote in the next election?

1. over forty-five years old
2. income under $30,000
3. high school education or less
4. residency in the South

Why do Belgium, Turkey, and Australia have higher voter turnout rates than the United States?

1. compulsory voting laws
2. more elections
3. fewer registration laws
4. more polling locations

What recommendations would you make to increase voter turnout in the United States?

Why does age affect whether a citizen will vote?

If you were going to predict whether your classmates would vote in the next election, what questions would you ask them?

Glossary

chronic minority

voters who belong to political parties that tend not to be competitive in national elections because they are too small to become a majority or because of the Electoral College system distribution in their state

early voting

an accommodation that allows voting up to two weeks before Election Day

voter fatigue

the result when voters grow tired of voting and stay home from the polls

voting-age population

the number of citizens over eighteen

voting-eligible population

the number of citizens eligible to vote

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10.4: Elections

Learning Objectives

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

- Describe the stages in the election process
- Compare the primary and caucus systems
- Summarize how primary election returns lead to the nomination of the party candidates

Elections offer American voters the opportunity to participate in their government with little investment of time or personal effort. Yet voters should make decisions carefully. The electoral system allows them the chance to pick party nominees as well as office-holders, although not every citizen will participate in every step. The presidential election is often criticized as a choice between two evils, yet citizens can play a prominent part in every stage of the race and influence who the final candidates actually are.

DECIDING TO RUN

Running for office can be as easy as collecting one hundred signatures on a city election form or paying a registration fee of several thousand dollars to run for governor of a state. However, a potential candidate still needs to meet state-specific requirements covering length of residency, voting status, and age. Potential candidates must also consider competitors, family obligations, and the likelihood of drawing financial backing. His or her spouse, children, work history, health, financial history, and business dealings also become part of the media's focus, along with many other personal details about the past. Candidates for office are slightly more diverse than the representatives serving in legislative and executive bodies, but the realities of elections drive many eligible and desirable candidates away from running.

Jennifer L. Lawless. 2012. *Becoming a Candidate: Political Ambition and the Decision to Run for Office*. Cambridge: Cambridge University Press.

Despite these problems, most elections will have at least one candidate per party on the ballot. In states or districts where one party holds a supermajority, such as Georgia, candidates from the other party may be discouraged from running because they don't think they have a chance to win.

"Partisan Composition of State Houses," ballotpedia.org/Partisan_comp...f_state_houses (November 4, 2015); Zach Holden. 20 November 2014. "No Contest: 36 Percent of 2014 State Legislative Races Offered No Choice," www.followthemoney.org/resea...o-choice-blog/.

Candidates are likely to be moving up from prior elected office or are professionals, like lawyers, who can take time away from work to campaign and serve in office.

"Legislators' Occupations in All States," http://www.ncsl.org/research/about-s...onal-data.aspx (November 3, 2015).

When candidates run for office, they are most likely to choose local or state office first. For women, studies have shown that family obligations rather than desire or ambition account for this choice. Further, women are more likely than men to wait until their children are older before entering politics, and women say that they struggle to balance campaigning and their workload with parenthood.

Jennifer L. Lawless and Richard L. Fox. 2010. *It Still Takes a Candidate: Why Women Don't Run for Office*. Revised Edition. Cambridge: Cambridge University Press.

Because higher office is often attained only after service in lower office, there are repercussions to women waiting so long. If they do decide to run for the U.S. House of Representatives or Senate, they are often older, and fewer in number, than their male colleagues (Figure). As of 2015, only 24.4 percent of state legislators and 20 percent of U.S. Congress members are women.

"Women in State Legislatures for 2015," 4 September 2015. www.ncsl.org/legislators-staf...-for-2015.aspx.

The number of women in executive office is often lower as well. It is thus no surprise that 80 percent of members of Congress are male, 90 percent have at least a bachelor's degree, and their average age is sixty.

Philip Bump, "The New Congress is 80 Percent White, 80 Percent Male and 92 Percent Christian," *Washington Post*, 5 January 2015.


A series of bar graphs titled “Seekers of Elected Office by Demographic”. The first bar graph is titled “Gender”. Under the label “General public”, approximately 49% are men and approximately 51% are women. Under the label “Sough Elected Office”, approximately 75% are men and approximately 25% are women. The second bar graph is titled “Race”. Under the label “General public”, approximately 66% are white, 15% are Hispanic, and 12% are Black. Under the label “Sough Elected Office”, approximately 82% are white, 6% are Hispanic, and 5% are Black. The third bar graph is titled “Education”. Under the label “General public”, approximately 42% have high school or less, 31% have some college, 17% are college graduates, and 10% have some post-graduate education. Under the label “Sought Elected Office”, approximately 19% have high school or less, 36% have some college, 29% are college graduates, and 16% have some post-graduate education. At the bottom of the graphs, a source is listed: “2014 Political Polarization in the American Public; general public demographic data from 2012 American Community Survey (1% IPUMS)”.

Those who seek elected office do not generally reflect the demographics of the general public: They are often disproportionately male, white, and more educated than the overall U.S. population.

Another factor for potential candidates is whether the seat they are considering is competitive or open. A *competitive seat* describes a race where a challenger runs against the incumbent—the current office holder. An *open seat* is one whose incumbent is not running for reelection. Incumbents who run for reelection are very likely to win for a number of reasons, which are discussed later in this chapter. In fact, in the U.S. Congress, 95 percent of representatives and 82 percent of senators were reelected in 2014.

“Reelection Rates Over the Years,”https://www.opensecrets.org/bigpicture/reelect.php (November 12, 2015).

But when an incumbent retires, the seat is open and more candidates will run for that seat.

Many potential candidates will also decline to run if their opponent has a lot of money in a campaign war chest. *War chests* are campaign accounts registered with the Federal Election Commission, and candidates are allowed to keep earlier donations if they intend to run for office again. Incumbents and candidates trying to move from one office to another very often have money in their war chests. Those with early money are hard to beat because they have an easier time showing they are a viable candidate (one likely to win). They can woo potential donors, which brings in more donations and strengthens the campaign. A challenger who does not have money, name recognition, or another way to appear viable will have fewer campaign donations and will be less competitive against the incumbent.

CAMPAIGN FINANCE LAWS

In the 2012 presidential election cycle, candidates for all parties raised a total of over $1.3 billion dollars for campaigns.

“2012 Presidential Campaign Finance,” www.fec.gov/disclosurep/pnati...B01A46.worker3 (November 10, 2015).

Congressional candidates running in the 2014 Senate elections raised $634 million, while candidates running for the House of Representatives raised $1.03 billion.

“2014 House and Senate Campaign Finance,” www.fec.gov/disclosurehs/hsna...320049.worker4 (November 12, 2015).

This, however, pales in comparison to the amounts raised by political action committees (PACs), which are organizations created to raise and spend money to influence politics and contribute to candidates’ campaigns. In the 2014 congressional elections, PACs raised over $1.7 billion to help candidates and political parties.

“Political Action Committees,” http://www.opensecrets.org/pacs/ (November 12, 2015).

How does the government monitor the vast amounts of money that are now a part of the election process?

The history of campaign finance monitoring has its roots in a federal law written in 1867, which prohibited government employees from asking Naval Yard employees for donations.

Greg Scott and Gary Mullen, “Thirty Year Report,” *Federal Election Commission*, September 2005, www.fec.gov/info/publications/30year.pdf.

In 1896, the Republican Party spent about $16 million overall, which includes William McKinley’s $6–7 million campaign expenses.

Jonathan Bernstein, “They Spent What on Presidential Campaigns?,” *Washington Post*, 20 February, 2012.

This raised enough eyebrows that several key politicians, including Theodore Roosevelt, took note. After becoming president in 1901, Roosevelt pushed Congress to look for political corruption and influence in government and elections.

Jaime Fuller, “From George Washington to Shaun McCutcheon: A Brief-ish History of Campaign Finance Reform,” *Washington Post*, 3 April 2014.

Shortly after, the Tillman Act (1907) was passed by Congress, which prohibited corporations from contributing money to candidates running in federal elections. Other congressional acts followed, limiting how much money individuals could contribute to candidates, how candidates could spend contributions, and what information would be disclosed to the public.

Federal Corrupt Practices Act of 1925; Hatch Act of 1939; Taft-Hartley Act of 1947

While these laws intended to create transparency in campaign funding, government did not have the power to stop the high levels of money entering elections, and little was done to enforce the laws. In 1971, Congress again tried to fix the situation by passing the Federal Election Campaign Act (FECA), which outlined how candidates would report all contributions and expenditures related to their campaigns. The FECA also created rules governing the way organizations and companies could contribute to federal campaigns, which allowed for the creation of political action committees.

Scott and Mullen, "Thirty Year Report."

Finally, a 1974 amendment to the act created the Federal Election Commission (FEC), which operates independently of government and enforces the elections laws.

While some portions of the FECA were ruled unconstitutional by the courts in *Buckley v. Valeo* (1976), such as limits on personal spending on campaigns by candidates not using federal money, the FEC began enforcing campaign finance laws in 1976.

Buckley v. Valeo, 424 U.S. 1 (1976).

Even with the new laws and the FEC, money continued to flow into elections. By using loopholes in the laws, political parties and political action committees donated large sums of money to candidates, and new reforms were soon needed. Senators John McCain (R-AZ) and Russ Feingold (former D-WI) cosponsored the Bipartisan Campaign Reform Act of 2002 (BCRA), also referred to as the McCain–Feingold Act. McCain–Feingold restricts the amount of money given to political parties, which had become a way for companies and PACs to exert influence. It placed limits on total contributions to political parties, prohibited coordination between candidates and PAC campaigns, and required candidates to include personal endorsements on their political ads. It also limited advertisements run by unions and corporations thirty days before a primary election and sixty days before a general election.

"Bipartisan Campaign Reform Act of 2002," http://www.fec.gov/pages/bcra/bcra_update.shtml (November 11, 2015); Scott and Mullen, "Thirty Year Report."

Soon after the passage of the McCain–Feingold Act, the FEC's enforcement of the law spurred court cases challenging it. The first, *McConnell v. Federal Election Commission* (2003), resulted in the Supreme Court's upholding the act's restrictions on how candidates and parties could spend campaign contributions. But later court challenges led to the removal of limits on personal spending and ended the ban on ads run by interest groups in the days leading up to an election.

"Court Case Abstracts," www.fec.gov/law/litigation_CCA_W.shtml (November 12, 2015); *Davis v. Federal Election Commission*, 554 U.S. 724 (2008).

In 2010, the Supreme Court's ruling on *Citizens United v. Federal Election Commission* led to the removal of spending limits on corporations. Justices in the majority argued that the BCRA violated a corporation's free speech rights.

Citizens United v. FEC, 558 U.S. 310 (2010).

The court ruling also allowed corporations to place unlimited money into super PACs, or Independent Expenditure-Only Committees. These organizations cannot contribute directly to a candidate, nor can they strategize with a candidate's campaign. They can, however, raise and spend as much money as they please to support or attack a candidate, including running advertisements and hosting events.

"Citizens United v. Federal Election Commission," www.opensecrets.org/news/repo...ens_united.php (November 11, 2015); "Independent Expenditure-Only Committees," www.fec.gov/press/press2011/ieoc_alpha.shtml (November 11, 2015).

In 2012, the super PAC "Restore Our Future" raised $153 million and spent $142 million supporting conservative candidates, including Mitt Romney. "Priorities USA Action" raised $79 million and spent $65 million supporting liberal candidates, including Barack Obama. The total expenditure by super PACs alone was $609 million in the 2012 election and $345 million in the 2014 congressional elections.

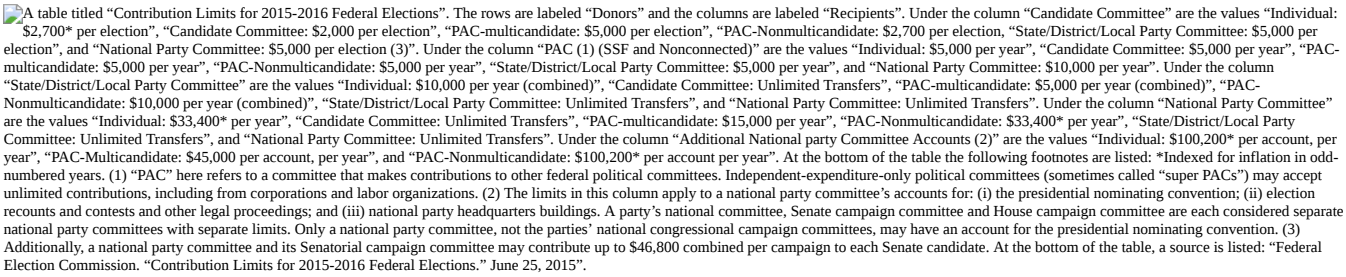
"Super PACs," www.opensecrets.org/pacs/sup...php?cycle=2014 (November 11, 2015).

Several limits on campaign contributions have been upheld by the courts and remain in place. Individuals may contribute up to $2,700 per candidate per election. This means a teacher living in Nebraska may contribute $2,700 to Bernie Sanders for his

campaign to become to the Democratic presidential nominee, and if Sanders becomes the nominee, the teacher may contribute another $2,700 to his general election campaign. Individuals may also give $5,000 to political action committees and $33,400 to a national party committee. PACs that contribute to more than one candidate are permitted to contribute $5,000 per candidate per election, and up to $15,000 to a national party. PACs created to give money to only one candidate are limited to only $2,700 per candidate, however (Figure).

“Contribution Limits for the 2015–2016 Federal Elections,” www.fec.gov/info/contriblimitschart1516.pdf. (November 11, 2015).

The amounts are adjusted every two years, based on inflation. These limits are intended to create a more equal playing field for the candidates, so that candidates must raise their campaign funds from a broad pool of contributors.


A table titled “Contribution Limits for 2015-2016 Federal Elections”. The rows are labeled “Donors” and the columns are labeled “Recipients”. Under the column “Candidate Committee” are the values “Individual: $2,700* per election”, “Candidate Committee: $2,000 per election”, “PAC-multicandidate: $5,000 per election”, “PAC-Nonmulticandidate: $2,700 per election, “State/District/Local Party Committee: $5,000 per election”, and “National Party Committee: $5,000 per election (3)”. Under the column “PAC (1) (SSF and Nonconnected)” are the values “Individual: $5,000 per year”, “Candidate Committee: $5,000 per year”, “PAC-multicandidate: $5,000 per year”, “PAC-Nonmulticandidate: $5,000 per year”, “State/District/Local Party Committee: $5,000 per year”, and “National Party Committee: $10,000 per year”. Under the column “State/District/Local Party Committee” are the values “Individual: $10,000 per year (combined)”, “Candidate Committee: Unlimited Transfers”, “PAC-multicandidate: $5,000 per year (combined)”, “PAC-Nonmulticandidate: $10,000 per year (combined)”, “State/District/Local Party Committee: Unlimited Transfers”, and “National Party Committee: Unlimited Transfers”. Under the column “National Party Committee” are the values “Individual: $33,400* per year”, “Candidate Committee: Unlimited Transfers”, “PAC-multicandidate: $15,000 per year”, “PAC-Nonmulticandidate: $33,400* per year”, “State/District/Local Party Committee: Unlimited Transfers”, and “National Party Committee: Unlimited Transfers”. Under the column “Additional National party Committee Accounts (2)” are the values “Individual: $100,200* per account, per year”, “PAC-Multicandidate: $45,000 per account, per year”, and “PAC-Nonmulticandidate: $100,200* per account per year”. At the bottom of the table the following footnotes are listed: *Indexed for inflation in odd-numbered years. (1) “PAC” here refers to a committee that makes contributions to other federal political committees. Independent-expenditure-only political committees (sometimes called “super PACs”) may accept unlimited contributions, including from corporations and labor organizations. (2) The limits in this column apply to a national party committee’s accounts for: (i) the presidential nominating convention; (ii) election recounts and contests and other legal proceedings; and (iii) national party headquarters buildings. A party’s national committee, Senate campaign committee and House campaign committee are each considered separate national party committees with separate limits. Only a national party committee, not the parties’ national congressional campaign committees, may have an account for the presidential nominating convention. (3) Additionally, a national party committee and its Senatorial campaign committee may contribute up to $46,800 combined per campaign to each Senate candidate. At the bottom of the table, a source is listed: “Federal Election Commission. “Contribution Limits for 2015-2016 Federal Elections.” June 25, 2015”.

NOMINATION STAGE

Although the Constitution explains how candidates for national office are elected, it is silent on how those candidates are nominated. Political parties have taken on the role of promoting nominees for offices, such as the presidency and seats in the Senate and the House of Representatives. Because there are no national guidelines, there is much variation in the nomination process. States pass election laws and regulations, choose the selection method for party nominees, and schedule the election, but the process also greatly depends on the candidates and the political parties.

States, through their legislatures, often influence the nomination method by paying for an election to help parties identify the nominee the voters prefer. Many states fund elections because they can hold several nomination races at once. In 2012, many voters had to choose a presidential nominee, U.S. Senate nominee, House of Representatives nominee, and state-level legislature nominee for their parties.

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

For state-level office nominations, or the nomination of a U.S. Senator or House member, some states use the top-two primary method. A top-two primary, sometimes called a jungle primary, pits all candidates against each other, regardless of party affiliation. The two candidates with the most votes become the final candidates for the general election. Thus, two candidates from the same party could run against each other in the general election. In one California congressional district, for example, four Democrats and two Republicans all ran against one another in the June 2012 primary. The two Republicans received the most votes, so they ran against one another in the general election in November.

Harold Meyerson, “Op-Ed: California’s Jungle Primary: Tried it. Dump It,” *Los Angeles Times*, 21 June 2014.

In 2016, thirty-four candidates filed to run to replace Senator Barbara Boxer (D-CA). In the end, two Democratic women of color emerged to compete head-to-head in the general election. California attorney general Kamala Harris eventually won the seat on Election Day, helping to quadruple the number of women of color in the U.S. Senate overnight. More often than not, however, the top-two system is used in state-level elections for non-partisan elections, in which none of the candidates are allowed to declare a political party.

In general, parties do not like nominating methods that allow non-party members to participate in the selection of party nominees. In 2000, the Supreme Court heard a case brought by the California Democratic Party, the California Republican Party, and the California Libertarian Party.

California Democratic Party v. Jones, 530 U.S. 567 (2000).

The parties argued that they had a right to determine who associated with the party and who participated in choosing the party nominee. The Supreme Court agreed, limiting the states' choices for nomination methods to closed and open primaries.

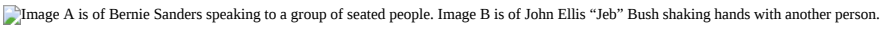
Despite the common use of the primary system, at least five states (Alaska, Hawaii, Idaho, Colorado, and Iowa) regularly use caucuses for presidential, state, and local-level nominations. A caucus is a meeting of party members in which nominees are selected informally. Caucuses are less expensive than primaries because they rely on voting methods such as dropping marbles in a jar, placing names in a hat, standing under a sign bearing the candidate's name, or taking a voice vote. Volunteers record the votes and no poll workers need to be trained or compensated. The party members at the caucus also help select delegates, who represent their choice at the party's state- or national-level nominating convention.

The Iowa Democratic Caucus is well-known for its spirited nature. The party's voters are asked to align themselves into preference groups, which often means standing in a room or part of a room that has been designated for the candidate of choice. The voters then get to argue and discuss the candidates, sometimes in a very animated and forceful manner. After a set time, party members are allowed to realign before the final count is taken. The caucus leader then determines how many members support each candidate, which determines how many delegates each candidate will receive.

The caucus has its proponents and opponents. Many argue that it is more interesting than the primary and brings out more sophisticated voters, who then benefit from the chance to debate the strengths and weaknesses of the candidates. The caucus system is also more transparent than ballots. The local party members get to see the election outcome and pick the delegates who will represent them at the national convention. There is less of a possibility for deception or dishonesty. Opponents point out that caucuses take two to three hours and are intimidating to less experienced voters. These factors, they argue, lead to lower voter turnout. And they have a point—voter turnout for a caucus is generally 20 percent lower than for a primary.

"Voter Turnout," www.electproject.org/home/vot...r-turnout-data. (November 3, 2015).

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



Presidential candidates often spend a significant amount of time campaigning in states with early caucuses or primaries. In September 2015, Senator Bernie Sanders (a), a candidate for the Democratic nomination, speaks at the Amherst Democrats BBQ in Amherst, New Hampshire. In July 2015, John Ellis "Jeb" Bush (b), former Republican governor of Florida, greets the public at the Fourth of July parade in Merrimack, New Hampshire. (credit a, b: modification of work by Marc Nozell)

Other states, especially large states like California, Florida, Michigan, and Wisconsin, often are frustrated that they must wait to hold their presidential primary elections later in the season. Their frustration is reasonable: candidates who do poorly in the first few primaries often drop out entirely, leaving fewer candidates to run in caucuses and primaries held in February and later. In 2008, California, New York, and several other states disregarded the national party's guidelines and scheduled their primaries the first week of February. In response, Florida and Michigan moved their primaries to January and many other states moved forward to March. This was not the first time states participated in *frontloading* and scheduled the majority of the primaries and caucuses at the beginning of the primary season. It was, however, one of the worst occurrences. States have been frontloading since the 1976 presidential election, with the problem becoming more severe in the 1992 election and later.

Josh Putnam, "Presidential Primaries and Caucuses by Month (1976)," *Frontloading HQ* (blog), February 3, 2009, frontloading.blogspot.com/200...-calendar.html.

Political parties allot delegates to their national nominating conventions based on the number of registered party voters in each state. California, the state with the most Democrats, sent 548 delegates to the 2016 Democratic National Convention, while Wyoming, with far fewer Democrats, sent only 18 delegates. When the national political parties want to prevent states from frontloading, or doing anything else they deem detrimental, they can change the state's delegate count, which in essence increases

or reduces the state's say in who becomes the presidential nominee. In 1996, the Republicans offered bonus delegates to states that held their primaries and caucuses later in the nominating season.

William G. Mayer and Andrew Busch. 2004. *The Front-loading Problem in Presidential Nominations*. Washington D.C.: Brookings Institution.

In 2008, the national parties ruled that only Iowa, South Carolina, and New Hampshire could hold primaries or caucuses in January. Both parties also reduced the number of delegates from Michigan and Florida as punishment for those states' holding early primaries.

Joanna Klonsky, "The Role of Delegates in the U.S. Presidential Nominating Process," *Washington Post*, 6 February 2008.

Despite these efforts, candidates in 2008 had a very difficult time campaigning during the tight window caused by frontloading.

One of the criticisms of the modern nominating system is that parties today have less influence over who becomes their nominee. In the era of party "bosses," candidates who hoped to run for president needed the blessing and support of party leadership and a strong connection with the party's values. Now, anyone can run for a party's nomination. The candidates with enough money to campaign the longest, gaining media attention, momentum, and voter support are more likely to become the nominee than candidates without these attributes, regardless of what the party leadership wants.

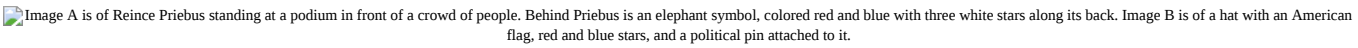
This new reality has dramatically increased the number of politically inexperienced candidates running for national office. In 2012, for example, eleven candidates ran multistate campaigns for the Republican nomination. Dozens more had their names on one or two state ballots. With a long list of challengers, candidates must find more ways to stand out, leading them to espouse extreme positions or display high levels of charisma. Add to this that primary and caucus voters are often more extreme in their political beliefs, and it is easy to see why fewer moderates become party nominees. The 2016 primary campaign by President Donald Trump shows that grabbing the media's attention with fiery partisan rhetoric can get a campaign started strong. This does not guarantee a candidate will make it through the primaries, however.

Take a look at Campaigns & Elections to see what hopeful candidates are reading.

CONVENTION SEASON

Once it is clear who the parties' nominees will be, presidential and gubernatorial campaigns enter a quiet period. Candidates run fewer ads and concentrate on raising funds for the fall. This is a crucial time because lack of money can harm their chances. The media spends much of the summer keeping track of the fundraising totals while the political parties plan their conventions. State parties host state-level conventions during gubernatorial elections, while national parties host national conventions during presidential election years.

Party conventions are typically held between June and September, with state-level conventions earlier in the summer and national conventions later. Conventions normally last four to five days, with days devoted to platform discussion and planning and nights reserved for speeches (Figure). Local media covers the speeches given at state-level conventions, showing speeches given by the party nominees for governor and lieutenant governor, and perhaps important guests or the state's U.S. senators. The national media covers the Democratic and Republican conventions during presidential election years, mainly showing the speeches. Some cable networks broadcast delegate voting and voting on party platforms. Members of the candidate's family and important party members generally speak during the first few days of a national convention, with the vice presidential nominee speaking on the next-to-last night and the presidential candidate on the final night. The two chosen candidates then hit the campaign trail for the general election. The party with the incumbent president holds the later convention, so in 2016, the Democrats held their convention after the Republicans.


Image A is of Reince Priebus standing at a podium in front of a crowd of people. Behind Priebus is an elephant symbol, colored red and blue with three white stars along its back. Image B is of a hat with an American flag, red and blue stars, and a political pin attached to it.

Reince Priebus, chairman of the Republican National Committee, opens the Republican National Convention in Tampa, Florida, on August 28, 2012 (a). Pageantry and symbolism, such as the flag motifs and political buttons shown on this Wisconsin attendee's hat (b), reign supreme during national conventions. (credit a, b: modification of work by Mallory Benedict/PBS NewsHour)

There are rarely surprises at the modern convention. Thanks to party rules, the nominee for each party is generally already clear. In 2008, John McCain had locked up the Republican nomination in March by having enough delegates, while in 2012, President Obama was an unchallenged incumbent and hence people knew he would be the nominee. In 2016, both apparent nominees (Democrat Hillary Clinton and Republican Donald Trump) faced primary opponents who stayed in the race even when the

nominations were effectively sewn up—Democrat Bernie Sanders and Republican Ted Cruz—though no "convention surprise" took place. The naming of the vice president is generally not a surprise either. Even if a presidential nominee tries to keep it a secret, the news often leaks out before the party convention or official announcement. In 2004, the media announced John Edwards was John Kerry's running mate. The Kerry campaign had not made a formal announcement, but an amateur photographer had taken a picture of Edwards' name being added to the candidate's plane and posted it to an aviation message board.

Despite the lack of surprises, there are several reasons to host traditional conventions. First, the parties require that the delegates officially cast their ballots. Delegates from each state come to the national party convention to publicly state who their state's voters selected as the nominee.

Second, delegates will bring state-level concerns and issues to the national convention for discussion, while local-level delegates bring concerns and issues to state-level conventions. This list of issues that concern local party members, like limiting abortions in a state or removing restrictions on gun ownership, are called *planks*, and they will be discussed and voted upon by the delegates and party leadership at the convention. Just as wood planks make a platform, issues important to the party and party delegates make up the party platform. The parties take the cohesive list of issues and concerns and frame the election around the platform. Candidates will try to keep to the platform when campaigning, and outside groups that support them, such as super PACs, may also try to keep to these issues.

Third, conventions are covered by most news networks and cable programs. This helps the party nominee get positive attention while surrounded by loyal delegates, family members, friends, and colleagues. For presidential candidates, this positivity often leads to a bump in popularity, so the candidate gets a small increase in favorability. If a candidate does not get the bump, however, the campaign manager has to evaluate whether the candidate is connecting well with the voters or is out of step with the party faithful. In 2004, John Kerry spent the Democratic convention talking about getting U.S. troops out of the war in Iraq and increasing spending at home. Yet after his patriotic and positive convention, Gallup recorded no convention bump and the voters did not appear more likely to vote for him.

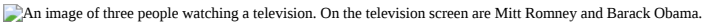
GENERAL ELECTIONS AND ELECTION DAY

The general election campaign period occurs between mid-August and early November. These elections are simpler than primaries and conventions, because there are only two major party candidates and a few minor party candidates. About 50 percent of voters will make their decisions based on party membership, so the candidates will focus on winning over independent voters and visiting states where the election is close.

"Party Affiliation and Election Polls," *Pew Research Center*, August 3, 2012.

In 2016, both candidates sensed shifts in the electorate that led them to visit states that were not recently battleground states. Clinton visited Republican stronghold Arizona as Latino voter interest surged. Defying conventional campaign movements, Trump spent many hours over the last days of the campaign in the Democratic Rust Belt states, namely Michigan and Wisconsin. President Trump ended up winning both states and industrial Pennsylvania as well.

Debates are an important element of the general election season, allowing voters to see candidates answer questions on policy and prior decisions. While most voters think only of presidential debates, the general election season sees many debates. In a number of states, candidates for governor are expected to participate in televised debates, as are candidates running for the U.S. Senate. Debates not only give voters a chance to hear answers, but also to see how candidates hold up under stress. Because television and the Internet make it possible to stream footage to a wide audience, modern campaign managers understand the importance of a debate (Figure).



Sailors on the USS *McCampbell*, based out of Yokosuka, Japan, watch the first presidential debate between President Barack Obama and former Massachusetts governor Mitt Romney on October 4, 2012.

In 1960, the first televised presidential debate showed that answering questions well is not the only way to impress voters. Senator John F. Kennedy, the Democratic nominee, and Vice President Richard Nixon, the Republican nominee, prepared in slightly different ways for their first of four debates. Although both studied answers to possible questions, Kennedy also worked on the delivery of his answers, including accent, tone, facial displays, and body movements, as well as overall appearance. Nixon, however, was ill in the days before the debate and appeared sweaty and gaunt. He also chose not to wear makeup, a decision that left his pale, unshaven face vulnerable.

Shanto Iyengar. 2016. *Media Politics: A Citizen's Guide*, 3rd ed. New York: W.W. Norton.

Interestingly, while people who watched the debate thought Kennedy won, those listening on radio saw the debate as more of a draw.

INSIDE THE DEBATE

Debating an opponent in front of sixty million television voters is intimidating. Most presidential candidates spend days, if not weeks, preparing. Newspapers and cable news programs proclaim winners and losers, and debates can change the tide of a campaign. Yet, Paul Begala, a strategist with Bill Clinton's 1992 campaign, saw debates differently.

In one of his columns for CNN, Begala recommends that candidates relax and have a little fun. Debates are relatively easy, he says, more like a scripted program than an interview that puts candidates on the spot. They can memorize answers and deliver them convincingly, making sure they hit their mark. Second, a candidate needs a clear message explaining why the voters should pick him or her. Is he or she a needed change? Or the only experienced candidate? If the candidate's debate answers reinforce this message, the voters will remember. Third, candidates should be humorous, witty, and comfortable with their knowledge. Trying to be too formal or cramming information at the last minute will cause the candidate to be awkward or get overwhelmed. Finally, a candidate is always on camera. Making faces, sighing at an opponent, or simply making a mistake gives the media something to discuss and can cause a loss. In essence, Begala argues that if candidates wish to do well, preparation and confidence are key factors.

Paul Begala. 1 October 2008. "Commentary: 10 Rules for Winning a Debate," www.cnn.com/2008/POLITICS/10/...l?iref=24hours.

Is Begala's advice good? Why or why not? What positives or negatives would make a candidate's debate performance stand out for you as a voter?

While debates are not just about a candidate's looks, most debate rules contain language that prevents candidates from artificially enhancing their physical qualities. For example, prior rules have prohibited shoes that increase a candidate's height, banned prosthetic devices that change a candidate's physical appearance, and limited camera angles to prevent unflattering side and back shots. Candidates and their campaign managers are aware that visuals matter.

Debates are generally over by the end of October, just in time for Election Day. Beginning with the election of 1792, presidential elections were to be held in the thirty-four days prior to the "first Wednesday in December."

2nd Congress, Session I, "An Act relative to the Election of a President and Vice President of the United States, and Declaring the Office Who Shall Act as President in Case of Vacancies in the Offices both of President and Vice President," Chapter 8, section 1, image 239. http://memory.loc.gov/ammem/index.html (November 1, 2015).

In 1845, Congress passed legislation that moved the presidential Election Day to the first Tuesday after the first Monday in November, and in 1872, elections for the House of Representatives were also moved to that same Tuesday.

28th Congress, Session II. 23 January 1845. "An Act to Establish a Uniform Time for Holding Elections for Electors of President and Vice President in all the States of the Union," Statute II, chapter 1, image 721. http://memory.loc.gov/ammem/index.html; 42nd Congress, Session II, "An Act for the Apportionment of Representatives to Congress among the Several Sates According to the Ninth Census." Chapter 11, section 3, http://memory.loc.gov/ammem/index.html (November 1, 2015).

The United States was then an agricultural country, and because a number of states restricted voting to property-owning males over twenty-one, farmers made up nearly 74 percent of voters.

Donald Ratcliffe. 2013. "The Right to Vote and the Rise of Democracy, 1787–1828," *Journal of the Early Republic* 33: 219–254; Stanley Lebergott. 1966. "Labor Force and Employment, 1800–1960," In *Output, Employment, and Productivity in the United States after 1800*, ed. Dorothy S. Brady. Ann Arbor, Michigan: *National Bureau of Economic Research*, http://www.nber.org/books/brad66-1.

The tradition of Election Day to fall in November allowed time for the lucrative fall harvest to be brought in and the farming season to end. And, while not all members of government were of the same religion, many wanted to ensure that voters were not kept from the polls by a weekend religious observance. Finally, business and mercantile concerns often closed their books on the first of the month. Rather than let accounting get in the way of voting, the bill's language forces Election Day to fall between the second and eighth of the month.

THE ELECTORAL COLLEGE

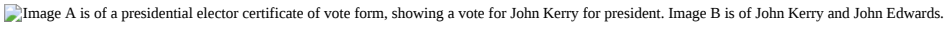
Once the voters have cast ballots in November and all the election season madness comes to a close, races for governors and local representatives may be over, but the constitutional process of electing a president has only begun. The electors of the Electoral College travel to their respective state capitols and cast their votes in mid-December, often by signing a certificate recording their vote. In most cases, electors cast their ballots for the candidate who won the majority of votes in their state. The states then forward the certificates to the U.S. Senate.

The number of Electoral College votes granted to each state equals the total number of representatives and senators that state has in the U.S. Congress or, in the case of Washington, DC, as many electors as it would have if it were a state. The number of representatives may fluctuate based on state population, which is determined every ten years by the U.S. Census, mandated by Article I, Section 2, of the Constitution. For the 2016 and 2020 presidential elections, there are a total of 538 electors in the Electoral College, and a majority of 270 electoral votes is required to win the presidency.

Once the electoral votes have been read by the president of the Senate (i.e., the vice president of the United States) during a special joint session of Congress in January, the presidential candidate who received the majority of electoral votes is officially named president. Should a tie occur, the sitting House of Representatives elects the president, with each state receiving one vote. While this rarely occurs, both the 1800 and the 1824 elections were decided by the House of Representatives. As election night 2016 played out after the polls closed, one such scenario was in play for a tie. However, the states that Hillary Clinton needed to make that tie were lost narrowly to Trump. Had the tie occurred, the Republican House would have likely selected Trump as president anyway.

As political parties became stronger and the Progressive Era's influence shaped politics from the 1890s to the 1920s, states began to allow state parties rather than legislators to nominate a slate of electors. Electors cannot be elected officials nor can they work for the federal government. Since the Republican and Democratic parties choose faithful party members who have worked hard for their candidates, the modern system decreases the chance they will vote differently from the state's voters.

There is no guarantee of this, however. Occasionally there are examples of *faithless electors*. In 2000, the majority of the District of Columbia's voters cast ballots for Al Gore, and all three electoral votes should have been cast for him. Yet one of the electors cast a blank ballot, denying Gore a precious electoral vote, reportedly to contest the unequal representation of the District in the Electoral College. In 2004, one of the Minnesota electors voted for John Edwards, the vice presidential nominee, to be president (Figure) and misspelled the candidate's last name in the process. Some believe this was a result of confusion rather than a political statement. The electors' names and votes are publicly available on the electoral certificates, which are scanned and documented by the National Archives and easily available for viewing online.



In 2004, Minnesota had an error or faithless voter when one elector cast a vote for John Edwards for president (a). On July 8, 2004, presidential candidate John Kerry and his running mate John Edwards arrive for a campaign rally in Fort Lauderdale, Florida (b). (credit b: modification of work by Richard Block)

In forty-eight states and the District of Columbia, the candidate who wins the most votes in November receives all the state's electoral votes, and only the electors from that party will vote. This is often called the winner-take-all system. In two states, Nebraska and Maine, the electoral votes are divided. The candidate who wins the state gets two electoral votes, but the winner of each congressional district also receives an electoral vote. In 2008, for example, Republican John McCain won two congressional districts and the majority of the voters across the state of Nebraska, earning him four electoral votes from Nebraska. Obama won in one congressional district and earned one electoral vote from Nebraska.

"Presidential Popular Vote Summary for All Candidates Listed on at Least One State Ballot," http://www.fec.gov/pubrec/fe2008/tables2008.pdf (November 7, 2015).

In 2016, Republican Donald Trump won one congressional district in Maine, even though Hillary Clinton won the state overall. This Electoral College voting method is referred to as the district system.

MIDTERM ELECTIONS

Presidential elections garner the most attention from the media and political elites. Yet they are not the only important elections. The even-numbered years between presidential years, like 2014 and 2018, are reserved for congressional elections—sometimes

referred to as midterm elections because they are in the middle of the president's term. Midterm elections are held because all members of the House of Representatives and one-third of the senators come up for reelection every two years.

During a presidential election year, members of Congress often experience the coattail effect, which gives members of a popular presidential candidate's party an increase in popularity and raises their odds of retaining office. During a midterm election year, however, the president's party often is blamed for the president's actions or inaction. Representatives and senators from the sitting president's party are more likely to lose their seats during a midterm election year. Many recent congressional realignments, in which the House or Senate changed from Democratic to Republican control, occurred because of this reverse-coattail effect during midterm elections. The most recent example is the 2010 election, in which control of the House returned to the Republican Party after two years of a Democratic presidency.

Summary

The Federal Election Commission was created in an effort to control federal campaign donations and create transparency in campaign finance. Individuals and organizations have contribution limits, and candidates must disclose the source of their funds. However, decisions by the Supreme Court, such as *Citizens United*, have voided sections of the campaign finance law, and businesses and organizations may now run campaign ads and support candidates for offices. The cases also resulted in the creation of super PACs, which can raise unlimited funds, provided they do not coordinate with candidates' campaigns.

The first stage in the election cycle is nomination, where parties determine who the party nominee will be. State political parties choose to hold either primaries or caucuses, depending on whether they want a fast and private ballot election or an informal, public caucus. Delegates from the local primaries and caucuses will go to state or national conventions to vote on behalf of local and state voters.

During the general election, candidates debate one another and run campaigns. Election Day is in early November, but the Electoral College formally elects the president mid-December. Congressional incumbents often win or lose seats based on the popularity of their party's president or presidential candidate.

A state might hold a primary instead of a caucus because a primary is _____.

1. inexpensive and simple
2. transparent and engages local voters
3. faster and has higher turnout
4. highly active and promotes dialog during voting

Which of the following citizens is most likely to run for office?

1. Maria Trejo, a 28-year-old part-time sonogram technician and mother of two
2. Jeffrey Lyons, a 40-year-old lawyer and father of one
3. Linda Tepsett, a 40-year-old full-time orthopedic surgeon
4. Mark Forman, a 70-year-old retired steelworker

Where and when do Electoral College electors vote?

1. at their precinct, on Election Day
2. at their state capitol, on Election Day
3. in their state capitol, in December
4. in Washington D.C., in December

In which type of election are you most likely to see coattail effects?

1. presidential
2. midterm
3. special
4. caucuses

What problems will candidates experience with frontloading?

Why have fewer moderates won primaries than they used to?

How do political parties influence the state's primary system?

Why do parties prefer closed primaries to open primaries?

Glossary

caucus
a form of candidate nomination that occurs in a town-hall style format rather than a day-long election; usually reserved for presidential elections

closed primary
an election in which only voters registered with a party may vote for that party's candidates

coattail effect
the result when a popular presidential candidate helps candidates from his or her party win their own elections

delegates
party members who are chosen to represent a particular candidate at the party's state- or national-level nominating convention

district system
the means by which electoral votes are divided between candidates based on who wins districts and/or the state

Electoral College
the constitutionally created group of individuals, chosen by the states, with the responsibility of formally selecting the next U.S. president

incumbent
the current holder of a political office

midterm elections
the congressional elections that occur in the even-numbered years between presidential election years, in the middle of the president's term

open primary
an election in which any registered voter may vote in any party's primary or caucus

platform
the set of issues important to the political party and the party delegates

political action committees (PACs)
organizations created to raise money for political campaigns and spend money to influence policy and politics

super PACs
officially known as Independent Expenditure-Only Committees; organizations that can fundraise and spend as they please to support or attack a candidate but not contribute directly to a candidate or strategize with a candidate's campaign

top-two primary
a primary election in which the two candidates with the most votes, regardless of party, become the nominees for the general election

winner-take-all system
all electoral votes for a state are given to the candidate who wins the most votes in that state

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10.5: Campaigns and Voting

Learning Objectives

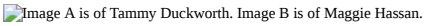
By the end of this section, you will be able to:

- Compare campaign methods for elections
- Identify strategies campaign managers use to reach voters
- Analyze the factors that typically affect a voter's decision

Campaign managers know that to win an election, they must do two things: reach voters with their candidate's information and get voters to show up at the polls. To accomplish these goals, candidates and their campaigns will often try to target those most likely to vote. Unfortunately, these voters change from election to election and sometimes from year to year. Primary and caucus voters are different from voters who vote only during presidential general elections. Some years see an increase in younger voters turning out to vote. Elections are unpredictable, and campaigns must adapt to be effective.

FUNDRAISING

Even with a carefully planned and orchestrated presidential run, early fundraising is vital for candidates. Money helps them win, and the ability to raise money identifies those who are viable. In fact, the more money a candidate raises, the more he or she will continue to raise. EMILY's List, a political action group, was founded on this principle; its name is an acronym for "Early Money Is Like Yeast" (it makes the dough rise). This group helps progressive women candidates gain early campaign contributions, which in turn helps them get further donations (Figure).



EMILY's List candidates include members of Congress, such as Tammy Duckworth (D-IL) (a), and governors, such as Maggie Hassan (b) of New Hampshire, who both ran for U.S. Senate, and won, in 2016. (credit b: modification of work by Roger H. Goun)

Early in the 2016 election season, several candidates had fundraised well ahead of their opponents. Hillary Clinton, Jeb Bush, and Ted Cruz were the top fundraisers by July 2015. Clinton reported $47 million, Cruz with $14 million, and Bush with $11 million in contributions. In comparison, Bobby Jindal and George Pataki (who both dropped out relatively early) each reported less than $1 million in contributions during the same period. Bush later reported over $100 million in contributions, while the other Republican candidates continued to report lower contributions. Media stories about Bush's fundraising discussed his powerful financial networking, while coverage of the other candidates focused on their lack of money. Donald Trump, the eventual Republican nominee and president, showed a comparatively low fundraising amount in the primary phase as he enjoyed much free press coverage because of his notoriety. He also flirted with the idea of being an entirely self-funded candidate.

COMPARING PRIMARY AND GENERAL CAMPAIGNS

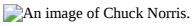
Although candidates have the same goal for primary and general elections, which is to win, these elections are very different from each other and require a very different set of strategies. Primary elections are more difficult for the voter. There are more candidates vying to become their party's nominee, and party identification is not a useful cue because each party has many candidates rather than just one. In the 2016 presidential election, Republican voters in the early primaries were presented with a number of options, including Mike Huckabee, Donald Trump, Jeb Bush, Ted Cruz, Marco Rubio, John Kasich, Chris Christie, Carly Fiorina, Ben Carson, and more. (Huckabee, Christie, and Fiorina dropped out relatively early.) Democrats had to decide between Hillary Clinton, Bernie Sanders, and Martin O'Malley (who soon dropped out). Voters must find more information about each candidate to decide which is closest to their preferred issue positions. Due to time limitations, voters may not research all the candidates. Nor will all the candidates get enough media or debate time to reach the voters. These issues make campaigning in a primary election difficult, so campaign managers tailor their strategy.

First, name recognition is extremely important. Voters are unlikely to cast a vote for an unknown. Some candidates, like Hillary Clinton and Jeb Bush, have held or are related to someone who held national office, but most candidates will be governors, senators, or local politicians who are less well-known nationally. Barack Obama was a junior senator from Illinois and Bill Clinton was a governor from Arkansas prior to running for president. Voters across the country had little information about them, and both candidates needed media time to become known. While well-known candidates have longer records that can be attacked by the opposition, they also have an easier time raising campaign funds because their odds of winning are better. Newer candidates face

the challenge of proving themselves during the short primary season and are more likely to lose. In 2016, both eventual party nominees had massive name recognition. Hillary Clinton enjoyed notoriety from having been First Lady, a U.S. senator from New York, and secretary of state. Donald Trump had name recognition from being an iconic real estate tycoon with Trump buildings all over the world plus a reality TV star via shows like *The Apprentice*. With Arnold Schwarzenegger having successfully campaigned for California governor, perhaps it should not have surprised the country when Trump was elected president.

Second, visibility is crucial when a candidate is one in a long parade of faces. Given that voters will want to find quick, useful information about each, candidates will try to get the media's attention and pick up momentum. Media attention is especially important for newer candidates. Most voters assume a candidate's website and other campaign material will be skewed, showing only the most positive information. The media, on the other hand, are generally considered more reliable and unbiased than a candidate's campaign materials, so voters turn to news networks and journalists to pick up information about the candidates' histories and issue positions. Candidates are aware of voters' preference for quick information and news and try to get interviews or news coverage for themselves. Candidates also benefit from news coverage that is longer and cheaper than campaign ads.

For all these reasons, campaign ads in primary elections rarely mention political parties and instead focus on issue positions or name recognition. Many of the best primary ads help the voters identify issue positions they have in common with the candidate. In 2008, for example, Hillary Clinton ran a holiday ad in which she was seen wrapping presents. Each present had a card with an issue position listed, such as "bring back the troops" or "universal pre-kindergarten." In a similar, more humorous vein, Mike Huckabee gained name recognition and issue placement with his 2008 primary ad. The "HuckChuck" spot had Chuck Norris repeat Huckabee's name several times while listing the candidate's issue positions. Norris's line, "Mike Huckabee wants to put the IRS out of business," was one of many statements that repeatedly used Huckabee's name, increasing voters' recognition of it (Figure). While neither of these candidates won the nomination, the ads were viewed by millions and were successful as primary ads.



In February 2008, Chuck Norris speaks at a rally for Mike Huckabee in College Station, Texas. (credit: modification of work by "ensign_beedrill"/Flickr)

By the general election, each party has only one candidate, and campaign ads must accomplish a different goal with different voters. Because most party-affiliated voters will cast a ballot for their party's candidate, the campaigns must try to reach the independent and undecided, as well as try to convince their party members to get out and vote. Some ads will focus on issue and policy positions, comparing the two main party candidates. Other ads will remind party loyalists why it is important to vote. President Lyndon B. Johnson used the infamous "Daisy Girl" ad, which cut from a little girl counting daisy petals to an atomic bomb being dropped, to explain why voters needed to turn out and vote for him. If the voters stayed home, Johnson implied, his opponent, Republican Barry Goldwater, might start an atomic war. The ad aired once as a paid ad on NBC before it was pulled, but the footage appeared on other news stations as newscasters discussed the controversy over it.

Drew Babb, "LBJ's 1964 Attack Ad 'Daisy' Leaves a Legacy for Modern Campaigns," *Washington Post*, 5 September 2014; "1964 Johnson vs. Goldwater," http://www.livingroomcandidate.org/commercials/1964 (November 9, 2015).

More recently, Mitt Romney used the economy to remind moderates and independents in 2012 that household incomes had dropped and the national debt increased. The ad's goal was to reach voters who had not already decided on a candidate and would use the economy as a primary deciding factor.

Part of the reason Johnson's campaign ad worked is that more voters turn out for a general election than for other elections. These additional voters are often less ideological and more independent, making them harder to target but possible to win over. They are also less likely to complete a lot of research on the candidates, so campaigns often try to create emotion-based negative ads. While negative ads may decrease voter turnout by making voters more cynical about politics and the election, voters watch and remember them.

Stephen Ansolabehere, Shanto Iyengar, Adam Simon, and Nicholas Valentino. 1994. "Does Attack Advertising Demobilize the Electorate?" *The American Political Science Review* 88, No. 4: 829–838.

Another source of negative ads is from groups outside the campaigns. Sometimes, shadow campaigns, run by political action committees and other organizations without the coordination or guidance of candidates, also use negative ads to reach voters. Even before the *Citizens United* decision allowed corporations and interest groups to run ads supporting candidates, shadow campaigns existed. In 2004, the Swift Boat Veterans for Truth organization ran ads attacking John Kerry's military service record, and

MoveOnattacked George W. Bush's decision to commit to the wars in Afghanistan and Iraq. In 2014, super PACs poured more than $300 million into supporting candidates.

"Super PACs," www.opensecrets.org/pacs/sup...php?cycle=2014 (November 11, 2015).

Want to know how much money federal candidates and PACs are raising? Visit the Campaign Finance Disclosure Portal at the Federal Election Commission website.

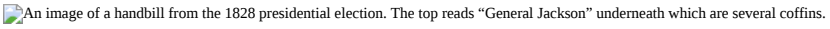
General campaigns also try to get voters to the polls in closely contested states. In 2004, realizing that it would be difficult to convince Ohio Democrats to vote Republican, George W. Bush's campaign focused on getting the state's Republican voters to the polls. The volunteers walked through precincts and knocked on Republican doors to raise interest in Bush and the election. Volunteers also called Republican and former Republican households to remind them when and where to vote.

…*So Goes the Nation*. 2006. Directed by Adam Del Deo and James D. Stern. Beverly Hills: Endgame Entertainment.

The strategy worked, and it reminded future campaigns that an organized effort to get out the vote is still a viable way to win an election.

TECHNOLOGY

Campaigns have always been expensive. Also, they have sometimes been negative and nasty. The 1828 "Coffin Handbill" that John Quincy Adams ran, for instance, listed the names and circumstances of the executions his opponent Andrew Jackson had ordered (Figure). This was in addition to gossip and verbal attacks against Jackson's wife, who had accidentally committed bigamy when she married him without a proper divorce. Campaigns and candidates have not become more amicable in the years since then.



The infamous "Coffin Handbill" used by John Quincy Adams against Andrew Jackson in the 1828 presidential election.

Once television became a fixture in homes, campaign advertising moved to the airwaves. Television allowed candidates to connect with the voters through video, allowing them to appeal directly to and connect emotionally with voters. While Adlai Stevenson and Dwight D. Eisenhower were the first to use television in their 1952 and 1956 campaigns, the ads were more like jingles with images. Stevenson's "Let's Not Forget the Farmer" ad had a catchy tune, but its animated images were not serious and contributed little to the message. The "Eisenhower Answers America" spots allowed Eisenhower to answer policy questions, but his answers were glib rather than helpful.

John Kennedy's campaign was the first to use images to show voters that the candidate was the choice for everyone. His ad, "Kennedy," combined the jingle "Kennedy for me" and photographs of a diverse population dealing with life in the United States.

The Museum of the Moving Image has collected presidential campaign ads from 1952 through today, including the "Kennedy for Me" spot mentioned above. Take a look and see how candidates have created ads to get the voters' attention and votes over time.

Over time, however, ads became more negative and manipulative. In reaction, the Bipartisan Campaign Reform Act of 2002, or McCain–Feingold, included a requirement that candidates stand by their ad and include a recorded statement within the ad stating that they approved the message. Although ads, especially those run by super PACs, continue to be negative, candidates can no longer dodge responsibility for them.

Candidates are also frequently using interviews on late night television to get messages out. Soft news, or infotainment, is a new type of news that combines entertainment and information. Shows like *The Daily Show* and *Last Week Tonight* make the news humorous or satirical while helping viewers become more educated about the events around the nation and the world.

"Public Knowledge of Current Affairs Little Changed by News and Information Revolutions," *Pew Research Center*, April 15, 2007.

In 2008, Huckabee, Obama, and McCain visited popular programs like *The Daily Show*, *The Colbert Report*, and *Late Night with Conan O'Brien* to target informed voters in the under-45 age bracket. The candidates were able to show their funny sides and appear like average Americans, while talking a bit about their policy preferences. By fall of 2015, *The Late Show with Stephen Colbert* had already interviewed most of the potential presidential candidates, including Hillary Clinton, Bernie Sanders, Jeb Bush, Ted Cruz, and Donald Trump.

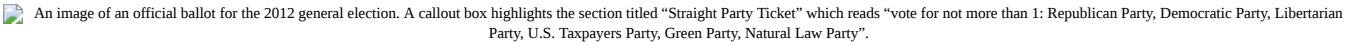
The Internet has given candidates a new platform and a new way to target voters. In the 2000 election, campaigns moved online and created websites to distribute information. They also began using search engine results to target voters with ads. In 2004, Democratic candidate Howard Dean used the Internet to reach out to potential donors. Rather than host expensive dinners to raise funds, his campaign posted footage on his website of the candidate eating a turkey sandwich. The gimmick brought over $200,000 in campaign donations and reiterated Dean's commitment to be a down-to-earth candidate. Candidates also use social media, such as Facebook, Twitter, and YouTube, to interact with supporters and get the attention of younger voters.

VOTER DECISION MAKING

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

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

Citizens also use party identification to make decisions via straight-ticket voting—choosing every Republican or Democratic Party member on the ballot. In some states, such as Texas or Michigan, selecting one box at the top of the ballot gives a single party all the votes on the ballot (Figure). Straight-ticket voting does cause problems in states that include non-partisan positions on the ballot. In Michigan, for example, the top of the ballot (presidential, gubernatorial, senatorial and representative seats) will be partisan, and a straight-ticket vote will give a vote to all the candidates in the selected party. But the middle or bottom of the ballot includes seats for local offices or judicial seats, which are non-partisan. These offices would receive no vote, because the straight-ticket votes go only to partisan seats. In 2010, actors from the former political drama *The West Wing* came together to create an advertisement for Mary McCormack's sister Bridget, who was running for a non-partisan seat on the Michigan Supreme Court. The ad reminded straight-ticket voters to cast a ballot for the court seats as well; otherwise, they would miss an important election. McCormack won the seat.



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

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

"Presidential Electors," www.sos.state.co.us/pubs/elec...president.html (July 15, 2015); "Judicial Retention–Supreme Court," www.sos.state.co.us/pubs/elec...remeCourt.html (July 15, 2015).

Voters make decisions based upon candidates' physical characteristics, such as attractiveness or facial features.

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

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

Alan Silverleib. 15 June 2008. "Analysis: Age an Issue in the 2008 Campaign?" www.cnn.com/2008/POLITICS/06/...ref=newssearch.

Hillary Clinton faced this situation again in 2016 as she became the first female nominee from a major party. In essence, attractiveness can make a candidate appear more competent, which in turn can help him or her ultimately win.

Laustsen. “Decomposing the Relationship,” 777–791.

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

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

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

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

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

Nathan Thomburgh, “Could Third-Party Candidates Be Spoilers?” *Time*, 3 November 2008.

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

Incumbents also have franking privileges, which allows them a limited amount of free mail to communicate with the voters in their district. While these mailings may not be sent in the days leading up to an election—sixty days for a senator and ninety days for a House member—congressional representatives are able to build a free relationship with voters through them.

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

Moreover, incumbents have exiting campaign organizations, while challengers must build new organizations from the ground up. Lastly, incumbents have more money in their war chests than most challengers.

Another incumbent advantage is gerrymandering, the drawing of district lines to guarantee a desired electoral outcome. Every ten years, following the U.S. Census, the number of House of Representatives members allotted to each state is determined based on a state’s population. If a state gains or loses seats in the House, the state must redraw districts to ensure each district has an equal number of citizens. States may also choose to redraw these districts at other times and for other reasons.

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

If the district is drawn to ensure that it includes a majority of Democratic or Republican Party members within its boundaries, for instance, then candidates from those parties will have an advantage.

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

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

Since 1960, the American National Election Studies has been asking a random sample of voters a battery of questions about how they voted. The data are available at the Inter-university Consortium for Political and Social Research at the University of Michigan.

Summary

Campaigns must try to convince undecided voters to vote for a candidate and get the party voters to the polls. Early money allows candidates to start a strong campaign and attract other donations. The election year starts with primary campaigns, in which multiple candidates compete for each party's nomination, and the focus is on name recognition and issue positions. General election campaigns focus on getting party members to the polls. Shadow campaigns and super PACs may run negative ads to influence voters. Modern campaigns use television to create emotions and the Internet to interact with supporters and fundraise.

Most voters will cast a ballot for the candidate from their party. Others will consider the issues a candidate supports. Some voters care about what candidates have done in the past, or what they may do in the future, while others are concerned only about their personal finances. Lastly, some citizens will be concerned with the candidate's physical characteristics. Incumbents have many advantages, including war chests, franking privileges, and gerrymandering.

Susan is currently working two part-time jobs and is frustrated about the poor economy. On Election Day, she votes for every challenger on the ballot, because she feels the president and Congress are not doing enough to help her. What type of vote did she cast?

1. retrospective
2. prospective
3. pocketbook
4. straight ticket

Which factor is most likely to lead to the incumbency advantage for a candidate?

1. candidate's socioeconomic status
2. gerrymandering of the candidate's district
3. media's support of the candidate
4. candidate's political party

In what ways is voting your party identification an informed choice? In what ways is it lazy?

Do physical characteristics matter when voters assess candidates? If so, how?

Glossary

ballot fatigue

the result when a voter stops voting for offices and initiatives at the bottom of a long ballot

incumbency advantage

the advantage held by officeholders that allows them to often win reelection

shadow campaign

a campaign run by political action committees and other organizations without the coordination of the candidate

straight-ticket voting

the practice of voting only for candidates from the same party

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10.6: Direct Democracy

Learning Objectives

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

- Identify the different forms of and reasons for direct democracy
- Summarize the steps needed to place initiatives on a ballot
- Explain why some policies are made by elected representatives and others by voters

The majority of elections in the United States are held to facilitate indirect democracy. Elections allow the people to pick representatives to serve in government and make decisions on the citizens' behalf. Representatives pass laws, implement taxes, and carry out decisions. Although direct democracy had been used in some of the colonies, the framers of the Constitution granted voters no legislative or executive powers, because they feared the masses would make poor decisions and be susceptible to whims. During the Progressive Era, however, governments began granting citizens more direct political power. States that formed and joined the United States after the Civil War often assigned their citizens some methods of directly implementing laws or removing corrupt politicians. Citizens now use these powers at the ballot to change laws and direct public policy in their states.

DIRECT DEMOCRACY DEFINED

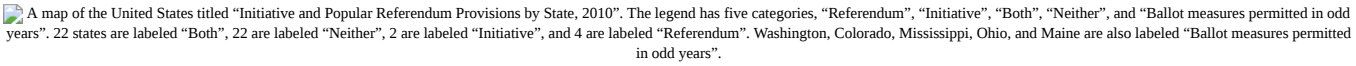
Direct democracy occurs when policy questions go directly to the voters for a decision. These decisions include funding, budgets, candidate removal, candidate approval, policy changes, and constitutional amendments. Not all states allow direct democracy, nor does the United States government.

Direct democracy takes many forms. It may occur locally or statewide. Local direct democracy allows citizens to propose and pass laws that affect local towns or counties. Towns in Massachusetts, for example, may choose to use town meetings, which is a meeting comprised of the town's eligible voters, to make decisions on budgets, salaries, and local laws.

"Citizen's Guide to Town Meetings," http://www.sec.state.ma.us/cis/cispd...n_Meetings.pdf (November 7, 2015).

To learn more about what type of direct democracy is practiced in your state, visit the University of Southern California's Initiative & Referendum Institute. This site also allows you to look up initiatives and measures that have appeared on state ballots.

Statewide direct democracy allows citizens to propose and pass laws that affect state constitutions, state budgets, and more. Most states in the western half of the country allow citizens all forms of direct democracy, while most states on the eastern and southern regions allow few or none of these forms (Figure). States that joined the United States after the Civil War are more likely to have direct democracy, possibly due to the influence of Progressives during the late 1800s and early 1900s. Progressives believed citizens should be more active in government and democracy, a hallmark of direct democracy.



This map shows which states allow citizens to place laws and amendments on the ballot for voter approval or repeal.

There are three forms of direct democracy used in the United States. A referendum asks citizens to confirm or repeal a decision made by the government. A legislative referendum occurs when a legislature passes a law or a series of constitutional amendments and presents them to the voters to ratify with a yes or no vote. A judicial appointment to a state supreme court may require voters to confirm whether the judge should remain on the bench. Popular referendums occur when citizens petition to place a referendum on a ballot to repeal legislation enacted by their state government. This form of direct democracy gives citizens a limited amount of power, but it does not allow them to overhaul policy or circumvent the government.

The most common form of direct democracy is the initiative, or proposition. An initiative is normally a law or constitutional amendment proposed and passed by the citizens of a state. Initiatives completely bypass the legislatures and governor, but they are subject to review by the state courts if they are not consistent with the state or national constitution. The process to pass an initiative is not easy and varies from state to state. Most states require that a petitioner or the organizers supporting an initiative file paperwork with the state and include the proposed text of the initiative. This allows the state or local office to determine whether the measure is legal, as well as estimate the cost of implementing it. This approval may come at the beginning of the process or

after organizers have collected signatures. The initiative may be reviewed by the state attorney general, as in Oregon's procedures, or by another state official or office. In Utah, the lieutenant governor reviews measures to ensure they are constitutional.

Next, organizers gather registered voters' signatures on a petition. The number of signatures required is often a percentage of the number of votes from a past election. In California, for example, the required numbers are 5 percent (law) and 8 percent (amendment) of the votes in the last gubernatorial election. This means through 2018, it will take 365,880 signatures to place a law on the ballot and 585,407 to place a constitutional amendment on the ballot.

"How to Qualify an Initiative," www.sos.ca.gov/elections/ball...fy-initiative/ (November 13, 2015).

Once the petition has enough signatures from registered voters, it is approved by a state agency or the secretary of state for placement on the ballot. Signatures are verified by the state or a county elections office to ensure the signatures are valid. If the petition is approved, the initiative is then placed on the next ballot, and the organization campaigns to voters.

While the process is relatively clear, each step can take a lot of time and effort. First, most states place a time limit on the signature collection period. Organizations may have only 150 days to collect signatures, as in California, or as long as two years, as in Arizona. For larger states, the time limit may pose a dilemma if the organization is trying to collect more than 500,000 signatures from registered voters. Second, the state may limit who may circulate the petition and collect signatures. Some states, like Colorado, restrict what a signature collector may earn, while Oregon bans payments to signature-collecting groups. And the minimum number of signatures required affects the number of ballot measures. Arizona had more than sixty ballot measures on the 2000 general election ballot, because the state requires so few signatures to get an initiative on the ballot. Oklahomans see far fewer ballot measures because the number of required signatures is higher.

Another consideration is that, as we've seen, voters in primaries are more ideological and more likely to research the issues. Measures that are complex or require a lot of research, such as a lend-lease bond or changes in the state's eminent-domain language, may do better on a primary ballot. Measures that deal with social policy, such as laws preventing animal cruelty, may do better on a general election ballot, when more of the general population comes out to vote. Proponents for the amendments or laws will take this into consideration as they plan.

Finally, the recall is one of the more unusual forms of direct democracy; it allows voters to decide whether to remove a government official from office. All states have ways to remove officials, but removal by voters is less common. The recall of California Governor Gray Davis in 2003 and his replacement by Arnold Schwarzenegger is perhaps one of the more famous such recalls. The recent attempt by voters in Wisconsin to recall Governor Scott Walker show how contentious and expensive a recall can be. Walker spent over $60 million in the election to retain his seat.

David A. Fahrenthold and Rachel Weiner, "Gov. Walker Survives Recall in Wisconsin," *Washington* Post, 5 June 2012.

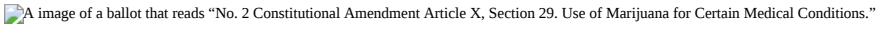
POLICYMAKING THROUGH DIRECT DEMOCRACY

Politicians are often unwilling to wade into highly political waters if they fear it will harm their chances for reelection. When a legislature refuses to act or change current policy, initiatives allow citizens to take part in the policy process and end the impasse. In Colorado, Amendment 64 allowed the recreational use of marijuana by adults, despite concerns that state law would then conflict with national law. Colorado and Washington's legalization of recreational marijuana use started a trend, leading to more states adopting similar laws.

TOO MUCH DEMOCRACY?

How much direct democracy is too much? When citizens want one policy direction and government prefers another, who should prevail?

Consider recent laws and decisions about marijuana. California was the first state to allow the use of medical marijuana, after the passage of Proposition 215 in 1996. Just a few years later, however, in *Gonzales v. Raich*(2005), the Supreme Court ruled that the U.S. government had the authority to criminalize the use of marijuana. In 2009, Attorney General Eric Holder said the federal government would not seek to prosecute patients using marijuana medically, citing limited resources and other priorities. Perhaps emboldened by the national government's stance, Colorado voters approved recreational marijuana use in 2012. Since then, other states have followed. Twenty-three states and the District of Columbia now have laws in place that legalize the use of marijuana to varying degrees. In a number of these cases, the decision was made by voters through initiatives and direct democracy (Figure).



Caption: In 2014, Florida voters considered a proposed amendment to the Florida constitution that would allow doctors to recommend the use of marijuana for patient use. The ballot initiative received 58 percent of the vote, just short of the 60 percent required to pass in Florida.

So where is the problem? First, while citizens of these states believe smoking or consuming marijuana should be legal, the U.S. government does not. The Controlled Substances Act (CSA), passed by Congress in 1970, declares marijuana a dangerous drug and makes its sale a prosecutable act. And despite Holder’s statement, a 2013 memo by James Cole, the deputy attorney general, reminded states that marijuana use is still illegal.

James M. Cole, “Memorandum for All United States Attorneys,” *U.S. Department of Justice*, August 29, 2013, www.justice.gov/iso/opa/resou...2756857467.pdf.

But the federal government cannot enforce the CSA on its own; it relies on the states’ help. And while Congress has decided not to prosecute patients using marijuana for medical reasons, it has not waived the Justice Department’s right to prosecute recreational use.

“State Medical Marijuana Laws,” http://www.ncsl.org/research/health/...na-laws.aspx#2 (July 20, 2015).

Direct democracy has placed the states and its citizens in an interesting position. States have a legal obligation to enforce state laws and the state constitution, yet they also must follow the laws of the United States. Citizens who use marijuana legally in their state are not using it legally in their country. This leads many to question whether direct democracy gives citizens too much power.

Is it a good idea to give citizens the power to pass laws? Or should this power be subjected to checks and balances, as legislative bills are? Why or why not?

Direct democracy has drawbacks, however. One is that it requires more of voters. Instead of voting based on party, the voter is expected to read and become informed to make smart decisions. Initiatives can fundamentally change a constitution or raise taxes. Recalls remove politicians from office. These are not small decisions. Most citizens, however, do not have the time to perform a lot of research before voting. Given the high number of measures on some ballots, this may explain why many citizens simply skip ballot measures they do not understand. Direct democracy ballot items regularly earn fewer votes than the choice of a governor or president.

When citizens rely on television ads, initiative titles, or advice from others in determining how to vote, they can become confused and make the wrong decisions. In 2008, Californians voted on Proposition 8, titled “Eliminates Rights of Same-Sex Couples to Marry.” A yes vote meant a voter wanted to define marriage as only between a woman and man. Even though the information was clear and the law was one of the shortest in memory, many voters were confused. Some thought of the amendment as the same-sex marriage amendment. In short, some people voted *for* the initiative because they thought they were voting *for* same-sex marriage. Others voted against it because they were against same-sex marriage.

Jessica Garrison, “Prop. 8 Leaves Some Voters Puzzled,” *Los Angeles Times*, 31 October 2008.

Direct democracy also opens the door to special interests funding personal projects. Any group can create an organization to spearhead an initiative or referendum. And because the cost of collecting signatures can be high in many states, signature collection may be backed by interest groups or wealthy individuals wishing to use the initiative to pass pet projects. The 2003 recall of California governor Gray Davis faced difficulties during the signature collection phase, but $2 million in donations by Representative Darrell Issa (R-CA) helped the organization attain nearly one million signatures.

Mark Barabak, “10 memorable moments from the recall of Gov. Gray Davis, 10 years later,” *Los Angeles Times*, www.latimes.com/nation/la-me-...togallery.html (August 1, 2015).

Many commentators argued that this example showed direct democracy is not always a process by the people, but rather a process used by the wealthy and business.

Summary

Direct democracy allows the voters in a state to write laws, amend constitutions, remove politicians from office, and approve decisions made by government. Initiatives are laws or constitutional amendments on the ballot. Referendums ask voters to approve a decision by the government. The process for ballot measures requires the collection of signatures from voters, approval of the

measure by state government, and a ballot election. Recalls allow citizens to remove politicians from office. While direct democracy does give citizens a say in the policies and laws of their state, it can also be used by businesses and the wealthy to pass policy goals. Initiatives can also lead to bad policy if voters do not research the measure or misunderstand the law.

Which of the following is *not* a step in the initiative process?

1. approval of initiative petition by state or local government
2. collection of signatures
3. state-wide vote during a ballot election
4. signature or veto by state governor

A referendum is not purely direct democracy because the _____.

1. voters propose something but the governor approves it
2. voters propose and approve something but the legislature also approves it
3. government proposes something and the voters approve it
4. government proposes something and the legislature approves it

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What problems would a voter face when trying to pass an initiative or recall?

Why do some argue that direct democracy is simply a way for the wealthy and businesses to get their own policies passed?

What factors determine whether people turn out to vote in U.S. elections?

What can be done to increase voter turnout in the United States?

In what ways do primary elections contribute to the rise of partisanship in U.S. politics?

How does social media affect elections and campaigns? Is this a positive trend? Why or why not?

Should states continue to allow ballot initiatives and other forms of direct democracy? Why or why not?

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Glossary

initiative

law or constitutional amendment proposed and passed by the voters and subject to review by the state courts; also called a proposition

recall

the removal of a politician or government official by the voters

referendum

a yes or no vote by citizens on a law or candidate proposed by the state government

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CHAPTER OVERVIEW

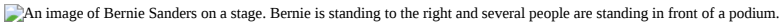
11: The Media

Topic hierarchy

11.1: Introduction
11.2: What is the Media?
11.3: The Evolution of the Media
11.4: Regulating the Media
11.5: The Impact of the Media
11.6: Section 6:

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11.1: Introduction



On August 8, 2015, activists for Black Lives Matter in Seattle commandeered presidential candidate Bernie Sanders' campaign rally in an effort to get their message out. (credit: modification of work by Tiffany Von Arnim)

Democratic primary candidate Bernie Sanders arrived in Seattle on August 8, 2015, to give a speech at a rally to promote his presidential campaign. Instead, the rally was interrupted—and eventually co-opted—by activists for Black Lives Matter (Figure).

Dan Merica, "Black Lives Matter Protesters Shut Down Sanders Event in Seattle," *CNN*, 10 August 2015.

Why did the group risk alienating Democratic voters by preventing Sanders from speaking? Because Black Lives Matter had been trying to raise awareness of the treatment of black citizens in the United States, and the media has the power to elevate such issues.

blacklivesmatter.com/about/ (August 29, 2015).

While some questioned its tactics, the organization's move underscores how important the media are to gaining recognition, and the lengths to which organizations are willing to go to get media attention.

Conor Friedersdorf, "A Conversation about Black Lives Matter and Bernie Sanders," *The Atlantic*, 21 August 2015.

Freedom of the press and an independent media are important dimensions of a liberal society and a necessary part of a healthy democracy. "No government ought to be without censors," said Thomas Jefferson, "and where the press is free, no one ever will."

Anthony R. Fellow. 2013. *American Media History*. Boston: Cengage, page 67.

What does it mean to have a free news media? What regulations limit what media can do? How do the media contribute to informing citizens and monitoring politicians and the government, and how do we measure their impact? This chapter explores these and other questions about the role of the media in the United States.

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11.2: What is the Media?

Learning Objectives

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

- Explain what the media are and how they are organized
- Describe the main functions of the media in a free society
- Compare different media formats and their respective audiences

Ours is an exploding media system. What started as print journalism was subsequently supplemented by radio coverage, then network television, followed by cable television. Now, with the addition of the Internet, blogs and social media—a set of applications or web platforms that allow users to immediately communicate with one another—give citizens a wide variety of sources for instant news of all kinds. The Internet also allows citizens to initiate public discussion by uploading images and video for viewing, such as videos documenting interactions between citizens and the police, for example. Provided we are connected digitally, we have a bewildering amount of choices for finding information about the world. In fact, some might say that compared to the tranquil days of the 1970s, when we might read the morning newspaper over breakfast and take in the network news at night, there are now too many choices in today's increasingly complex world of information. This reality may make the news media all the more important to structuring and shaping narratives about U.S. politics. Or the proliferation of competing information sources like blogs and social media may actually weaken the power of the news media relative to the days when news media monopolized our attention.

MEDIA BASICS

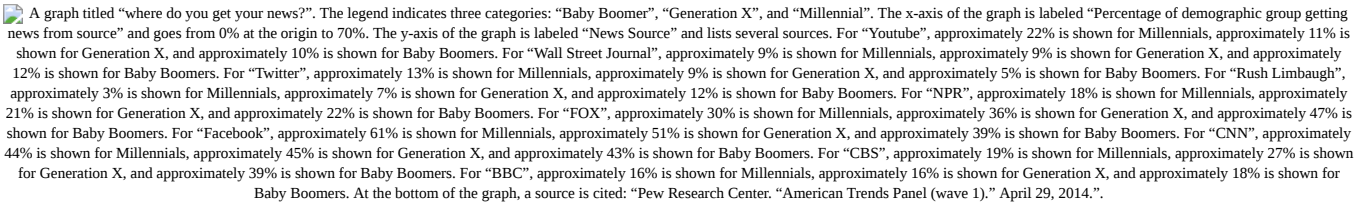
The term *media* defines a number of different communication formats from television media, which share information through broadcast airwaves, to print media, which rely on printed documents. The collection of all forms of media that communicate information to the general public is called mass media,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

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

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

MEDIA TYPES

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



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

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

Before the existence of cable and fiber optics, networks needed to own local affiliates to have access to the local station’s transmission towers. Towers have a limited radius, so each network needed an affiliate in each major city to reach viewers. While cable technology has lessened networks’ dependence on aerial signals, some viewers still use antennas and receivers to view programming broadcast from local towers.

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

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

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

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

Cable programming offers national networks a second method to directly reach local viewers. As the name implies, cable stations transmit programming directly to a local cable company hub, which then sends the signals to homes through coaxial or fiber optic cables. Because cable does not broadcast programming through the airwaves, cable networks can operate across the nation directly without local affiliates. Instead they purchase broadcasting rights for the cable stations they believe their viewers want. For this reason, cable networks often specialize in different types of programming.

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

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

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

The on-demand nature of the Internet has created many opportunities for news outlets. While early media providers were those who could pay the high cost of printing or broadcasting, modern media require just a URL and ample server space. The ease of online publication has made it possible for more niche media outlets to form. The websites of the *New York Times*and other newspapers often focus on matters affecting the United States, while channels like BBC America present world news. FOX News presents political commentary and news in a conservative vein, while the Internet site Daily Kos offers a liberal perspective on the news. Politico.com is perhaps the leader in niche journalism.

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

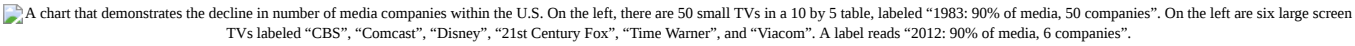
The Internet also facilitates the flow of information through social media, which allows users to instantly communicate with one another and share with audiences that can grow exponentially. Facebook and Twitter have millions of daily users. Social media changes more rapidly than the other media formats.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

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

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

Vanna Le, “Global 2000: The World’s Largest Media Companies of 2014,” *Forbes*, 7 May 2014.

The Walt Disney Company, for example, owns the ABC Television Network, ESPN, A&E, and Lifetime, in addition to the Disney Channel. Viacom owns BET, Comedy Central, MTV, Nickelodeon, and VH1. Time Warner owns Cartoon Network, CNN, HBO, and TNT, among others. While each of these networks has its own programming, in the end, the conglomerate can make a policy that affects all stations and programming under its control.



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

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

Stephanie Hayes, “Clear Channel Rejects St. Pete Pride Billboards, Organizers Say,” *Tampa Bay Times*, 11 June 2010.

Newspapers too have experienced the pattern of concentrated ownership. Gannett Company, while also owning television media, holds a large number of newspapers and news magazines in its control. Many of these were acquired quietly, without public notice or discussion. Gannett’s 2013 acquisition of publishing giant A.H. Belo Corporation caused some concern and news coverage, however. The sale would have allowed Gannett to own both an NBC and a CBS affiliate in St. Louis, Missouri, giving it control

over programming and advertising rates for two competing stations. The U.S. Department of Justice required Gannett to sell the station owned by Belo to ensure market competition and multi-ownership in St. Louis.

Meg James, "DOJ Clears Gannett-Belo Deal but Demands Sale of St. Louis TV Station," *Los Angeles Times*, 16 December 2013.

If you are concerned about the lack of variety in the media and the market dominance of media conglomerates, the non-profit organization, Free Press, tracks and promotes open communication.

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

FUNCTIONS OF THE MEDIA

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

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

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

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

Suzanne Ranks, "Ethiopian Famine: How Landmark BBC Report Influenced Modern Coverage," *Guardian*, 22 October 2014.

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

Hisham Aidi, "Haitians in the Dominican Republic in Legal Limbo," *Al Jazeera*, 10 April 2015.

With major network coverage came public pressure for the U.S. government to act on behalf of the Haitians.

"Pressure the Government of the Dominican Republic to Stop its Planned 'Cleaning' of 250,000 Black Dominicans," petitions.whitehouse.gov/pet...ack-dominicans (November 26, 2015); Led Black, "Prevent Humanitarian Tragedy in Dominican Republic," *CNN*, 23 June 2015.

CHRISTIANE AMANPOUR ON "WHAT SHOULD BE NEWS?"

The media are our connection to the world. Some events are too big to ignore, yet other events, such as the destruction of Middle Eastern monuments or the plight of foreign refugees, are far enough from our shores that they often go unnoticed. What we see is carefully selected, but who decides what should be news?

As the chief international correspondent for CNN, Christiane Amanpour is one media decision maker (Figure). Over the years, Amanpour has covered events around the world from war to genocide. In an interview with Oprah Winfrey, Amanpour explains that her duty, and that of other journalists, is to make a difference in the world. To do that, "we have to educate people and use the media responsibly."

"Oprah Talks to Christiane Amanpour," *O, Oprah Magazine*, September 2005. Unless otherwise noted, all quotations in this feature box are from this article.

Journalists cannot passively sit by and wait for stories to find them. "Words have consequences: the stories we decide to do, the stories we decide not to do . . . it all matters."

"How Christiane Amanpour Stumbled Into a Career in TV News," *TVNewser*, 10 February 2016.



Christiane Amanpour accepts the award for the Association for International Broadcasting's Personality of the Year on November 4, 2015. (credit: AIB (Association for International Broadcasting))

As Amanpour points out, journalists are often "on the cutting edge of reform," so if they fail to shed light on events, the results can be tragic. One of her biggest regrets was not covering the genocide in Rwanda in 1994, which cost nearly a million lives. She said the media ignored the event in favor of covering democratic elections in South Africa and a war in Bosnia, and ultimately she believes the media failed the people. "If we don't respect our profession and we see it frittering away into the realm of triviality and sensationalism, we'll lose our standing," she said. "That won't be good for democracy. A thriving society must have a thriving press."

This feeling of responsibility extends to covering moral topics, like genocide. Amanpour feels there shouldn't be equal time given to all sides. "I'm not just a stenographer or someone with a megaphone; when I report, I have to do it in context, to be aware of the moral conundrum. . . . I have to be able to draw a line between victim and aggressor."

Amanpour also believes the media should cover more. When given the full background and details of events, society pays attention to the news. "Individual Americans had an incredible reaction to the [2004 Indian Ocean] tsunami—much faster than their government's reaction," she said. "Americans are a very moral and compassionate people who believe in extending a helping hand, especially when they get the full facts instead of one-minute clips." If the news fulfills its responsibility, as she sees it, the world can show its compassion and help promote freedom.

Why does Amanpour believe the press has a responsibility to report all that they see? Are there situations in which it is acceptable to display partiality in reporting the news? Why or why not?

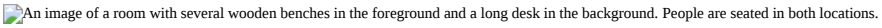
Before the Internet, traditional media determined whether citizen photographs or video footage would become "news." In 1991, a private citizen's camcorder footage showed four police officers beating an African American motorist named Rodney King in Los Angeles. After appearing on local independent television station, KTLA-TV, and then the national news, the event began a national discussion on police brutality and ignited riots in Los Angeles.

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

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

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

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



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

Want a snapshot of local and state political and policy news? The magazine *Governing* keeps an eye on what is happening in each state, offering articles and analysis on events that occur across the country.

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

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

"Walter Cronkite's 'We Are Mired in Stalemate' Broadcast, February 27, 1968" *Digital History*, http://www.digitalhistory.uh.edu/act...m/cronkite.cfm (November 29, 2015).

His coverage was based on opinion after viewing the war from the ground.

Joel Achenbach, "Cronkite and Vietnam," *Washington Post*, 18 May 2012.

Although the number of people supporting the war had dwindled by this time, Cronkite's commentary bolstered opposition. Like editorials, commentaries contain opinion and are often written by specialists in a field. Larry Sabato, a prominent political science professor at the University of Virginia, occasionally writes his thoughts for the *New York Times*. These pieces are based on his expertise in politics and elections.

Larry Sabato, "Our Leaders, Surprise, Have Strong Views," *New York Times*, 23 February 2009.

Blogs offer more personalized coverage, addressing specific concerns and perspectives for a limited group of readers. Nate Silver's blog, *FiveThirtyEight*, focuses on elections and politics.

Summary

The media encompass all communications that transmit facts or information to citizens and includes the mass media in print and on the radio, television, and Internet. Television takes many forms, such as local, network, cable, or satellite. Historically, programming was transmitted from networks to local stations and broadcast via the airwaves, while fiber-optic cables now allow for national programming to transmit directly. Technological advances allow on-demand and streaming access for programming, leading to changes in advertising and scheduling practices. Conglomerates are large media corporations that own many stations and other companies; therefore, they can create a monopoly and decrease the flow of information to the public. The media serves to entertain the public, watch for corruption, set the national agenda, and promote the public good. In each of these roles, the media informs the public about what is happening and signals when citizens should act.

A local station that broadcasts national network programming is called a(an) _____ station.

1. affiliate
2. cable
3. digital
4. network

Cable programming is often _____.

1. local
2. national
3. network
4. sports

A conglomerate is a corporation that _____.

1. owns all television news stations in a state
2. owns many businesses and media networks
3. owns only radio stations
4. owns only televisions and newspapers

___

When acting as an agenda setter, the media _____.

1. decides which issues deserve public attention
2. covers presidential campaigns equally
3. reports on corruption in government
4. brings in advertising revenue for the media corporation

How can conglomerates censor information?

___

In what ways is media responsible for promoting the public good?

Why is social media an effective way to spread news and information?

___

Glossary

agenda setting
the media's ability to choose which issues or topics get attention

mass media
the collection of all media forms that communicate information to the general public

public relations
biased communication intended to improve the image of people, companies, or organizations

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11.3: The Evolution of the Media

Learning Objectives

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

- Discuss the history of major media formats
- Compare important changes in media types over time
- Explain how citizens learn political information from the media

The evolution of the media has been fraught with concerns and problems. Accusations of mind control, bias, and poor quality have been thrown at the media on a regular basis. Yet the growth of communications technology allows people today to find more information more easily than any previous generation. Mass media can be print, radio, television, or Internet news. They can be local, national, or international. They can be broad or limited in their focus. The choices are tremendous.

PRINT MEDIA

Early news was presented to local populations through the print press. While several colonies had printers and occasional newspapers, high literacy rates combined with the desire for self-government made Boston a perfect location for the creation of a newspaper, and the first continuous press was started there in 1704.

Fellow. *American Media History*.

Newspapers spread information about local events and activities. The Stamp Tax of 1765 raised costs for publishers, however, leading several newspapers to fold under the increased cost of paper. The repeal of the Stamp Tax in 1766 quieted concerns for a short while, but editors and writers soon began questioning the right of the British to rule over the colonies. Newspapers took part in the effort to inform citizens of British misdeeds and incite attempts to revolt. Readership across the colonies increased to nearly forty thousand homes (among a total population of two million), and daily papers sprang up in large cities.

"Population in the Colonial and Continental Periods," www2.census.gov/prod2/decenni...165897ch01.pdf (November 18, 2015); Fellow. *American Media History*.

Although newspapers united for a common cause during the Revolutionary War, the divisions that occurred during the Constitutional Convention and the United States' early history created a change. The publication of the *Federalist Papers*, as well as the Anti-Federalist Papers, in the 1780s, moved the nation into the party press era, in which partisanship and political party loyalty dominated the choice of editorial content. One reason was cost. Subscriptions and advertisements did not fully cover printing costs, and political parties stepped in to support presses that aided the parties and their policies. Papers began printing party propaganda and messages, even publicly attacking political leaders like George Washington. Despite the antagonism of the press, Washington and several other founders felt that freedom of the press was important for creating an informed electorate. Indeed, freedom of the press is enshrined in the Bill of Rights in the first amendment.

Between 1830 and 1860, machines and manufacturing made the production of newspapers faster and less expensive. Benjamin Day's paper, the *New York Sun*, used technology like the linotype machine to mass-produce papers (Figure). Roads and waterways were expanded, decreasing the costs of distributing printed materials to subscribers. New newspapers popped up. The popular penny press papers and magazines contained more gossip than news, but they were affordable at a penny per issue. Over time, papers expanded their coverage to include racing, weather, and educational materials. By 1841, some news reporters considered themselves responsible for upholding high journalistic standards, and under the editor (and politician) Horace Greeley, the *New-York Tribune* became a nationally respected newspaper. By the end of the Civil War, more journalists and newspapers were aiming to meet professional standards of accuracy and impartiality.

Fellow. *American Media History*.



Benjamin Day (a) founded the first U.S. penny press, *The Sun*, in 1833. *The Sun*, whose front page from November 26, 1834, is shown above (b), was a morning newspaper published in New York from 1833 to 1950.

Yet readers still wanted to be entertained. Joseph Pulitzer and the *New York World* gave them what they wanted. The tabloid-style paper included editorial pages, cartoons, and pictures, while the front-page news was sensational and scandalous. This style of

coverage became known as yellow journalism. Ads sold quickly thanks to the paper's popularity, and the Sunday edition became a regular feature of the newspaper. As the *New York World's* circulation increased, other papers copied Pulitzer's style in an effort to sell papers. Competition between newspapers led to increasingly sensationalized covers and crude issues.

In 1896, Adolph Ochs purchased the *New York Times* with the goal of creating a dignified newspaper that would provide readers with important news about the economy, politics, and the world rather than gossip and comics. The *New York Times* brought back the informational model, which exhibits impartiality and accuracy and promotes transparency in government and politics. With the arrival of the Progressive Era, the media began muckraking: the writing and publishing of news coverage that exposed corrupt business and government practices. Investigative work like Upton Sinclair's serialized novel *The Jungle* led to changes in the way industrial workers were treated and local political machines were run. The Pure Food and Drug Act and other laws were passed to protect consumers and employees from unsafe food processing practices. Local and state government officials who participated in bribery and corruption became the centerpieces of exposés.

Some muckraking journalism still appears today, and the quicker movement of information through the system would seem to suggest an environment for yet more investigative work and the punch of exposés than in the past. However, at the same time there are fewer journalists being hired than there used to be. The scarcity of journalists and the lack of time to dig for details in a 24-hour, profit-oriented news model make investigative stories rare.

Lars Willnat and David H. Weaver. 2014. *The American Journalist in the Digital Age: Key Findings*. Bloomington, IN: School of Journalism, Indiana University.

There are two potential concerns about the decline of investigative journalism in the digital age. First, one potential shortcoming is that the quality of news content will become uneven in depth and quality, which could lead to a less informed citizenry. Second, if investigative journalism in its systematic form declines, then the cases of wrongdoing that are the objects of such investigations would have a greater chance of going on undetected.

In the twenty-first century, newspapers have struggled to stay financially stable. Print media earned $44.9 billion from ads in 2003, but only $16.4 billion from ads in 2014.

Michael Barthel. 29 April 2015. "Newspapers: Factsheet," www.journalism.org/2015/04/29...rs-fact-sheet/.

Given the countless alternate forms of news, many of which are free, newspaper subscriptions have fallen. Advertising and especially classified ad revenue dipped. Many newspapers now maintain both a print and an Internet presence in order to compete for readers. The rise of free news blogs, such as the *Huffington Post*, have made it difficult for newspapers to force readers to purchase online subscriptions to access material they place behind a digital paywall. Some local newspapers, in an effort to stay visible and profitable, have turned to social media, like Facebook and Twitter. Stories can be posted and retweeted, allowing readers to comment and forward material.

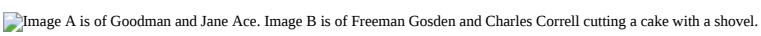
"Facebook and Twitter—New but Limited Parts of the Local News System," *Pew Research Center*, 5 March 2015.

Yet, overall, newspapers have adapted, becoming leaner—though less thorough and investigative—versions of their earlier selves.

RADIO

Radio news made its appearance in the 1920s. The National Broadcasting Company (NBC) and the Columbia Broadcasting System (CBS) began running sponsored news programs and radio dramas. Comedy programs, such as *Amos 'n' Andy*, *The Adventures of Gracie*, and *Easy Aces*, also became popular during the 1930s, as listeners were trying to find humor during the Depression (Figure). Talk shows, religious shows, and educational programs followed, and by the late 1930s, game shows and quiz shows were added to the airwaves. Almost 83 percent of households had a radio by 1940, and most tuned in regularly.

"1940 Census," www.census.gov/1940census (September 6, 2015).



The "golden age of radio" included comedy shows like *Easy Aces*, starring Goodman and Jane Ace (a), and *Amos 'n' Andy*, starring Freeman Gosden and Charles Correll, shown here celebrating their program's tenth anniversary in 1938 (b). These programs helped amuse families during the dark years of the Depression.

Not just something to be enjoyed by those in the city, the proliferation of the radio brought communications to rural America as well. News and entertainment programs were also targeted to rural communities. WLS in Chicago provided the *National Farm and*

*Home Hour*and the *WLS Barn Dance*. WSM in Nashville began to broadcast the live music show called the *Grand Ole Opry*, which is still broadcast every week and is the longest live broadcast radio show in U.S. history.

Steve Craig. 2009. *Out of the Dark: A History of Radio and Rural America*. Tuscaloosa, AL: University of Alabama Press.

As radio listenership grew, politicians realized that the medium offered a way to reach the public in a personal manner. Warren Harding was the first president to regularly give speeches over the radio. President Herbert Hoover used radio as well, mainly to announce government programs on aid and unemployment relief.

"Herbert Hoover: Radio Address to the Nation on Unemployment Relief," *The American Presidency Project*, 18 October 1931, www.presidency.ucsb.edu/ws/?pid=22855.

Yet it was Franklin D. Roosevelt who became famous for harnessing the political power of radio. On entering office in March 1933, President Roosevelt needed to quiet public fears about the economy and prevent people from removing their money from the banks. He delivered his first radio speech eight days after assuming the presidency:

""My friends: I want to talk for a few minutes with the people of the United States about banking—to talk with the comparatively few who understand the mechanics of banking, but more particularly with the overwhelming majority of you who use banks for the making of deposits and the drawing of checks. I want to tell you what has been done in the last few days, and why it was done, and what the next steps are going to be.""

""Franklin Delano Roosevelt: First Fireside Chat," www.americanrhetoric.com/spee...esidechat.html (August 20, 2015)."

Roosevelt spoke directly to the people and addressed them as equals. One listener described the chats as soothing, with the president acting like a father, sitting in the room with the family, cutting through the political nonsense and describing what help he needed from each family member.

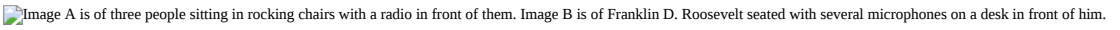
"The Fireside Chats," https://www.history.com/topics/fireside-chats (November 20, 2015); Fellow. *American Media History*, 256.

Roosevelt would sit down and explain his ideas and actions directly to the people on a regular basis, confident that he could convince voters of their value.

"FDR: A Voice of Hope," http://www.history.com/topics/fireside-chats (September 10, 2015).

His speeches became known as "fireside chats" and formed an important way for him to promote his New Deal agenda (Figure). Roosevelt's combination of persuasive rhetoric and the media allowed him to expand both the government and the presidency beyond their traditional roles.

Mary E. Stuckey. 2012. "FDR, the Rhetoric of Vision, and the Creation of a National Synoptic State." *Quarterly Journal of Speech* 98, No. 3: 297–319.



As radio listenership became widespread in the 1930s (a), President Franklin D. Roosevelt took advantage of this new medium to broadcast his "fireside chats" and bring ordinary Americans into the president's world (b). (credit a: modification of work by George W. Ackerman; credit b: modification of work by the Library of Congress)

During this time, print news still controlled much of the information flowing to the public. Radio news programs were limited in scope and number. But in the 1940s the German annexation of Austria, conflict in Europe, and World War II changed radio news forever. The need and desire for frequent news updates about the constantly evolving war made newspapers, with their once-a-day printing, too slow. People wanted to know what was happening, and they wanted to know immediately. Although initially reluctant to be on the air, reporter Edward R. Murrowof CBS began reporting live about Germany's actions from his posts in Europe. His reporting contained news and some commentary, and even live coverage during Germany's aerial bombing of London. To protect covert military operations during the war, the White House had placed guidelines on the reporting of classified information, making a legal exception to the First Amendment's protection against government involvement in the press. Newscasters voluntarily agreed to suppress information, such as about the development of the atomic bomb and movements of the military, until after the events had occurred.

Fellow. *American Media History*.

The number of professional and amateur radio stations grew quickly. Initially, the government exerted little legislative control over the industry. Stations chose their own broadcasting locations, signal strengths, and frequencies, which sometimes overlapped with

one another or with the military, leading to tuning problems for listeners. The Radio Act (1927) created the Federal Radio Commission (FRC), which made the first effort to set standards, frequencies, and license stations. The Commission was under heavy pressure from Congress, however, and had little authority. The Communications Act of 1934 ended the FRC and created the Federal Communications Commission (FCC), which continued to work with radio stations to assign frequencies and set national standards, as well as oversee other forms of broadcasting and telephones. The FCC regulates interstate communications to this day. For example, it prohibits the use of certain profane words during certain hours on public airwaves.

Prior to WWII, radio frequencies were broadcast using amplitude modulation (AM). After WWII, frequency modulation (FM) broadcasting, with its wider signal bandwidth, provided clear sound with less static and became popular with stations wanting to broadcast speeches or music with high-quality sound. While radio's importance for distributing news waned with the increase in television usage, it remained popular for listening to music, educational talk shows, and sports broadcasting. Talk stations began to gain ground in the 1980s on both AM and FM frequencies, restoring radio's importance in politics. By the 1990s, talk shows had gone national, showcasing broadcasters like Rush Limbaugh and Don Imus.

In 1990, Sirius Satellite Radio began a campaign for FCC approval of satellite radio. The idea was to broadcast digital programming from satellites in orbit, eliminating the need for local towers. By 2001, two satellite stations had been approved for broadcasting. Satellite radio has greatly increased programming with many specialized offerings, such as channels dedicated to particular artists. It is generally subscription-based and offers a larger area of coverage, even to remote areas such as deserts and oceans. Satellite programming is also exempt from many of the FCC regulations that govern regular radio stations. Howard Stern, for example, was fined more than $2 million while on public airwaves, mainly for his sexually explicit discussions.

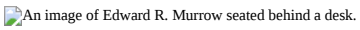
Sheila Marikar, "Howard Stern's Five Most Outrageous Offenses," *ABC News*, 14 May 2012.

Stern moved to Sirius Satellite in 2006 and has since been free of oversight and fines.

TELEVISION

Television combined the best attributes of radio and pictures and changed media forever. The first official broadcast in the United States was President Franklin Roosevelt's speech at the opening of the 1939 World's Fair in New York. The public did not immediately begin buying televisions, but coverage of World War II changed their minds. CBS reported on war events and included pictures and maps that enhanced the news for viewers. By the 1950s, the price of television sets had dropped, more televisions stations were being created, and advertisers were buying up spots.

As on the radio, quiz shows and games dominated the television airwaves. But when Edward R. Murrow made the move to television in 1951 with his news show *See It Now*, television journalism gained its foothold (Figure). As television programming expanded, more channels were added. Networks such as ABC, CBS, and NBC began nightly newscasts, and local stations and affiliates followed suit.



Edward R. Murrow's move to television increased the visibility of network news. In *The Challenge of Ideas* (1961) pictured above, Murrow discussed the Cold War between the Soviet Union and the United States alongside films stars such as John Wayne.

Even more than radio, television allows politicians to reach out and connect with citizens and voters in deeper ways. Before television, few voters were able to see a president or candidate speak or answer questions in an interview. Now everyone can decode body language and tone to decide whether candidates or politicians are sincere. Presidents can directly convey their anger, sorrow, or optimism during addresses.

The first television advertisements, run by presidential candidates Dwight D. Eisenhower and Adlai Stevenson in the early 1950s, were mainly radio jingles with animation or short question-and-answer sessions. In 1960, John F. Kennedy's campaign used a Hollywood-style approach to promote his image as young and vibrant. The Kennedy campaign ran interesting and engaging ads, featuring Kennedy, his wife Jacqueline, and everyday citizens who supported him.

Television was also useful to combat scandals and accusations of impropriety. Republican vice presidential candidate Richard Nixon used a televised speech in 1952 to address accusations that he had taken money from a political campaign fund illegally. Nixon laid out his finances, investments, and debts and ended by saying that the only election gift the family had received was a cocker spaniel the children named Checkers.

Lee Huebner, "The Checkers Speech after 60 Years," *The Atlantic*, 22 September 2012.

The “Checkers speech” was remembered more for humanizing Nixon than for proving he had not taken money from the campaign account. Yet it was enough to quiet accusations. Democratic vice presidential nominee Geraldine Ferraro similarly used television to answer accusations in 1984, holding a televised press conference to answer questions for over two hours about her husband’s business dealings and tax returns.

Joel K. Goldstein, “Mondale-Ferraro: Changing History,” *Huffington Post*, 27 March 2011.

In addition to television ads, the 1960 election also featured the first televised presidential debate. By that time most households had a television. Kennedy’s careful grooming and practiced body language allowed viewers to focus on his presidential demeanor. His opponent, Richard Nixon, was still recovering from a severe case of the flu. While Nixon’s substantive answers and debate skills made a favorable impression on radio listeners, viewers’ reaction to his sweaty appearance and obvious discomfort demonstrated that live television had the potential to make or break a candidate.

Shanto Iyengar. 2016. *Media Politics: A Citizen’s Guide*, 3rd ed. New York: W.W. Norton.

In 1964, Lyndon B. Johnson was ahead in the polls, and he let Barry Goldwater’s campaign know he did not want to debate.

Bob Greene, “When Candidates said ‘No’ to Debates,” *CNN*, 1 October 2012.

Nixon, who ran for president again in 1968 and 1972, declined to debate. Then in 1976, President Gerald Ford, who was behind in the polls, invited Jimmy Carter to debate, and televised debates became a regular part of future presidential campaigns.

“The Ford/Carter Debates,” www.pbs.org/newshour/spc/deba...y/doc1976.html (November 21, 2015); Kayla Webley, “How the Nixon-Kennedy Debate Changed the World,” *Time*, 23 September 2010.

Visit American Rhetoric for free access to speeches, video, and audio of famous presidential and political speeches.

Between the 1960s and the 1990s, presidents often used television to reach citizens and gain support for policies. When they made speeches, the networks and their local affiliates carried them. With few independent local stations available, a viewer had little alternative but to watch. During this “Golden Age of Presidential Television,” presidents had a strong command of the media.

Matthew A. Baum and Samuel Kernell. 1999. “Has Cable Ended the Golden Age of Presidential Television?” *The American Political Science Review* 93, No. 1: 99–114.

Some of the best examples of this power occurred when presidents used television to inspire and comfort the population during a national emergency. These speeches aided in the “rally ’round the flag” phenomenon, which occurs when a population feels threatened and unites around the president.

Alan J. Lambert1, J. P. Schott1, and Laura Scherer. 2011. “Threat, Politics, and Attitudes toward a Greater Understanding of Rally-’Round-the-Flag Effects,” *Current Directions in Psychological Science* 20, No. 6: 343–348.

During these periods, presidents may receive heightened approval ratings, in part due to the media’s decision about what to cover.

Tim Groeling and Matthew A. Baum. 2008. “Crossing the Water’s Edge: Elite Rhetoric, Media Coverage, and the Rally-Round-the-Flag Phenomenon,” *Journal of Politics* 70, No. 4: 1065–1085.

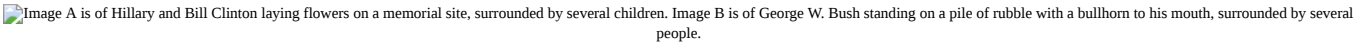
In 1995, President Bill Clinton comforted and encouraged the families of the employees and children killed at the bombing of the Oklahoma City Federal Building. Clinton reminded the nation that children learn through action, and so we must speak up against violence and face evil acts with good acts.

“William Jefferson Clinton: Oklahoma Bombing Memorial Prayer Service Address,” 23 April 1995, www.americanrhetoric.com/spee...bingspeech.htm.

Following the terrorist attacks in New York and Washington on September 11, 2001, President George W. Bush’s bullhorn speech from the rubble of Ground Zero in New York similarly became a rally. Bush spoke to the workers and first responders and encouraged them, but his short speech became a viral clip demonstrating the resilience of New Yorkers and the anger of a nation.

Ian Christopher McCaleb, “Bush tours ground zero in lower Manhattan,” *CNN*, 14 September 2001.

He told New Yorkers, the country, and the world that Americans could hear the frustration and anguish of New York, and that the terrorists would soon hear the United States (Figure).


Image A is of Hillary and Bill Clinton laying flowers on a memorial site, surrounded by several children. Image B is of George W. Bush standing on a pile of rubble with a bullhorn to his mouth, surrounded by several people.

Presidents Clinton and Bush were both called upon to calm the people after mass killings. In April 1996, President Bill Clinton and First Lady Hillary Rodham Clinton lay flowers at the site of the former Alfred P. Murrah federal building just before the one-year anniversary of the Oklahoma City bombing (a). Three days after the terrorist attacks of 9/11 brought down the World Trade Center in New York City, George W. Bush declares to the crowd, "I can hear you! The rest of the world hears you! And the people . . . and the people who knocked these buildings down will hear all of us soon!" (b)

Following their speeches, both presidents also received a bump in popularity. Clinton's approval rating rose from 46 to 51 percent, and Bush's from 51 to 90 percent.

"Presidential Job Approval Center," www.gallup.com/poll/124922/pr...al-center.aspx (August 28, 2015).

NEW MEDIA TRENDS

The invention of cable in the 1980s and the expansion of the Internet in the 2000s opened up more options for media consumers than ever before. Viewers can watch nearly anything at the click of a button, bypass commercials, and record programs of interest. The resulting saturation, or inundation of information, may lead viewers to abandon the news entirely or become more suspicious and fatigued about politics.

Alison Dagnes. 2010. *Politics on Demand: The Effects of 24-hour News on American Politics*. Santa Barbara, CA: Praeger.

This effect, in turn, also changes the president's ability to reach out to citizens. For example, viewership of the president's annual State of the Union address has decreased over the years, from sixty-seven million viewers in 1993 to thirty-two million in 2015.

"Number of Viewers of the State of the Union Addresses from 1993 to 2015 (in millions)," www.statista.com/statistics/2...viewer-numbers (August 28, 2015).

Citizens who want to watch reality television and movies can easily avoid the news, leaving presidents with no sure way to communicate with the public.

Baum and Kernell, "Has Cable Ended the Golden Age of Presidential Television?"

Other voices, such as those of talk show hosts and political pundits, now fill the gap.

Electoral candidates have also lost some media ground. In *horse-race coverage*, modern journalists analyze campaigns and blunders or the overall race, rather than interviewing the candidates or discussing their issue positions. Some argue that this shallow coverage is a result of candidates' trying to control the journalists by limiting interviews and quotes. In an effort to regain control of the story, journalists begin analyzing campaigns without input from the candidates.

Shanto Iyengar. 2011. "The Media Game: New Moves, Old Strategies," *The Forum: Press Politics and Political Science* 9, No. 1, http://pcl.stanford.edu/research/201...-mediagame.pdf.

The use of social media by candidates provides a countervailing trend. President Trump's hundreds of election tweets are the stuff of legend. These tweets kept his press coverage up, although they also were problematic for him at times. The final days of the contest saw no new tweets from Trump as he attempted to stay on message.

THE FIRST SOCIAL MEDIA CANDIDATE

When president-elect Barack Obama admitted an addiction to his Blackberry, the signs were clear: A new generation was assuming the presidency.

Jeff Zeleny, "Lose the BlackBerry? Yes He Can, Maybe," *New York Times*, 15 November 2008.

Obama's use of technology was a part of life, not a campaign pretense. Perhaps for this reason, he was the first candidate to fully embrace social media.

While John McCain, the 2008 Republican presidential candidate, focused on traditional media to run his campaign, Obama did not. One of Obama's campaign advisors was Chris Hughes, a cofounder of Facebook. The campaign allowed Hughes to create a powerful online presence for Obama, with sites on YouTube, Facebook, MySpace, and more. Podcasts and videos were available for anyone looking for information about the candidate. These efforts made it possible for information to be forwarded easily between friends and colleagues. It also allowed Obama to connect with a younger generation that was often left out of politics.

By Election Day, Obama's skill with the web was clear: he had over two million Facebook supporters, while McCain had 600,000. Obama had 112,000 followers on Twitter, and McCain had only 4,600.

Matthew Fraser and Soumitra Dutta, "Obama's win means future elections must be fought online," *Guardian*, 7 November 2008.

Are there any disadvantages to a presidential candidate's use of social media and the Internet for campaign purposes? Why or why not?

The availability of the Internet and social media has moved some control of the message back into the presidents' and candidates' hands. Politicians can now connect to the people directly, bypassing journalists. When Barack Obama's minister, the Reverend Jeremiah Wright, was accused of making inflammatory racial sermons in 2008, Obama used YouTube to respond to charges that he shared Wright's beliefs. The video drew more than seven million views.

Iyengar, "The Media Game."

To reach out to supporters and voters, the White House maintains a YouTube channel and a Facebook site, as did the recent Republican Speaker of the House of Representatives, John Boehner.

Social media, like Facebook, also placed journalism in the hands of citizens: citizen journalism occurs when citizens use their personal recording devices and cell phones to capture events and post them on the Internet. In 2012, citizen journalists caught both presidential candidates by surprise. Mitt Romney was taped by a bartender's personal camera saying that 47 percent of Americans would vote for President Obama because they were dependent on the government.

David Corn. 29 July 2013. "Mitt Romeny's Incredible 47-Percent Denial," www.motherjones.com/mojo/2013...percent-denial.

Obama was recorded by a *Huffington Post* volunteer saying that some Midwesterners "cling to guns or religion or antipathy to people who aren't like them" due to their frustration with the economy.

Ed Pilkington, "Obama Angers Midwest Voters with Guns and Religion Remark," *Guardian*, 14 April 2008.

More recently, as Donald Trump was trying to close out the fall 2016 campaign, his musings about having his way with women were revealed on the infamous Billy Bush Access Hollywood tape. These statements became nightmares for the campaigns. As journalism continues to scale back and hire fewer professional writers in an effort to control costs, citizen journalism may become the new normal.

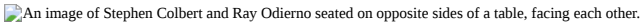
Amy Mitchell, "State of the News Media 2015," *Pew Research Center*, 29 April 2015.

Another shift in the new media is a change in viewers' preferred programming. Younger viewers, especially members of generation X and millennials, like their newscasts to be humorous. The popularity of *The Daily Show* and *The Colbert Report* demonstrate that news, even political news, can win young viewers if delivered well.

Tom Huddleston, Jr., "Jon Stewart Just Punched a $250 Million Hole in Viacom's Value," *Fortune*, 11 February 2015.

Such soft news presents news in an entertaining and approachable manner, painlessly introducing a variety of topics. While the depth or quality of reporting may be less than ideal, these shows can sound an alarm as needed to raise citizen awareness (Figure).

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



In June 2009, Stephen Colbert of *The Colbert Report* took his soft news show on the road, heading to Iraq for a week. During the first episode, Colbert interviewed Ray Odierno, commanding general of the coalition forces stationed in Iraq. (credit: The U.S. Army)

Viewers who watch or listen to programs like John Oliver's *Last Week Tonight* are more likely to be aware and observant of political events and foreign policy crises than they would otherwise be.

Matthew A. Baum. 2002. "Sex, Lies and War: How Soft News Brings Foreign Policy to the Inattentive Public," *American Political Science Review* 96, no. 1: 91–109.

They may view opposing party candidates more favorably because the low-partisan, friendly interview styles allow politicians to relax and be conversational rather than defensive.

Matthew Baum. 2003. “Soft News and Political Knowledge: Evidence of Absence or Absence of Evidence?” *Political Communication* 20, No. 2: 173–190.

Because viewers of political comedy shows watch the news frequently, they may, in fact, be more politically knowledgeable than citizens viewing national news. In two studies researchers interviewed respondents and asked knowledge questions about current events and situations. Viewers of *The Daily Show* scored more correct answers than viewers of news programming and news stations.

“Public Knowledge of Current Affairs Little Changed by News and Information Revolutions,” *Pew Research Center*, 15 April 2007; “What You Know Depends on What You Watch: Current Events Knowledge across Popular News Sources,” *Fairleigh Dickinson University*, 3 May 2012, http://publicmind.fdu.edu/2012/confirmed/.

That being said, it is not clear whether the number of viewers is large enough to make a big impact on politics, nor do we know whether the learning is long term or short term.

Markus Prior. 2003. “Any Good News in Soft News? The Impact of Soft News Preference on Political Knowledge,” *Political Communication* 20, No. 2: 149–171.

BECOMING A CITIZEN JOURNALIST

Local government and politics need visibility. College students need a voice. Why not become a citizen journalist? City and county governments hold meetings on a regular basis and students rarely attend. Yet issues relevant to students are often discussed at these meetings, like increases in street parking fines, zoning for off-campus housing, and tax incentives for new businesses that employ part-time student labor. Attend some meetings, ask questions, and write about the experience on your Facebook page. Create a blog to organize your reports or use Storify to curate a social media debate. If you prefer videography, create a YouTube channel to document your reports on current events, or Tweet your live video using Periscope or Meerkat.

Not interested in government? Other areas of governance that affect students are the university or college’s Board of Regents meetings. These cover topics like tuition increases, class cuts, and changes to student conduct policies. If your state requires state institutions to open their meetings to the public, consider attending. You might be the one to notify your peers of changes that affect them.

What local meetings could you cover? What issues are important to you and your peers?

Summary

Newspapers were vital during the Revolutionary War. Later, in the party press era, party loyalty governed coverage. At the turn of the twentieth century, investigative journalism and muckraking appeared, and newspapers began presenting more professional, unbiased information. The modern print media have fought to stay relevant and cost-efficient, moving online to do so.

Most families had radios by the 1930s, making it an effective way for politicians, especially presidents, to reach out to citizens. While the increased use of television decreased the popularity of radio, talk radio still provides political information. Modern presidents also use television to rally people in times of crisis, although social media and the Internet now offer a more direct way for them to communicate. While serious newscasts still exist, younger viewers prefer soft news as a way to become informed.

Newspapers during the Revolutionary War period tended to _____.

1. give fake news and sensationalize stories
2. unite the colonists and provide information about the British
3. print party propaganda
4. attack colonial politicians

Muckraking occurs when newspapers _____.

1. investigate problems in government and business
2. investigate actions of celebrities
3. print sensational news on the front page to sell papers
4. print more editorials and opinion pieces to sell papers

Radio quiz shows and comedy shows were most popular in the _____.

1. 1900s
2. 1930s
3. 1970s
4. 1990s

Television news became a regular feature during _____ due to the public's demand for _____ to explain current events.

1. WWI; images and maps
2. Great Depression; charts and tables
3. WWII; images and maps
4. Vietnam War; charts and tables

Why did Franklin D. Roosevelt's fireside chats help the president enact his policies?

How have modern presidents used television to reach out to citizens?

Why is soft news good at reaching out and educating viewers?

Glossary

citizen journalism
video and print news posted to the Internet or social media by citizens rather than the news media

digital paywall
the need for a paid subscription to access published online material

muckraking
news coverage focusing on exposing corrupt business and government practices

party press era
period during the 1780s in which newspaper content was biased by political partisanship

soft news
news presented in an entertaining style

yellow journalism
sensationalized coverage of scandals and human interest stories

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11.4: Regulating the Media

Learning Objectives

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

- Identify circumstances in which the freedom of the press is not absolute
- Compare the ways in which the government oversees and influences media programming

The Constitution gives Congress responsibility for promoting the general welfare. While it is difficult to define what this broad dictate means, Congress has used it to protect citizens from media content it deems inappropriate. Although the media are independent participants in the U.S. political system, their liberties are not absolute and there are rules they must follow.

MEDIA AND THE FIRST AMENDMENT

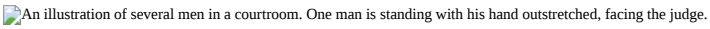
The U.S. Constitution was written in secrecy. Journalists were neither invited to watch the drafting, nor did the framers talk to the press about their disagreements and decisions. Once it was finished, however, the Constitution was released to the public and almost all newspapers printed it. Newspaper editors also published commentary and opinion about the new document and the form of government it proposed. Early support for the Constitution was strong, and Anti-Federalists (who opposed it) argued that their concerns were not properly covered by the press. The eventual printing of *The Federalist Papers*, and the lesser-known Anti-Federalist Papers, fueled the argument that the press was vital to American democracy. It was also clear the press had the ability to affect public opinion and therefore public policy.

Fellow. *American Media History*.

The approval of the First Amendment, as a part of the Bill of Rights, demonstrated the framers' belief that a free and vital press was important enough to protect. It said:

""Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.""

This amendment serves as the basis for the political freedoms of the United States, and freedom of the press plays a strong role in keeping democracy healthy. Without it, the press would not be free to alert citizens to government abuses and corruption. In fact, one of New York's first newspapers, the *New York Weekly Journal*, began under John Peter Zenger in 1733 with the goal of routing corruption in the colonial government. After the colonial governor, William Cosby, had Zenger arrested and charged with seditious libel in 1835, his lawyers successfully defended his case and Zenger was found not guilty, affirming the importance of a free press in the colonies (Figure).



In defending John Peter Zenger against charges of libel against colonial governor William Cosby, Andrew Hamilton argued that a statement is not libelous if it can be proved. (credit: modification of work by the Library of Congress)

The media act as informants and messengers, providing the means for citizens to become informed and serving as a venue for citizens to announce plans to assemble and protest actions by their government. Yet the government must ensure the media are acting in good faith and not abusing their power. Like the other First Amendment liberties, freedom of the press is not absolute. The media have limitations on their freedom to publish and broadcast.

Slander and Libel

First, the media do not have the right to commit slander, speak false information with an intent to harm a person or entity, or libel, print false information with an intent to harm a person or entity. These acts constitute defamation of character that can cause a loss of reputation and income. The media do not have the right to free speech in cases of libel and slander because the information is known to be false. Yet on a weekly basis, newspapers and magazines print stories that are negative and harmful. How can they do this and not be sued?

First, libel and slander occur only in cases where false information is presented as fact. When editors or columnists write opinions, they are protected from many of the libel and slander provisions because they are not claiming their statements are facts. Second, it

is up to the defamed individual or company to bring a lawsuit against the media outlet, and the courts have different standards depending on whether the claimant is a private or public figure. A public figure must show that the publisher or broadcaster acted in "reckless disregard" when submitting information as truth or that the author's intent was malicious. This test goes back to the *New York Times v. Sullivan* (1964) case, in which a police commissioner in Alabama sued over inaccurate statements in a newspaper advertisement.

New York Times Co. v. Sullivan, 376 U.S. 254 (1964).

Because the commissioner was a public figure, the U.S. Supreme Court applied a stringent test of malice to determine whether the advertisement was libel; the court deemed it was not.

A private individual must make one of the above arguments or argue that the author was negligent in not making sure the information was accurate before publishing it. For this reason, newspapers and magazines are less likely to stray from hard facts when covering private individuals, yet they can be willing to stretch the facts when writing about politicians, celebrities, or public figures. But even stretching the truth can be costly for a publisher. In 2010, *Star* magazine published a headline, "Addiction Nightmare: Katie Drug Shocker," leading readers to believe actress Katie Holmes was taking drugs. While the article in the magazine focuses on the addictive quality of Scientology sessions rather than drugs, the implication and the headline were different. Because drugs cause people to act erratically, directors might be less inclined to hire Holmes if she were addicted to drugs. Thus Holmes could argue that she had lost opportunity and income from the headline. While the publisher initially declined to correct the story, Holmes filed a $50 million lawsuit, and *Star*'s parent company American Media, Inc. eventually settled. *Star* printed an apology and made a donation to a charity on Holmes' behalf.

Jill Serjeant, "Katie Holmes Settles Libel Suit on Drugs Claim," *Reuters*, 28 April 2011, www.reuters.com/article/2011/...73Q7K620110428.

Classified Material

The media have only a limited right to publish material the government says is classified. If a newspaper or media outlet obtains classified material, or if a journalist is witness to information that is classified, the government may request certain material be redacted or removed from the article. In many instances, government officials and former employees give journalists classified paperwork in an effort to bring public awareness to a problem. If the journalist calls the White House or Pentagon for quotations on a classified topic, the president may order the newspaper to stop publication in the interest of national security. The courts are then asked to rule on what is censored and what can be printed.

The line between the people's right to know and national security is not always clear. In 1971, the Supreme Court heard the Pentagon Papers case, in which the U.S. government sued the *New York Times* and the *Washington Post* to stop the release of information from a classified study of the Vietnam War. The Supreme Court ruled that while the government can impose prior restraint on the media, meaning the government can prevent the publication of information, that right is very limited. The court gave the newspapers the right to publish much of the study, but revelation of troop movements and the names of undercover operatives are some of the few approved reasons for which the government can stop publication or reporting.

During the second Persian Gulf War, FOX News reporter Geraldo Rivera convinced the military to embed him with a U.S. Army unit in Iraq to provide live coverage of its day-to-day activities. During one of the reports he filed while traveling with the 101st Airborne Division, Rivera had his camera operator record him drawing a map in the sand, showing where his unit was and using Baghdad as a reference point. Rivera then discussed where the unit would go next. Rivera was immediately removed from the unit and escorted from Iraq.

Christ Plante, "Military Kicks Geraldo Out of Iraq," *CNN*, 31 March 2003.

The military exercised its right to maintain secrecy over troop movements, stating that Rivera's reporting had given away troop locations and compromised the safety of the unit. Rivera's future transmissions and reporting were censored until he was away from the unit.

MEDIA AND FCC REGULATIONS

The liberties enjoyed by newspapers are overseen by the U.S. court system, while television and radio broadcasters are monitored by both the courts and a government regulatory commission.

The Radio Act of 1927 was the first attempt by Congress to regulate broadcast materials. The act was written to organize the rapidly expanding number of radio stations and the overuse of frequencies. But politicians feared that broadcast material would be

obscene or biased. The Radio Act thus contained language that gave the government control over the quality of programming sent over public airwaves, and the power to ensure that stations maintained the public's best interest.

Chapter 4—Radio Act of 1927, http://uscode.house.gov/view.xhtml?p...edition=prelim (May 19, 2016).

The Communications Act of 1934 replaced the Radio Act and created a more powerful entity to monitor the airwaves—a seven-member Federal Communications Commission (FCC) to oversee both radio and telephone communication. The FCC, which now has only five members (Figure), requires radio stations to apply for licenses, granted only if stations follow rules about limiting advertising, providing a public forum for discussion, and serving local and minority communities. With the advent of television, the FCC was given the same authority to license and monitor television stations. The FCC now also enforces ownership limits to avoid monopolies and censors materials deemed inappropriate. It has no jurisdiction over print media, mainly because print media are purchased and not broadcast.



In November 2013, the leadership of the FCC included (from left to right) Ajit Pai, Mignon Clyburn, Chairman Tom Wheeler, Jessica Rosenworcel, and Michael O'Rielly. (credit: Federal Communications Commission)

Concerned about something you heard or viewed? Would you like to file a complaint about an obscene radio program or place your phone number on the Do Not Call list? The FCC oversees each of these.

To maintain a license, stations are required to meet a number of criteria. The equal-time rule, for instance, states that registered candidates running for office must be given equal opportunities for airtime and advertisements at non-cable television and radio stations beginning forty-five days before a primary election and sixty days before a general election. Should WBNS in Columbus, Ohio, agree to sell Senator Marco Rubio thirty seconds of airtime for a presidential campaign commercial, the station must also sell all other candidates in that race thirty seconds of airtime at the same price. This rate cannot be more than the station charges favored commercial advertisers that run ads of the same class and during the same time period.

"Statutes and Rules on Candidate Appearances & Advertising," transition.fcc.gov/mb/policy...l/candrule.htm. Section 73.1942 [47 CFR §73.1942] Candidate rates. (November 21, 2015).

More importantly, should Fox5 in Atlanta give Bernie Sanders five minutes of free airtime for an infomercial, the station must honor requests from all other candidates in the race for five minutes of free equal air time or a complaint may be filed with the FCC.

"Statutes and Rules," Section 73.1941 [47 CFR §73.1941] Equal Opportunities.

In 2015, Donald Trump, when he was running for the Republican presidential nomination, appeared on *Saturday Night Live*. Other Republican candidates made equal time requests, and NBC agreed to give each candidate twelve minutes and five seconds of air time on a Friday and Saturday night, as well as during a later episode of *Saturday Night Live*.

Eric Deggans, "It's Not Hosting SNL, But NBC Will Give 'Equal Time' To 4 GOP Candidates," *National Public Radio*, 24 November 2015.

The FCC does waive the equal-time rule if the coverage is purely news. If a newscaster is covering a political rally and is able to secure a short interview with a candidate, equal time does not apply. Likewise, if a news programs creates a short documentary on the problem of immigration reform and chooses to include clips from only one or two candidates, the rule does not apply.

"47 U.S. Code § 315 - Candidates for public office," *Legal Information Institute*, https://www.law.cornell.edu/uscode/text/47/315.

But the rule may include shows that are not news. For this reason, some stations will not show a movie or television program if a candidate appears in it. In 2003, Arnold Schwarzenegger and Gary Coleman, both actors, became candidates in California's gubernatorial recall election. Television stations did not run Coleman's sitcom *Diff'rent Strokes* or Schwarzenegger's movies, because they would have been subject to the equal time provision. With 135 candidates on the official ballot, stations would have been hard-pressed to offer thirty-minute and two-hour time slots to all.

Joel Roberts, "Arnold's Movies Face TV Blackout," *CBS News*, 13 August 2003; Gary Susman, "Arnold's Movies Go off the Air until Election," *Entertainment Weekly*, 13 August 2003.

Even the broadcasting of the president's State of the Union speech can trigger the equal-time provisions. Opposing parties in Congress now use their time immediately following the State of the Union to offer an official rebuttal to the president's proposals.

David Schultz and John R. Vile. 2015. *The Encyclopedia of Civil Liberties in America*.

While the idea behind the equal-time rule is fairness, it may not apply beyond candidates to supporters of that candidate or of a cause. Hence, there potentially may be a loophole in which broadcasters can give free time to just one candidate's supporters. In the 2012 Wisconsin gubernatorial recall election, Scott Walker's supporters were allegedly given free air time to raise funds and ask for volunteers while opponent Tom Barrett's supporters were not.

Sue Wilson, "FCC: No More Equal Time Requirements for Political Campaign Supporters over Our Public Airwaves," *Huffington Post*, 15 May 2014.

According to someone involved in the case, the FCC declined to intervene after a complaint was filed on the matter, saying the equal-time rule applied only to the actual candidates, and that the case was an instance of the now-dead fairness doctrine.

William Lake, Letter from the FCC Regarding Capstar Texas LLX, 8 May 2014, bradblog.com/Docs/FCC_ZappleD...ing_050814.pdf.

The fairness doctrine was instituted in 1949 and required licensed stations to cover controversial issues in a balanced manner by providing listeners with information about all perspectives on any controversial issue. If one candidate, cause, or supporter was given an opportunity to reach the viewers or listeners, the other side was to be given a chance to present its side as well. The fairness doctrine ended in the 1980s, after a succession of court cases led to its repeal by the FCC in 1987, with stations and critics arguing the doctrine limited debate of controversial topics and placed the government in the role of editor.

Syracuse Peace Council vs. FCC, 867 F.2d 654 (1989); Katy Steinmetz, "The Death of the Fairness Doctrine," *Time*, 23 August 2011.

The FCC also maintains indecency regulations over television, radio, and other broadcasters, which limit indecent material and keep the public airwaves free of obscene material.

"Obscenity, Indecency, and Profanity," *FCC*, www.fcc.gov/encyclopedia/obs...-and-profanity (September 10, 2015).

While the Supreme Court has declined to define obscenity, it is identified using a test outlined in *Miller v. California* (1973).

Miller v. California, 413 U.S. 15 (1973).

Under the Miller test, obscenity is something that appeals to deviants, breaks local or state laws, and lacks value.

"Obscenity," *Legal Information Institute at Cornell University*, https://www.law.cornell.edu/wex/obscenity (November 29, 2015).

The Supreme Court determined that the presence of children in the audience trumped the right of broadcasters to air obscene and profane programming. However, broadcasters can show indecent programming or air profane language between the hours of 10 p.m. and 6 a.m.

"Consumer Help Center: Obscene, Indecent, and Profane Broadcasts," *FCC*, consumercomplaints.fcc.gov/h...ane-Broadcasts (September 10, 2015).

The Supreme Court has also affirmed that the FCC has the authority to regulate content. When a George Carlin skit was aired on the radio with a warning that material might be offensive, the FCC still censored it. The station appealed the decision and lost.

FCC vs. Pacifica Foundation, 438 U.S. 726 (1978).

Fines can range from tens of thousands to millions of dollars, and many are levied for sexual jokes on radio talk shows and nudity on television. In 2004, Janet Jackson's wardrobe malfunction during the Super Bowl's half-time show cost the CBS network $550,000.

While some FCC violations are witnessed directly by commission members, like Jackson's exposure at the Super Bowl, the FCC mainly relies on citizens and consumers to file complaints about violations of equal time and indecency rules. Approximately 2 percent of complaints to the FCC are about radio programming and 10 percent about television programming, compared to 71 percent about telephone complaints and 15 percent about Internet complaints.

"Obscenity, Indecency and Profanity," *Federal Communications Commission*, consumercomplaints.fcc.gov/h...-Data-Overview.

Yet what constitutes a violation is not always clear for citizens wishing to complain, nor is it clear what will lead to a fine or license revocation. In October 2014, parent advocacy groups and consumers filed complaints and called for the FCC to fine ABC for running a sexually charged opening scene in the drama *Scandal* immediately after *It's the Great Pumpkin, Charlie Brown*—without an ad or the cartoon's credits to act as a buffer between the very different types of programming.

Jason Molinet, “TV Watchdog Slams ABC for Sex-filled ‘Scandal’ Opening Immediately After ‘Charlie Brown’ Special,” *Daily News*, 4 November 2104.

The FCC did not fine ABC.

The Telecommunications Act of 1996 brought significant changes to the radio and television industries. It dropped the limit on the number of radio stations (forty) and television stations (twelve) a single company could own. It also allowed networks to purchase large numbers of cable stations. In essence, it reduced competition and increased the number of conglomerates. Some critics, such as Common Cause, argue that the act also raised cable prices and made it easier for companies to neglect their public interest obligations.

“The Fallout from the Telecommunications Act of 1996: Unintended Consequences and Lessons Learned,” *Common Cause*, 9 May 2005; Mark Baumgartner, “Average Cable Rates on the Rise,” *ABC News*, February 15, http://abcnews.go.com/Business/story?id=88614&page=1.

The act also changed the role of the FCC from regulator to monitor. The Commission oversees the purchase of stations to avoid media monopolies and adjudicates consumer complaints against radio, television, and telephone companies.

WATCH DOG OR PAPARAZZI?

We expect the media to keep a close eye on the government. But at what point does the media coverage cross from informational to sensational?

In 2012, former secretary of state Hillary Clinton was questioned about her department’s decisions regarding the U.S. consulate in Benghazi, Libya. The consulate had been bombed by militants, leading to the death of an ambassador and a senior service officer. It was clear the United States had some knowledge that there was a threat to the consulate, and officials wondered whether requests to increase security at the consulate had been ignored. Clinton was asked to appear before a House Select Committee to answer questions, and the media began its coverage. While some journalists limited their reporting to Benghazi, others did not. Clinton was hounded about everything from her illness (dubbed the “Benghazi-flu”) to her clothing to her facial expressions to her choice of eyeglasses.

Dana Hughes and Dan Childs, “Hillary Clinton’s Glasses are for Concussion, Not Fashion,” *ABC News*, 25 January 2013.

Even her hospital stay was questioned.

Mary Bruce, “Hillary Clinton Took 6 Months to ‘Get Over’ Concussion, Bill Says of Timeline,” *ABC News*, 14 May 2014.

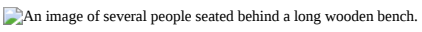
Some argued the expanded coverage was due to political attacks on Clinton, who at that time was widely perceived to be the top contender for the Democratic presidential nomination in 2016.

Dan Merica, “Clinton Campaign, Republicans Clash Over Benghazi Testimony,” *CNN*, 25 July 2015.

Republican majority leader Kevin McCarthy later implied that the hearings were an attempt to make Clinton look untrustworthy.

Alex Seitz-Wald, “Kevin McCarthy Credits Benghazi Committee for Clinton Damage,” *MSNBC*, 30 September 2015.

Yet Clinton was again brought before the House Select Committee on Benghazi as late as October 2015 (Figure).



On October 22, 2015, the House Select Committee on Benghazi listened to testimony from former Secretary of State Hillary Clinton for close to eleven hours.

This coverage should lead us to question whether the media gives us the information we need, or the information we want. Were people concerned about an attack on U.S. state officials working abroad, or did they just want to read rumors and attacks on Clinton? Did Republicans use the media’s tendency to pursue a target as a way to hurt Clinton in the polls? If the media gives us what we want, the answer seems to be that we wanted the media to act as both watchdog and paparazzi.

How should the press have acted in this case if it were behaving only as the watchdog of democracy?

MEDIA AND TRANSPARENCY

The press has had some assistance in performing its muckraking duty. Laws that mandate federal and many state government proceedings and meeting documents be made available to the public are called sunshine laws. Proponents believe that open

disagreements allow democracy to flourish and darkness allows corruption to occur. Opponents argue that some documents and policies are sensitive, and that the sunshine laws can inhibit policymaking.

While some documents may be classified due to national or state security, governments are encouraged to limit the over-classification of documents. The primary legal example for sunshine laws is the Freedom of Information Act (FOIA), passed in 1966 and signed by President Lyndon B. Johnson. The act requires the executive branch of the U.S. government to provide information requested by citizens and was intended to increase openness in the executive branch, which had been criticized for hiding information. Citizens wishing to obtain information may request documents from the appropriate agencies, and agencies may charge fees if the collection and copying of the requested documentation requires time and labor.

"The Freedom of Information Act, 5 U.S.C.", *The United States Department of Justice*, www.justice.gov/oip/blog/foia...4-231-110-stat (September 7, 2015).

FOIA also identifies data that does not need to be disclosed, such as human resource and medical records, national defense records, and material provided by confidential sources, to name a few.

Ibid.

Not all presidents have embraced this openness, however. President Ronald Reagan, in 1981, exempted the CIA and FBI from FOIA requests.

Fellow. *American Media History*.

Information requests have increased significantly in recent years, with U.S. agencies receiving over 700,000 requests in 2014, many directed to the Departments of State and Defense, thus creating a backlog.

"What is FOIA?" *The Department of Justice*, http://www.foia.gov/index.html (September 8, 2015).

Want to request a government document but unsure where to start? If the agency is a part of the U.S. government, the Freedom of Information Act portal will help you out.

Few people file requests for information because most assume the media will find and report on important problems. And many people, including the press, assume the government, including the White House, sufficiently answers questions and provides information about government actions and policies. This expectation is not new. During the Civil War, journalists expected to have access to those representing the government, including the military. But William Tecumseh Sherman, a Union general, maintained distance between the press and his military. Following the publication of material Sherman believed to be protected by government censorship, a journalist was arrested and nearly put to death. The event spurred the creation of accreditation for journalists, which meant a journalist must be approved to cover the White House and the military before entering a controlled area. All accredited journalists also need approval by military field commanders before coming near a military zone.

Fellow. *American Media History*.

To cover war up close, more journalists are asking to travel with troops during armed conflict. In 2003, George W. Bush's administration decided to allow more journalists in the field, hoping the concession would reduce friction between the military and the press. The U.S. Department of Defense placed fifty-eight journalists in a media boot camp to prepare them to be embedded with military regiments in Iraq. Although the increase in embedded journalists resulted in substantial in-depth coverage, many journalists felt their colleagues performed poorly, acting as celebrities rather than reporters.

Ibid.

The line between journalists' expectation of openness and the government's willingness to be open has continued to be a point of contention. Some administrations use the media to increase public support during times of war, as Woodrow Wilson did in World War I. Other presidents limit the media in order to limit dissent. In 1990, during the first Persian Gulf War, journalists received all publication material from the military in a prepackaged and staged manner. Access to Dover, the air force base that receives coffins of U.S. soldiers who die overseas, was closed. Journalists accused George H. W. Bush's administration of limiting access and forcing them to produce bad pieces. The White House believed it controlled the message.

Ibid.

The ban was later lifted.

In his 2008 presidential run, Barack Obama promised to run a transparent White House.

Christopher Beam, "The TMI President," *Slate*, 12 November 2008.

Yet once in office, he found that transparency makes it difficult to get work done, and so he limited access and questions. In his first year in office, George W. Bush, who was criticized by Obama as having a closed government, gave 147 question-and-answer sessions with journalists, while Obama gave only 46. Even Helen Thomas, a long-time liberal White House press correspondent, said the Obama administration tried to control both information and journalists (Figure).

Fellow. *American Media History*, 388.



President Barack Obama and White House correspondent Helen Thomas set aside their differences over transparency to enjoy cupcakes in honor of their shared birthday on August 4, 2009.

Because White House limitations on the press are not unusual, many journalists rely on confidential sources. In 1972, under the cloak of anonymity, the associate director of the Federal Bureau of Investigation, Mark Felt, became a news source for Bob Woodward and Carl Bernstein, political reporters at the *Washington Post*. Felt provided information about a number of potential stories and was Woodward's main source for information about President Richard Nixon's involvement in a series of illegal activities, including the break-in at Democratic Party headquarters in Washington's Watergate office complex. The information eventually led to Nixon's resignation and the indictment of sixty-nine people in his administration. Felt was nicknamed "Deep Throat," and the journalists kept his identity secret until 2005.

Bob Woodward, "How Mark Felt Became 'Deep Throat,'" *The Washington Post*, 20 June 2005.

The practice of granting anonymity to sources is sometimes referred to as reporter's privilege. Fueled by the First Amendment's protection of the press, journalists have long offered to keep sources confidential to protect them from government prosecution. To illustrate, as part of the investigation into the outing of Valerie Plame as a CIA officer, *New York Times* reporter Judith Miller was jailed for refusing to reveal "Scooter" Libby, Vice President Dick Cheney's chief of staff, as her confidential government source.

Don Van Natta Jr., Adam Liptak, and Clifford J. Levy, "The Miller Case: A Notebook, a Cause, a Jail Cell and a Deal," *The New York Times*, 16 October 2005.

Reporter's privilege has increased the number of instances in which whistleblowers and government employees have given journalists tips or documents to prompt investigation into questionable government practices. Edward Snowden's 2013 leak to the press regarding the U.S. government's massive internal surveillance and tapping program was one such case.

In 1972, however, the Supreme Court determined that journalists are not exempt from subpoenas and that courts could force testimony to name a confidential source. Journalists who conceal a source and thereby protect him or her from being properly tried for a crime may spend time in jail for contempt of court. In the case of *Branzburg v. Hayes* (1972), three journalists were placed in contempt of court for refusing to divulge sources.

Branzburg v. Hayes, 408 U.S. 665 (1972).

The journalists appealed to the Supreme Court. In a 5–4 decision, the justices determined that freedom of the press did not extend to the confidentiality of sources. A concurring opinion did state that the case should be seen as a limited ruling, however. If the government needed to know a source due to a criminal trial, it could pursue the name of that source.

Adam Liptak, "A Justice's Scribbles on Journalists Rights," *New York Times*, 7 October 2007.

More recently, the Supreme Court refused to hear an appeal from *New York Times* journalist James Risen, who was subpoenaed and ordered to name a confidential source who had provided details about a U.S. government mission designed to harm Iran's nuclear arms program. Risen was finally released from the subpoena, but the battle took seven years and the government eventually collected enough other evidence to make his testimony less crucial to the case.

Matt Apuzzo, "Times Reporter Will Not Be Called to Testify in Leak," *New York Times*, 12 January 2015.

Overall, the transparency of the government is affected more by the executive currently holding office than by the First Amendment.

Summary

While freedom of the press is an important aspect of the Bill of Rights, this freedom is not absolute and may be regulated by the U.S. government. The press cannot libel or slander individuals or publish information about troop movements or undercover operatives. The Federal Communications Commission can enforce limits on television and radio programming by fining or revoking licenses. Broadcast material cannot be obscene, and indecent programs can be broadcast only between 10 p.m. and 6 a.m. Stations must also give political candidates equal time for advertising and interviews.

The media help governments maintain transparency. Sunshine laws require some governments and government agencies to make meeting documents public. Some presidents have encouraged journalists and allowed questioning while others have avoided the press. Lack of openness by government officials leads journalists to use confidential sources for important or classified information. The Supreme Court does not give the press complete freedom to keep sources confidential, though the government can choose whom it prosecutes for hiding sources.

In which circumstance would the courts find libel?

1. A reporter uses a source that incorrectly states a celebrity is using drugs.
2. A columnist writes his opinion about whether an actor is hiding a drug problem.
3. A television reporter delivers a story about increased drug use at the local college.
4. A reporter writes that local college students are drug dealers but has no sources.

The Supreme Court determined that the right of the press to print classified material _____.

1. is obsolete, and the press may never print classified material
2. is partial, and the press may print classified material only if it does not compromise troops or covert operatives
3. is complete, and the press may print anything it likes
4. has not yet been defined

The Federal Communications Commission oversees the programming of which entities?

1. television
2. television and radio
3. television, radio, and satellite
4. television, radio, satellite, and cable

Which of the following is a reasonable exception to the Freedom of Information Act?

1. medical records for government employees
2. budget for the Department of Labor
3. minutes from a president's cabinet meeting
4. transcript of meetings between Department of State negotiators and Russian trade negotiators

Why is it a potential problem that the equal-time rule does not apply to candidates' supporters?

Under what circumstances might a journalist be compelled to give up a source?

Glossary

equal-time rule
an FCC policy that all candidates running for office must be given the same radio and television airtime opportunities

fairness doctrine
a 1949 Federal Communications Commission (FCC) policy, now defunct, that required holders of broadcast licenses to cover controversial issues in a balanced manner

Freedom of Information Act (FOIA)
a federal statute that requires public agencies to provide certain types of information requested by citizens

indecency regulations
laws that limit indecent and obscene material on public airwaves

libel
printed information about a person or organization that is not true and harms the reputation of the person or organization

prior restraint

a government action that stops someone from doing something before they are able to do it (e.g., forbidding someone to publish a book he or she plans to release)

reporter's privilege

the right of a journalist to keep a source confidential

slander

spoken information about a person or organization that is not true and harms the reputation of the person or organization

sunshine laws

laws that require government documents and proceedings to be made public

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11.5: The Impact of the Media

Learning Objectives

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

- Identify forms of bias that exist in news coverage and ways the media can present biased coverage
- Explain how the media cover politics and issues
- Evaluate the impact of the media on politics and policymaking

In what ways can the media affect society and government? The media's primary duty is to present us with information and alert us when important events occur. This information may affect what we think and the actions we take. The media can also place pressure on government to act by signaling a need for intervention or showing that citizens want change. For these reasons, the quality of the media's coverage matters.

MEDIA EFFECTS AND BIAS

Concerns about the effects of media on consumers and the existence and extent of media bias go back to the 1920s. Reporter and commentator Walter Lippmann noted that citizens have limited personal experience with government and the world and posited that the media, through their stories, place ideas in citizens' minds. These ideas become part of the citizens' frame of reference and affect their decisions. Lippmann's statements led to the hypodermic theory, which argues that information is "shot" into the receiver's mind and readily accepted.

Walter Lippmann. 1922. *Public Opinion.*http://xroads.virginia.edu/~hyper/Li.../contents.html (August 29, 2015).

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

Bernard Berelson, Paul Lazarsfeld, and William McPhee. 1954. *Voting*. Chicago: University of Chicago Press.

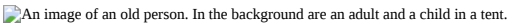
By the 1970s, a new idea, the cultivation theory, hypothesized that media develop a person's view of the world by presenting a perceived reality.

George Gerbner, Larry Gross, Michael Morgan, Nancy Signorielli, and Marilyn Jackson-Beeck. 1979. "The Demonstration of Power: Violence Profile," *Journal of Communication 29, No.*10: 177–196.

What we see on a regular basis is our reality. Media can then set norms for readers and viewers by choosing what is covered or discussed.

In the end, the consensus among observers is that media have some effect, even if the effect is subtle. This raises the question of how the media, even general newscasts, can affect citizens. One of the ways is through framing: the creation of a narrative, or context, for a news story. The news often uses frames to place a story in a context so the reader understands its importance or relevance. Yet, at the same time, framing affects the way the reader or viewer processes the story.

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



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

For a closer look at framing and how it influences voters, read “How the Media Frames Political Issues”, a review essay by Scott London.

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

COVERAGE EFFECTS ON GOVERNANCE AND CAMPAIGNS

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

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

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

Campaign coverage now focuses on the spectacle of the season, rather than providing information about the candidates. Colorful personalities, strange comments, lapse of memories, and embarrassing revelations are more likely to get air time than the candidates’ issue positions. Donald Trump may be the best example of shallower press coverage of a presidential election. Some argue that newspapers and news programs are limiting the space they allot to discussion of the campaigns.

Stephen Farnsworth and S. Robert Lichter. 2012. “Authors’ Response: Improving News Coverage in the 2012 Presidential Campaign and Beyond,” *Politics & Policy*40, No. 4: 547–556.

Others argue that citizens want to see updates on the race and electoral drama, not boring issue positions or substantive reporting.

“Early Media Coverage Focuses on Horse Race,” *PBS News Hour*, 12 June 2007.

It may also be that journalists have tired of the information games played by politicians and have taken back control of the news cycles.

Stephen Ansolabehere, Roy Behr, and Shanto Iyengar. 1992. *The Media Game: American Politics in the Television Age*. New York: Macmillan.

All these factors have likely led to the shallow press coverage we see today, sometimes dubbed *pack journalism* because journalists follow one another rather than digging for their own stories. Television news discusses the strategies and blunders of the election, with colorful examples. Newspapers focus on polls. In an analysis of the 2012 election, Pew Research found that 64 percent of stories and coverage focused on campaign strategy. Only 9 percent covered domestic issue positions; 6 percent covered the candidates’ public records; and, 1 percent covered their foreign policy positions.

“Frames of Campaign Coverage,” *Pew Research Center*, 23 April 2012, www.journalism.org/2012/04/23...paign-coverage.

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

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

The clips chosen to air were attacks on opponents 40 percent of the time. Only 30 percent contained information about the candidate’s issues or events. The study also found the news showed images of the candidates, but for an average of only twenty-five seconds while the newscaster discussed the stories.

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

This study supports the argument that shrinking sound bites are a way for journalists to control the story and add their own analysis rather than just report on it.

Craig Fehrman, “The Incredible Shrinking Sound Bite,” *Boston Globe*, 2 January 2011, www.boston.com/bostonglobe/id...ng_sound_bite/.

Candidates are given a few minutes to try to argue their side of an issue, but some say television focuses on the argument rather than on information. In 2004, Jon Stewart of Comedy Central’s *The Daily Show* began attacking the CNN program *Crossfire* for being theater, saying the hosts engaged in reactionary and partisan arguing rather than true debating.

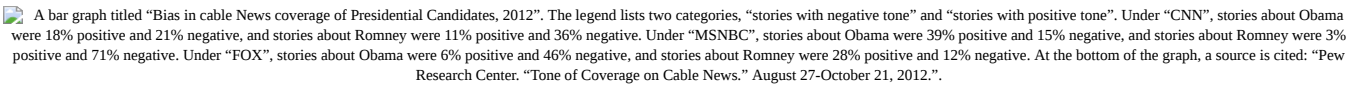
“Crossfire: Jon Stewart’s America,” *CNN*, 15 October 2004, http://www.cnn.com/TRANSCRIPTS/0410/15/cf.01.html.

Some of Stewart’s criticisms resonated, even with host Paul Begala, and *Crossfire* was later pulled from the air.

Paul Begala, “Begala: The day Jon Stewart blew up my show,” *CNN*, 12 February 2015.

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

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



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

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

“Winning the Media Campaign 2012,” *Pew Research* Center, 2 November 2012.

In the 2016 election cycle, both party nominees heavily used social media. Donald Trump’s scores of tweets became very prominent as he tweeted during Clinton’s convention acceptance speech and sometimes at all hours of the night. Clinton also used Twitter, but less so than Trump, though arguably staying better on message. Trump tended to rail on about topics and at one point was even drawn into a Twitter battle with Senator Elizabeth Warren (D-MA). Hillary Clinton also used Facebook for longer messages and imaging.

Once candidates are in office, the chore of governing begins, with the added weight of media attention. Historically, if presidents were unhappy with their press coverage, they used personal and professional means to change its tone. Franklin D. Roosevelt, for example, was able to keep journalists from printing stories through gentleman’s agreements, loyalty, and the provision of additional information, sometimes off the record. The journalists then wrote positive stories, hoping to keep the president as a source. John F.

Kennedy hosted press conferences twice a month and opened the floor for questions from journalists, in an effort to keep press coverage positive.

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

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

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

In a 1988 interview with then-vice president George H. W. Bush, Bush accused Rather of being argumentative about the possible cover-up of a secret arms sale with Iran:

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

"Bush: You do, Dan."

"Rather: No—no, sir, I don't."

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

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

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

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

Matthew Eshbaugh-Soha and Jeffrey Peake. 2011. *Breaking Through the Noise: Presidential Leadership, Public Opinion, and the News Media*. Stanford, CA: Stanford University Press.

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

Ibid.

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

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

It is less clear, however, whether media coverage of an issue leads Congress to make policy, or whether congressional policymaking leads the media to cover policy. In the 1970s, Congress investigated ways to stem the number of drug-induced deaths and crimes. As congressional meetings dramatically increased, the press was slow to cover the topic. The number of hearings was at its highest from 1970 to 1982, yet media coverage did not rise to the same level until 1984.

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

Subsequent hearings and coverage led to national policies like DARE and First Lady Nancy Reagan’s “Just Say No” campaign (Figure).



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

Later studies of the media’s effect on both the president and Congress report that the media has a stronger agenda-setting effect on the president than on Congress. What the media choose to cover affects what the president thinks is important to voters, and these issues were often of national importance. The media’s effect on Congress was limited, however, and mostly extended to local issues like education or child and elder abuse.

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

If the media are discussing a topic, chances are a member of Congress has already submitted a relevant bill, and it is waiting in committee.

COVERAGE EFFECTS ON SOCIETY

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

Ally Fogg, “Crime Is Falling. Now Let’s Reduce Fear of Crime,” *Guardian*, 24 April 24 2013.

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

Travis L. Dixon. 2008. “Crime News and Racialized Beliefs: Understanding the Relationship between Local News Viewing and Perceptions of African Americans and Crime,” *Journal of Communication* 58, No. 1: 106–125.

A second study found a similar pattern in which Latinos were underrepresented as victims of crime and as police officers, while whites were overrepresented as both.

Travis Dixon. 2015. “Good Guys Are Still Always in White? Positive Change and Continued Misrepresentation of Race and Crime on Local Television News,” *Communication Research*, doi:10.1177/0093650215579223.

Voters were thus more likely to assume that most criminals are black and most victims and police officers are white, even though the numbers do not support those assumptions.

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

Travis L. Dixon. 2008. “Network News and Racial Beliefs: Exploring the Connection between National Television News Exposure and Stereotypical Perceptions of African Americans,” *Journal of Communication* 58, No. 2: 321–337.

The misrepresentation of race is not limited to news coverage, however. A study of images printed in national magazines, like *Time* and *Newsweek*, found they also misrepresented race and poverty. The magazines were more likely to show images of young African Americans when discussing poverty and excluded the elderly and the young, as well as whites and Latinos, which is the true picture of poverty.

Martin Gilens. 1996. “Race and Poverty in America: Public Misperceptions and the American News Media,” *Public Opinion Quarterly* 60, No. 4: 515–541.

Racial framing, even if unintentional, affects perceptions and policies. If viewers are continually presented with images of African Americans as criminals, there is an increased chance they will perceive members of this group as violent or aggressive.

Dixon. “Crime News and Racialized Beliefs.”

The perception that most recipients of welfare are working-age African Americans may have led some citizens to vote for candidates who promised to reduce welfare benefits.

Gilens. “Race and Poverty in America.”

When survey respondents were shown a story of a white unemployed individual, 71 percent listed unemployment as one of the top three problems facing the United States, while only 53 percent did so if the story was about an unemployed African American.

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

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

Daniel C. Hallin. 2015. “The Dynamics of Immigration Coverage in Comparative Perspective,” *American Behavioral Scientist* 59, No. 7: 876–885.

Media coverage of women has been similarly biased. Most journalists in the early 1900s were male, and women’s issues were not part of the newsroom discussion. As journalist Kay Millsput it, the women’s movement of the 1960s and 1970s was about raising awareness of the problems of equality, but writing about rallies “was like trying to nail Jell-O to the wall.”

Kay Mills. 1996. “What Difference Do Women Journalists Make?” In *Women, the Media and Politics*, ed. Pippa Norris. Oxford, UK: Oxford University Press, 43.

Most politicians, business leaders, and other authority figures were male, and editors’ reactions to the stories were lukewarm. The lack of women in the newsroom, politics, and corporate leadership encouraged silence.

Kim Fridkin Kahn and Edie N. Goldenberg. 1997. “The Media: Obstacle or Ally of Feminists?” In *Do the Media Govern?* eds. Shanto Iyengar and Richard Reeves. Thousand Oaks, CA: Sage.

In 1976, journalist Barbara Walters became the first female coanchor on a network news show, *The ABC Evening News*. She was met with great hostility from her coanchor Harry Reasoner and received critical coverage from the press.

Barbara Walters, “Ms. Walters Reflects,” *Vanity Fair*, 31 May 2008,

On newspaper staffs, women reported having to fight for assignments to well-published beats, or to be assigned areas or topics, such as the economy or politics, that were normally reserved for male journalists. Once female journalists held these assignments, they feared writing about women’s issues. Would it make them appear weak? Would they be taken from their coveted beats?

Mills. “What Difference Do Women Journalists Make?”

This apprehension allowed poor coverage of women and the women’s movement to continue until women were better represented as journalists and as editors. Strength of numbers allowed them to be confident when covering issues like health care, childcare, and education.

Mills. “What Difference Do Women Journalists Make?”

The Center for American Women in Politics researches the treatment women receive from both government and the media, and they share the data with the public.

The media’s historically uneven coverage of women continues in its treatment of female candidates. Early coverage was sparse. The stories that did appear often discussed the candidate’s viability, or ability to win, rather than her stand on the issues.

Kahn and Goldenberg, “The Media: Obstacle or Ally of Feminists?”

Women were seen as a novelty rather than as serious contenders who needed to be vetted and discussed. Modern media coverage has changed slightly. One study found that female candidates receive more favorable coverage than in prior generations, especially if they are incumbents.

Kim Fridkin Kahn. 1994. “Does Gender Make a Difference? An Experimental Examination of Sex Stereotypes and Press Patterns in Statewide Campaigns,” *American Journal of Political Science* 38, No. 1: 162–195.

Yet a different study found that while there was increased coverage for female candidates, it was often negative.

John David Rausch, Mark Rozell, and Harry L. Wilson. 1999. “When Women Lose: A Study of Media Coverage of Two Gubernatorial Campaigns,” *Women & Politics* 20, No. 4: 1–22.

And it did not include Latina candidates.

Sarah Allen Gershon. 2013. “Media Coverage of Minority Congresswomen and Voter Evaluations: Evidence from an Online Experimental Study,” *Political Research Quarterly* 66, No. 3: 702–714.

Without coverage, they are less likely to win.

The historically negative media coverage of female candidates has had another concrete effect: Women are less likely than men to run for office. One common reason is the effect negative media coverage has on families.

Jennifer Lawless and Richard Logan Fox. 2005. *It Takes a Candidate: Why Women Don’t Run for Office*. Cambridge: Cambridge University Press.

Many women do not wish to expose their children or spouses to criticism.

Brittany L. Stalsburg, “Running with Strollers: The Impact of Family Life on Political Ambition,” *Eagleton Institute of Politics*, Spring 2012, Unpublished Paper, www.eagleton.rutgers.edu/rese...l-Ambition.pdf (August 28, 2015).

In 2008, the nomination of Sarah Palin as Republican candidate John McCain’s running mate validated this concern (Figure). Some articles focused on her qualifications to be a potential future president or her record on the issues. But others questioned whether she had the right to run for office, given she had young children, one of whom has developmental disabilities.

Christina Walker, “Is Sarah Palin Being Held to an Unfair Standard?” *CNN*, 8 September 2008.

Her daughter, Bristol, was criticized for becoming pregnant while unmarried.

Dana Bash, “Palin’s Teen Daughter is Pregnant,” *CNN*, 1 September 2008.

Her husband was called cheap for failing to buy her a high-priced wedding ring.

Jimmy Orr, “Palin Wardrobe Controversy Heightens - Todd is a Cheapo!” *Christian Science Monitor*, 26 October 2008.

Even when candidates ask that children and families be off-limits, the press rarely honors the requests. So women with young children may wait until their children are grown before running for office, if they choose to run at all.



When Sarah Palin found herself on the national stage at the Republican Convention in September 2008, media coverage about her selection as John McCain’s running mate included numerous questions about her ability to serve based on personal family history. Attacks on candidates’ families lead many women to postpone or avoid running for office. (credit: Carol Highsmith)

Summary

Writers began to formally study media bias in the 1920s. Initially, the press was seen as being able to place information in our minds, but later research found that the media have a minimal effect on recipients. A more recent theory is that the media cultivates our reality by presenting information that creates our perceptions of the world. The media does have the ability to frame what it presents, and it can also prime citizens to think a particular way, which changes how they react to new information.

The media’s coverage of electoral candidates has increasingly become analysis rather than reporting. Sound bites from candidates are shorter. The press now provides horse-race coverage on the campaigns rather than in-depth coverage on candidates and their positions, forcing voters to look for other sources, like social media, for information. Current coverage of the government focuses more on what the president does than on presidential policies. Congress, on the other hand, is rarely affected by the media. Most topics discussed by the media are already being discussed by members of Congress or its committees.

The media frame discussions and choose pictures, information, and video to support stories, which may affect the way people vote on social policy and in elections.

Which of the following is an example of episodic framing?

1. a story on drug abuse that interviews addicts and discusses reasons for addiction and government responses to help addicts
2. a story on how drug abuse policy has changed since 1984
3. a story on candidates’ answers to a drug question in a debate
4. a story detailing arguments against needle exchange programs

According to research, why might a woman decide not to run for office?

1. She feels the work is too hard.
2. She fears her positions will be covered too closely by the press.
3. She fears the media will criticize her family.
4. She fears the campaign will be too expensive.

Media coverage of a race tends to _____.

1. accurately portray all races equally
2. accurately portray whites and blacks as victims
3. overrepresent whites and the elderly as poor
4. overrepresent African Americans as poor

How might framing or priming affect the way a reader or viewer thinks about an issue?

Why would inaccurate coverage of race and gender affect policy or elections?

In what ways can the media change the way a citizen thinks about government?

In what ways do the media protect people from a tyrannical government?

Should all activities of the government be open to media coverage? Why or why not? In what circumstances do you think it would be appropriate for the government to operate without transparency?

Have changes in media formats created a more accurate, less biased media? Why or why not?

How does citizen journalism use social media to increase coverage of world events?

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Glossary

beat
the coverage area assigned to journalists for news or stories

cultivation theory
the idea that media affect a citizen's worldview through the information presented

framing
the process of giving a news story a specific context or background

hypodermic theory
the idea that information is placed in a citizen's brain and accepted

minimal effects theory
the idea that the media have little effect on citizens

priming
the process of predisposing readers or viewers to think a particular way

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Front Matter

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West Hills College Lemoore

Beyond Race: Cultural Influences on Social Life

Vera Kennedy

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CHAPTER OVERVIEW

12.1: Front Matter

Preface

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Preface

Beyond Race: Cultural Influences on Human Social Life was written for introductory courses on cultural sociology. The book was designed for faculty and students searching for an open educational resource (OER) that provides sociological terms, concepts, and theories in the study of culture. To adapt to the educational needs of individuals using this book, the instructor or learner must understand the underlying content and instructional approach may require additional resources and/or other methods to make the learning experience her or his own.

The book is supported by discussion of relevant theory and research in cultural sociology. *Beyond Race: Cultural Influences on Human Social Life* has stressed learner-centered teaching with the instructor taking on the role of a facilitator of learning. As such, it is expected the instructor will serve as the mediator between the content of this book and learners' understanding of material on multiple and higher levels. This book does not offer a set of rules in teaching cultural sociology, but rather suggests content and applications to consider and modify as needed by the ever-changing dynamics of instructors and learners.

The first edition of this book was prepared in collaboration with my colleagues at West Hills College Lemoore and California State University, Fresno. My thanks go to Neomi Daniels, my copyeditor, Katie Conklin and Greg Kennedy, who made helpful content suggestions, the West Hills Community College District Office for their support in OER, and the West Hills College Lemoore SOC 5 class of spring 2018:

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CHAPTER OVERVIEW

12.2: Culture and Meaning

Learning Objectives

At the end of the module, students will be able to:

1. explain the relationship between culture and the social world
2. understand the role and impact of culture on society
3. describe concepts central to cultural sociology
4. summarize and apply the theoretical perspectives on the study of culture

Culture is an expression of our lives. It molds our identity and connection to the social world. Whether it is our values, beliefs, norms, language, or everyday artifacts each element of culture reflects who we are and influences our position in society. If you think about how we live, communicate, think and act, these parts of our existence develop from the values, beliefs, and norms we learn from others, the language and symbols we understand, and the artifacts or materials we use. Culture is embedded into everyday life and is the attribute in which others view and understand us.

Cultural Sociology
Culture and Meaning (Summary)
Defining Culture
Link Between Culture and Society
Theoretical Perspectives on Culture

Thumbnail: !Kung woman and child sharing a meal. Image used with permission (CC-SA-BY 4.0; Staehler).

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Cultural Sociology

There is division among sociologists who study culture. Those who study the sociology of culture have limitations on the categorizations of cultural topics and objects restricting the view of culture as a social product or consequence. The theoretical works of Emile Durkheim, Karl Marx, and Max Weber and the field of anthropology, shaped the sociology of culture. Durkheim found culture and society are interrelated. He explained social structures or institutions serve a functions society. As a collective group, society's culture including its social, political and economic values are essentially part of and reflected in all structures or institutions (Durkheim 1965). Marx believed social power influences culture. He suggested cultural products depend on economics and people who have power are able to produce and distribute culture (Marx 1977). Weber in alignment with the traditional humanities viewpoint emphasized the ability of culture to influence human behavior. His perspective argued some cultures and cultural works are ideal types that could be lost if they were not preserved or archived (Weber 1946). Until the late twentieth century, anthropologists emphasized the importance of art and culture to educate, instill morality, critique society to inspire change (Best 2007). Initial thoughts on culture focused on how culture makes a person. These works accentuated the idea that certain cultural elements (i.e., elite or high culture) make a person cultured.

In contrast, the study of cultural sociology suggests social phenomena is inherently cultural (Alexander 2003). Cultural sociology investigates culture as an explanation of social phenomena. During the cultural turn movement of the 1970s, cultural sociology emerged as a field of study among anthropologists and social scientists evaluating the role of culture in society. Academics expanded their research to the social process in which people communicate meaning, understand the world, construct identity, and express values and beliefs (Best 2007). This new approach incorporates analyzing culture using data from interviews, discussions, and observations of people to understand the social, historical structures and ideological forces that produce and confine culture.

Cultural sociology examines the social meanings and expressions associated with culture. Cultural sociologists study representations of culture including elitist definitions and understanding such as art, literature, and classical music, but also investigate the broad range of culture in everyday social life (Back, Bennett, Edles, Gibson, Inglis, Jacobs, and Woodward 2012). Noting the significance of culture in human social life, sociologists empirically study culture, the impact of culture on social order, the link between culture and society, and the persistence and durability of culture over time (Griswold 2013). Cultural sociology incorporates an interdisciplinary approach drawing on different disciplines because of the broad scope and social influences culture has on people. Culture is inseparable from the acts and influence of cultural practices embedded within social categories (i.e., gender, ethnicity, and social class) and social institutions (i.e., family, school, and work) that construct identities and lifestyle practices of individuals (Giddens 1991; Chaney 1996). In the effort to understand the relationship between culture and society, sociologists study cultural practices, institutions, and systems including the forms of power exhibited among social groups related to age, body and mind, ethnicity, gender, geography, race, religion and belief systems, sex, sexuality, and social class.

CULTURAL IDENTITY IN ART

1. What forms of identity and symbolism did you see within the music video This is America by Childish Gambino (https://youtu.be/VYOjWnS4cMY)?
2. Now, watch the breakdown video that explains the hidden symbolism and forms of cultural identity in the music video This is America by Childish Gambino (https://youtu.be/9_LIP7qguYw).
3. Compare your list and note what things you were able to identify and what things you missed.

"Cultural Identity in Art" by Kristen Kennedy is licensed under CC BY 4.0

Ethnographers and Native Anthropologists

In the study of cultural sociology, many practitioners examine both quantitative and qualitative data to develop an understanding of cultural experiences. **Quantitative** or numeric data provides a framework for understanding observable patterns or trends while **qualitative** or categorical data presents the reasoning behind thoughts and actions associated with patterns or trends.

The collection of qualitative data incorporates scientific methodological approaches including participant observation (observing people as a member of the group), interviews (face-to-face meetings), focus groups (group discussions), or images (pictures or video). Each method focuses on collecting specific types of information to develop a deep understanding about a particular culture and the experiences associated with being a member of that culture.

Ethnographers study people and cultures by using qualitative methods. Ethnography or ethnographic research is the firsthand, field-based study of a particular culture by spending at least one year living with people and learning their customs and practices

(Kottak and Kozaitis 2012). In the field, ethnographers are participant observers and a participant of the group or society of study. Participant observers face challenges in remaining objective, non-bias, and ensuring their participation does not lead or influence others of the group in a specific direction (Kennedy, Norwood, and Jendian 2017). This research approach expects ethnographers to eliminate the risk of contaminating data with interference or bias interpretations as much as humanly possible.



Figure 1: Group of Men on a Desert. (CC BY 4.0; by Follow Alice).

Some researchers choose to study their own culture. These practitioners refer to themselves as **native anthropologists**. Many native anthropologists have experience studying other cultures prior to researching their own (Kottak and Kozaitis 2012). The practice of learning how to study other cultures gives practitioners the skills and knowledge they need to study their own culture more objectively. In addition, by studying other cultures then one's own, native anthropologists are able to compare and analyze similarities and differences in cultural perceptions and practices.

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Culture and Meaning (Summary)

Key Terms and Concepts

Beliefs	Native Anthropologists
Conflict Theory	Non-Material Culture
Cultural Sociology	Norms
Culture	Practices
Enculturation	Qualitative Data
Environmental Theory	Quantitative Data
Ethnographers	Sapir-Worf Hypothesis
Exchange Theory	Social Location
Feminism	Sociological Imagination
Functionalism	Symbolic Interactionism
Macrosociology	Symbols
Material Culture	Theoretical paradigms
Microsociology	Values

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Defining Culture

Culture is universal. Every society has culture. Culture touches every "aspect of who and what we are" and becomes a lens of how we see and evaluate the world around us (Henslin 2011:36). Culture molds human nature and people learn to express nature in cultural ways. The sociological perspective acknowledges that all people are cultured.

Each generation transmits culture to the next providing us a roadmap and instruction on how to live our lives. Cultural transmission occurs through the learning and expression of traditions and customs. Learning your own group's culture is **enculturation**. Adults are agents of enculturation responsible for passing on culture to each generation.

Through learning, people develop individual cultural characteristics that are part of a social pattern and integrated set of traits expressing a group's core values (Kottak and Kozitis 2003). Thus, cultures are integrated and patterned systems serving a variety of social functions within groups. Enculturation gives members of a group a process to think symbolically, use language and tools, share common experiences and knowledge, and learn by observation, experience, as well as unconsciously from each other (Kottak and Kozitis 2003). The commonalities we share through culture establish familiarity and comfort among members of our own group.

Non-Material vs. Material Culture

Culture is either non-material or material. **Non-material culture** includes psychological and spiritual elements influencing the way individuals think and act. **Material culture** refers to physical artifacts people use and consume. Immaterial aspects of culture reflect social values, beliefs, norms, expressive symbols, and practices. Though these cultural elements are intangible, they often take on a physical form in our minds. Non-material culture becomes real in our perceptions and we begin to view them as objects as in the belief of God or other deity. Though we cannot physically see, hear, or touch a God belief makes them real and imaginable to us.

Values or ideals define what is desirable in life and guides our preferences and choices. Changes in core values may seem threatening to some individuals or societies as "a threat to a way of life" (Henslin 2011:53). A strong bind to core values can also blind individuals to reality or objectivity reinforcing fallacies and stereotypes. Throughout history, there have always been differences between what people value (their ideal or public culture) and how they actually live their lives (their real or personal culture).

Beliefs sometimes mirror values. One's belief system may align or determine their values influencing thoughts and actions. Beliefs are not always spiritual or supernatural. For example, the belief in love or feelings of affection are internal emotions or physical reactions that exhibit physiological changes in human chemistry. Some beliefs are true representations of metaphysical or abstract thinking which transcend the laws of nature such as faith or superstitions.

CULTURAL INVENTORY

1. What is your personal cultural inventory? Describe your values and beliefs, the social norms in which you conform, the expressive symbols (including language) you understand and use regularly, your daily practices, and the artifacts you use frequently and those you treasure.
2. How did you learn culture? Explain the socializing agents responsible for teaching you the traditions, customs, and rituals you live by and follow.
3. What impact does culture have on your identity? Discuss how your culture influences your self-image, views, and role in society.
4. How does culture influence your thinking and behavior towards others? Explain how your culture impacts the image or understanding you have about others including assumptions, stereotypes, and prejudices.

Norms or rules develop out of a group's values and beliefs. When people defy the rules, they receive social reactions resulting in a sanction. Sanctions are a form of social control (Griffiths, Keirns, Strayer, Cody-Rydzewsk, Scaramuzzo, Sadler, Vyain, Byer, and Jones 2015). When people follow the rules, they receive a positive sanction or reward, and when they break the rules, they receive a negative one or punishment that may include social isolation.

Symbols help people understand the world (Griffiths et al. 2015). Symbols include gestures, signs, signals, objects, and words. Language is the symbolic system people use to communicate both verbally and in writing (Griffiths et al. 2015). Language constantly evolves and provides the basis for sharing cultural experiences and ideas.

The **Sapir-Worf Hypothesis** suggests people experience the world through symbolic language that derives from culture itself (Griffiths et al. 2015). If you see, hear, or think of a word, it creates a mental image in your head helping you understand and interpret meaning. If you are not familiar with a word or its language, you are unable to comprehend meaning creating a cultural gap or boundary between you and the cultural world around you. Language makes symbolic thought possible.

Practices or the behaviors we carry out develop from or in response to our thoughts. We fulfill rituals, traditions, or customs based on our values, beliefs, norms, and expressive symbols.

Culture dictates and influences how people live their lives. Cultural practices become habitual from frequent repetition (Henslin 2011). Habitualization leads to institutionalization by consensus of a social group. This results in cultural patterns and systems becoming logical and the viewed as the norm.

Material culture is inherently unnatural, such as buildings, machines, electronic devices, clothing, hairstyles, etc. (Henslin 2011). Dialogue about culture often ignores its close tie to material realities in society. The cultural explanations we receive from family, friends, school, work, and media justify cultural realities and utilities of the artifacts we use and consume. Human behavior is purposeful and material culture in our lives derives from the interests of our socializing agents in our environment.

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Link Between Culture and Society

Culture is both expressive and social. Neither culture nor society exist in the real world rather it is the thoughts and behaviors of people that constructs a society, its culture, and meanings (Griswold 2013). People build the world we live in including the cultural attributes we choose to obtain, exhibit, and follow. Societies communicate and teach culture as part of the human experience.

Historically, culture referred to characteristics and qualities of the fine arts, performing arts, and literature connecting culture to social status. This perspective emphasized a subculture shared by the social elite or upper class and has been historically characterized as civilized culture. This perspective within the humanities studied the “ideal type” or “high culture” of affluent social groups depicting whom was “cultured” or rather was wealthy and educated in society lending itself to a ranking of cultures in its study.



Figure 1: Active Adult Artist Ballerina. (CC0 1.0; by Pixabay).

In the 19th century, anthropologist Edward B. Tyler (1871) introduced culture as a complex social structure encompassing “... knowledge, belief, art, morals, law, customs, and other capabilities and habits acquired by man as a member of society.” This definition focused on culture as a social attribute of humanity. Social scientists adopted this perspective expanding the study of culture beyond the ethnocentric elitism of “high culture.” With emphasis on human social life as a reflection of culture, social scientists sought to understand not only how culture reflects society but also how society reflects culture. These new insights inspired social scientists to examine the practices of people lending itself to a sociological perspective on culture.

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Theoretical Perspectives on Culture

The social structure plays an integral role in the **social location** (i.e., place or position) people occupy in society. Your social location is a result of cultural values and norms from the time-period and place in which you live. Culture effects personal and social development including the way people will think or behave. Cultural characteristics pertaining to age, gender, race, education, income and other social factors influence the location people occupy at any given time.

Furthermore, social location influences how people perceive and understand the world in which we live. People have a difficult time being objective in all contexts because of their social location within cultural controls and standards derived from values and norms. Objective conditions exist without bias because they are measureable and quantifiable (Carl 2013). Subjective concerns rely on judgments rather than external facts. Personal feelings and opinions from a person's social location drive subjective concerns. The **sociological imagination** is a tool to help people step outside subjective or personal biography, and look at objective facts and the historical background of a situation, issue, society, or person (Carl 2013).

PERCEPTIONS OF REALITY

The time period we live (history) and our personal life experiences (biography) influence our perspectives and understanding about others and the world. Our history and biography guide our perceptions of reality reinforcing our personal bias and subjectivity. Relying on subjective viewpoints and perspectives leads to diffusion of misinformation and fake news that can be detrimental to our physical and socio-cultural environment and negatively impact our interactions with others. We must seek out facts and develop knowledge to enhance our objective eye. By using valid, reliable, proven facts, data, and information, we establish credibility and make better decisions for the world and ourselves.

1. Consider a socio-cultural issue you are passionate about and want to change or improve.
2. What is your position on the issue? What ideological or value-laden reasons or beliefs support your position? What facts or empirical data support your position?
3. What portion of your viewpoint or perspective on the issue relies on personal values, opinions, or beliefs in comparison to facts?
4. Why is it important to identity and use empirical data or facts in our lives rather than relying on ideological reasoning and false or fake information?

According to C. Wright Mills (1959), the sociological imagination requires individuals to "think themselves away" in examining personal and social influences on people's life choices and outcomes. Large-scale or macrosociological influences help create understanding about the effect of the social structure and history on people's lives. Whereas, small-scale or microsociological influences focus on interpreting personal viewpoints from an individual's biography. Using only a microsociological perspective leads to an unclear understanding of the world from bias perceptions and assumptions about people, social groups, and society (Carl 2013).



Figure 1: Selective Focus Photography of Woman Using White and Black SLR Camera. (CC BY 4.0; Element5 Digital).

Sociologists use theories to study the people. "The **theoretical paradigms** provide different lenses into the social constructions of life and the relationships of people" (Kennedy, Norwood, and Jendian 2017:22). The theoretical paradigms in sociology help us examine and understand cultural reflections including the social structure and social value culture creates and sustains to fulfill human needs as mediated by society itself. Each paradigm provides an objective framework of analysis and evaluation for understanding the social structure including the construction of the cultural values and norms and their influence on thinking and behavior.

The Theoretical Paradigms

Macrosociology studies large-scale social arrangements or constructs in the social world. The macro perspective examines how groups, organizations, networks, processes, and systems influences thoughts and actions of individuals and groups (Kennedy et al. 2017). Functionalism, Conflict Theory, Feminism, and Environmental Theory are macrosociological perspectives.

Microsociology studies the social interactions of individuals and groups. The micro perspective observes how thinking and behavior influences the social world such as groups, organizations, networks, processes, and systems (Kennedy et al. 2017). Symbolic Interactionism and Exchange Theory are microsociological perspectives.

Functionalism is a macrosociological perspective examining the purpose or contributions of interrelated parts within the social structure. Functionalists examine how parts of society contribute to the whole. Everything in society has a purpose or function. Even a negative contribution helps society discern its function. For example, driving under the influence of alcohol or drugs inspired society to define the behavior as undesirable, develop laws, and consequences for people committing such an act. A manifest function in society results in expected outcomes (i.e., using a pencil to develop written communication). Whereas, a latent function has an unexpected result (i.e., using a pencil to stab someone). When a function creates unexpected results that cause hardships, problems, or negative consequences the result is a latent dysfunction.

Conflict Theory is a macrosociological perspective exploring the fight among social groups over resources in society. Groups compete for status, power, control, money, territory, and other resources for economic or other social gain. Conflict Theory explores the struggle between those in power and those who are not in power within the context of the struggle. Cultural wars are common in society, whether controversy over a deity and way of life or ownership and rights over Holy Land.

Symbolic Interactionism is a microsociological perspective observing the influence of interactions on thinking and behavior. Interactionists consider how people interpret meaning and symbols to understand and navigate the social world. Individuals create social reality through verbal and non-verbal interactions. These interactions form thoughts and behaviors in response to others influencing motivation and decision-making. Hearing or reading a word in a language one understands develop a mental image and comprehension about information shared or communicated (i.e., the English word “bread” is most commonly visualized as a slice or loaf and considered a food item).

There are three modern approaches to sociological theory (Carl 2013). **Feminism**, a macrosociological perspective, studies the experiences of women and minorities in the social world including the outcomes of inequality and oppression for these groups. One major focus of the feminist theoretical approach is to understand how age, ethnicity, race, sexuality, and social class interact with gender to determine outcomes for people (Carl 2013). **Exchange Theory** examines decision-making of individuals in society. This microsociological perspective focuses on understanding how people consider a cost versus benefit analysis accentuating their self-interest to make decisions. **Environmental Theory** explores how people adjust to ecological (environmental and social) changes over time (Carl 2013). The focal point of this macrosociological perspective is to figure out how people adapt or evolve over time and share the same ecological space.

Applying Theories

Functionalists view how people work together to create society as a whole. From this perspective, societies needs culture to exist (Griffiths, Keirns, Strayer, Cody-Rydzewsk, Scaramuzzo, Sadler, Vyain, Byer, and Jones 2015). For example, cultural norms or rules function to support the social structure of society, and cultural values guide people in their thoughts and actions. Consider how education is an important concept in the United States because it is valued. The culture of education including the norms surrounding registration, attendance, grades, graduation, and material culture (i.e., classrooms, textbooks, libraries) all support the emphasis placed on the value of education in the United States. Just as members of a society work together to fulfill the needs or society, culture exists to meet the basic needs of its members.

Conflict theorists understand the social structure as inherently unequal resulting from the differences in power based on age, class, education, gender, income, race, sexuality, and other social factors. For a conflict theorist, culture reinforces issues of "privilege” groups and their status in social categories (Griffiths et al. 2015). Inequalities exist in every cultural system. Therefore, cultural norms benefit people with status and power while harming others and at the expense of others. For example, although cultural diversity is valued in the United States, some people and states prohibit interracial marriages, same-sex marriages, and polygamy (Griffiths et al. 2015).

Symbolic interactionists see culture as created and maintained by the interactions and interpretations of each other’s actions. These theorists conceptualize human interactions as a continuous process of deriving meaning from the physical and social environment.

“Every object and action has a symbolic meaning, and language serves as a means for people to represent and communicate their interpretations of these meanings to others” (Griffiths et al. 2015:72). Interactionists evaluate how culture depends on the interpretation of meaning and how individuals interact when exchanging comprehension and meaning. For instance, derogatory terms such as the “N” word might be acceptable among people of the same cultural group but viewed as offensive and antagonistic when used by someone outside of the group.

Feminists explore the cultural experiences of women and minorities. For example, women in Lebanon do not have the right to dissolve a marriage without her husband’s consent even in cases of spousal abuse (Human Rights Watch 2015). Feminism explicitly examines oppression structures within culture systems and the inequity some groups confront in relation to their age, gender, race, social class, sexuality, or other social category.

Exchange theorists observe how culture influences decision-making. Cultural values and beliefs often influence people’s choices about premarital sex and cohabitation before marriage. If you evaluate your decisions on a daily basis, you might see elements of culture behind the motivation driving your choices.

Environmental theorists assess how culture, as part of the social and physical environment, adapts and changes over time. If you contemplate any rule of law, you can see how culture has altered because of shifts in social ideas or ecological fluctuations. Consider the anti-tobacco laws in the United States making it illegal to smoke in public areas as an example of social shifts towards health and wellness or water meters to control and regulate residential water usage and waste as an example of ecological drought and prolonged water shortages in the United States.

THEORETICAL APPLICATION

Popular culture reflects prominent values, beliefs, norms, symbolic expressions, and practices while re-enforcing American ideologies and myths. Develop a written response exploring the depiction of contemporary American culture in an episode of a contemporary television show drama (i.e., NCIS, Game of Thrones, Agents of S.H.I.E.L.D., Breaking Bad, etc.)

1. Describe American cultural ideologies or principles portrayed in the show (i.e., unity, diversity, patriotism, etc.).
2. Explain which myths or untruths are evident in the film that express fundamental cultural values or norms.
3. Discuss how the show mirrors social and cultural trends.
4. Analyze the culture portrayed in the television show using each of the theoretical paradigms: Functionalism, Conflict theory, Interactionism, Feminism, Exchange Theory, and Environmental Theory.

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CHAPTER OVERVIEW

12.3: Culture as a Social Construct

Learning Objectives

At the end of the module, students will be able to:

1. illustrate how culture is constructed and received
2. describe the influence of context on cultural creation and acceptance
3. explain the significance of collective culture on group solidarity and cohesion
4. discuss and assess the impact of cultural change on the social structure

How does culture affect your thinking and behavior? How are you able to communicate the influence of culture on your life to others? How do you justify your culture as true, real, or tangible? Because culture is a socially meaningful expression that can be articulated and shared it often takes a physical form in our minds. A spiritual or philosophical expression that is not physical in nature becomes tangible in our minds and is equivalent to an “object” (Griswold 2013). The cultural expression is so real that people perceive it as something achievable or concrete (even if only in psychological form). The mental picture is the object and the meaning associated with the object is the expression when we are speaking
about non-material culture.

Collective Culture
Culture as a Social Construct (Summary)
Group and Organizational Culture
Levels of Culture
Social Production of Culture

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Collective Culture

Among humans, there are universal cultural patterns or elements across groups and societies. **Cultural universals** are common to all humans throughout the globe. Some cultural universals include cooking, dancing, ethics, greetings, personal names, and taboos to name a few. Can you identify at least five other cultural universals shared by all humans?

In thinking about cultural universals, you may have noted the variations or differences in the practice of these cultural patterns or elements. Even though humans share several cultural universals, the practice of culture expresses itself in a variety of ways across different social groups and institutions. When different groups identify **shared culture**, we often are speaking from generalizations or general characteristics and principles shared by humans. The description of cultural universals speak to the generalization of culture such as in the practice of marriage. Different social groups share the institution of marriage but the process, ceremony, and legal commitments are different depending on the culture of the group or society.

Cultural generalities help us understand the similarities and connections all humans have in the way we understand and live even though we may have particular ways of applying them. Some cultural characteristics are unique to a single place, culture, group, or society. These particularities may develop or adapt from social and physical responses to time, geography, ecological changes, group member traits, and composition including power structures or other phenomena.

Cultural and Social Bonds

By living together in society, people "learn specific ways of looking at life" (Henslin 2011:104). Through daily interactions, people construct reality. The construction of reality provides a forum for interpreting experiences in life expressed through culture.

Emile Durkheim ([1893] 1933) believed social bonds hold people together. When people live in small, integrated communities that share common values and beliefs, they develop a shared or **collective consciousness**. Durkheim referred to this type of social integration as **mechanical solidarity** meaning members of the community are all working parts of the group or work in unity creating a sense of togetherness forming a collective identity. In this example, members of the community think and act alike because they have a shared culture and shared experiences from living in remote, close-knit areas.



Figure 1: Men Working at Night. (CC0 1.0; Pixabay).

As society evolves and communities grow, people become more specialized in the work they do. This specialization leads individuals to work independently in order to contribute to a segment or part of a larger society (Henslin 2011). Durkheim referred to this type of social unity as **organic solidarity** meaning each member of the community has a specific task or place in the group in which they contribute to the overall function of the community that is spatial and culturally diverse. In this example, community members do not necessarily think or act alike but participate by fulfilling their role or tasks as part of the larger group. If members fulfill their parts, then everyone is contributing and exchanging labor or production for the community to function as a whole.

Both mechanical and organic solidarity explain how people cooperate to create and sustain social bonds relative to group size and membership. Each form of solidarity develops its own culture to hold society together and function. However, when society transitions from mechanical to organic solidarity, there is chaos or normlessness. Durkheim referred to this transition as social **anomie** meaning "without law" resulting from a lack of a firm collective consciousness. As people transition from social dependence (mechanical solidarity) to interdependence (organic solidarity), they become isolated and alienated from one another until a redeveloped set of shared norms arise. We see examples of this transition when there are changes in social institutions such as governments, industry, and religion. Transitions to democracy across the continent of Africa have shown countries contending with poverty, illiteracy, militarization, underdevelopment, and monopolization of power, all forms of anomie, as they move from social dependence to interdependence (The National Academic Press 1992).

People develop an understanding about their culture specifically their role and place in society through social interactions. Charles Horton Cooley ([1902] 1964) suggested people develop self and identity through interpersonal interactions such as perceptions, expectations, and judgement of others. Cooley referred to this practice as the **looking glass self**. We imagine how others observe us and we develop ourselves in response to their observations. The concept develops over three phases of interactions. First, we imagine another's response to our behavior or appearance, then we envision their judgment, and lastly we have an emotional response to their judgement influencing our self-image or identity (Griswold 2013). Interpersonal interactions play a significant role in helping us create social bonds and understand our place in society.

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Culture as a Social Construct (Summary)

Key Terms and Concepts

Acculturation	Looking Glass Self
Adaptive	Maladaptive
Anomie	Mechanical Solidarity
Coercive Organizations	National Culture
Collective Consciousness	Normative Organizations
Cultural Change	Organic Solidarity
Cultural Generalities	Organizational Culture
Cultural Lag	Organizations
Cultural Leveling	Out-Group
Cultural Objects	Primary Group
Cultural Patterns	Reference Group
Cultural Traits	Sanctions
Cultural Universals	Secondary Group
Group	Shared Culture
Group Dynamics	Subcultures
Ideal Culture	Symbolic Power
In-Group	Utilitarian Organizations
International Culture	

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Group and Organizational Culture

The term **group** refers to any collection of at least two people who interact frequently and share identity traits aligned with the group (Griffiths et al. 2015). Groups play different roles in our lives. **Primary groups** are usually small groups characterized by face-to-face interaction, intimacy, and a strong sense of commitment. Primary groups remain "inside" us throughout our lifetime (Henslin 2011). **Secondary groups** are large and impersonal groups that form from sharing a common interest. Different types of groups influence our interactions, identity, and social status. George Herbert Mead (1934) called individuals effecting a person's life as significant others, and he conceptualized "generalized others" as the organized and generalized attitude of a social group.

Different types of groups influence our interactions, identity, and social status. An **in-group** is a group toward which one feels particular loyalty and respect. The traits of in-groups are virtues, whereas traits of out-groups are vices (Henslin 2011). An **out-group** is a group toward which one feels antagonism and contempt. Consider fans at a sporting event, people cheering on our supporting the same team will develop an in-group admiration and acceptance while viewing fans of the opposing team as members of their out-group.



Figure 1: Man Person People Stadium. Image used with permission (CC0 1.0; Pixabay).

Reference groups are also influential groups in someone's life. A **reference group** provides a standard for judging one's own attitudes or behaviors within a social setting or context (Henslin 2011). People use reference groups as a method for self-evaluation and social location. People commonly use reference groups in the workplace by watching and emulating the interactions and practices of others so they fit in and garner acceptance by the group.

Group dynamics focus on how groups influence individuals and how individuals affect groups. The social dynamics between individuals plays a significant role in forming group solidarity. Social unity reinforces a collective identity and shared thinking among group members thereby constructing a common culture (Griswold 2013). Commonalities of group membership are important for mobilizing individual members. When people attempt to create social change or establish a social movement group, solidarity helps facilitate motivation of individuals and framing of their actions. The sense of belonging and trust among the group makes it easier for members to align and recognize the problem, accept a possible solution, take certain actions that are congruent and complementary to the collective identity of the group (Griswold 2013).

People accept the group's approach based on solidarity and cohesiveness that overall amplifies personal mobilization and commitment to the group and its goals.

COLLECTIVE IDENTITY AND SOCIAL MOVEMENTS

Research TED Talks videos on social movements and social change such as the following:

- How to Start a Movement by Derek Sivers (www.ted.com/talks/derek_sive...art_a_movement)
- Online Social Change by Zeynep Tufekci (www.ted.com/talks/zeynep_tuf...ze_hard_to_win)

1. What lessons can you learn about collective identity from the stories presented?
2. How does group culture make it possible to construct a social movement? Explain how microsociological acts (social interactions) lead to macrosociological changes (systems, organizations, and processes) in society.
3. What impact does intrinsic or internal motivation and framing of the issue have on organizing a social movement?

An **organization** refers to a group of people with a collective goal or purpose linked to bureaucratic tendencies including a hierarchy of authority, clear division of labor, explicit rules, and impersonal (Giddens, Duneier, Applebaum, and Carr 2013). Organizations function within existing cultures and produce their own. Formal organizations fall into three categories including normative, coercive, and utilitarian (Etzioni 1975). People join **normative or voluntary organizations** based on shared interests

(e.g., club or cause). **Coercive organizations** are groups that people are coerced or forced to join (e.g., addiction rehabilitation program or jail). People join **utilitarian organizations** to obtain a specific material reward (e.g., private school or college).

When we work or live in organizations, there are multiple levels of interaction that effect social unity and operations. On an individual level, people must learn and assimilate into the culture of the organization. All organizations face the problem of motivating its members to work together to achieve common goals (Griswold 2013). Generally, in organizations small group subcultures develop with their own meaning and practices to help facilitate and safeguard members within the organizational structure. Group members will exercise force (peer pressure and incentives), actively socialize (guide feelings and actions with normative controls), and model behavior (exemplary actors and stories) to build cohesiveness (Griswold 2013). Small groups play an integral role in managing individual members to maintain the function of the organization. Think about the school or college you attend. There are many subcultures within any educational setting and each group establishes the norms and behaviors members must follow for social acceptance. Can you identify at least two subcultures on your school campus and speculate how members of the group pressure each other to fit in?



Figure 2: Army Authority Drill Instructor Group. (CC0 1.0; Pixabay).

On a group level, symbolic power matters in recruiting members and sustaining the culture of a group within the larger social culture (Hallet 2003). **Symbolic power** is the power of constructing reality to guide people in understanding their place in the organizational hierarchy (Bourdieu 1991). This power occurs in everyday interactions through unconscious cultural and social domination. The dominant group of an organization influences the prevailing culture and provides its function in communications forcing all groups or subcultures to define themselves by their distance from the dominant culture (Bourdieu 1991). The instrument of symbolic power is the instrument of domination in the organization by creating the ideological systems of its goals, purpose, and operations. Symbolic power not only governs culture of the organization but also manages solidarity and division between groups. We see examples of symbolic power in the military. Each branch of the military has a hierarchy of authority where generals serve as the dominate group and are responsible for the prevailing culture. Each rank socializes members according to their position within the organization in relation to the hierarchy and fulfills their role to achieve collective goals and maintain functions.

CULTURAL SOLIDARITY

Describe the culture of an organization where you have worked, volunteered, or attended school.

1. What are the stories and symbols that everyone who works, volunteers, or attends there knows?
2. What subculture groups exist within the organization, and what forms of conflict take place between units or classifications?
3. How do the heads of the organization use symbolic power to motivate people?

There are external factors that influence **organizational culture**. The context and atmosphere of a nation shapes an organization. When an organization's culture aligns with national ideology, they can receive special attention or privileges in the way of financial incentives or policy changes (Griswold 2013). In contrast, organizations opposing national culture may face suppression, marginalization, or be denied government and economic. Organizations must also operate across a multiplicity of cultures (Griswold 2013). Culture differences between organizations may affect their operations and achievement of goals. To be successful, organizations must be able to operate in a variety of contexts and cultures. Griswold (2013) suggested one way to work across cultural contexts is to maintain an overarching organizational mission but be willing to adapt on insignificant or minor issues. Financial and banking institutions use this approach. Depending on the region, banks offer different cultural incentives for opening an account or obtaining a loan. In California, homeowners may obtain a low interest loans for ecological improvements including installation of solar panels, weatherproof windows, or drought resistance landscaping. In the state of Michigan, affluent homeowners may acquire a low interest property improvement loan, and very low-income homeowners may receive grants for repairing, improving, or modernizing their homes to remove health and safety hazards.

Working across organizational cultures also requires some dimension of trust. Organizational leaders must model forms and symbols of trust between organizations, groups, and individuals (Mizrachi, Drori, and Anspach 2007). This means authority figures must draw on the organization's internal and external diversity of cultures to show its ability to adapt and work in a variety of cultural and political settings and climates. Organizations often focus on internal allegiance forgetting that shared meaning across the marketplace, sector, or industry is what moves understanding of the overall system and each organization's place in it (Griswold 2013). The lack of cultural coordination and understanding undermines many organizations and has significant consequences for accomplishing its goals and ability to sustain itself.

ORGANIZATIONAL CULTURE

Consider the culture of an organization where you have worked, volunteered, or attended school. Describe a time when you witnessed someone receive a nonverbal, negative sanction (e.g., a look of disgust, a shake of the head, or some other nonverbal sign of disapproval).

1. What organizational norm was being broken (i.e., what was the act that led the person to give a nonverbal negative sanctioning)?
2. Was the norm broken considered a structural or cultural violation?
3. What was the reaction of the norm violator to the negative sanction?
4. Was the norm being enforced a result of peer pressure, external forces, mimicking, or modeling?

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Levels of Culture

There are three recognized levels of culture in society (Kottak and Kozaitis 2012). Each level of culture signifies particular cultural traits and patterns within groups. **International culture** is one level referring to culture that transcends national boundaries. These cultural traits and patterns spread through migration, colonization, and the expansion of multinational organizations (Kottak and Kozaitis 2012). Some illustrations are evident in the adoption and use of technology and social media across continents. For example, computers and mobile devices allow people to live and operate across national boundaries enabling them to create and sustain an international culture around a common interest or purpose (i.e., Olympics, United Nations, etc.).

In contrast, cultural traits and patterns shared within a country is **national culture**. National culture is most easily recognizable in the form of symbols such as flags, logos, and colors as well as sound including national anthems and musical styles. Think about American culture, which values, beliefs, norms, and symbols are common only among people living in the United States? How about those living in China and Brazil?

Subcultures, another level of culture, are subgroups of people within the same country (e.g.,doctors, lawyers, teachers, athletes, etc.). Subcultures have shared experiences and common cultural distinctions, but they blend into the larger society or cultural system. Subcultures have their own set of symbols, meanings, and behavioral norms, which develop by interacting with one another. Subcultures develop their own self-culture or idioculture that has significant meaning to members of the group and creates social boundaries for membership and social acceptance (Griswold 2013). Think about social cliques whether they be categorized as jocks, nerds, hipsters, punks, or stoners. Each group has a particular subculture from the artifacts they wear to the values and beliefs they exhibit. All groups form a subculture resulting in group cohesion and shared consciousness among its members.

SPORT AS A SUBCULTURE

Research the sport, quadriplegic rugby. Examine the rules of the game, search for information or testimonials about any of the athletes, and watch videos of game highlights and athlete stories or interviews available online.

1. Describe the subculture of the athletes (i.e., values, beliefs, symbols including meanings and expressions, behavioral norms, and artifacts relevant to the game).
2. Discuss the socialization process of athletes into the sport.
3. Explain how social context, cultural creation, and cultural acceptance work to create the idioculture of quadriplegic rugby.

Doing Culture

All people are cultured. Social scientists argue all people have a culture represented in values, beliefs, norms, expressive symbols, practices, and artifacts. This viewpoint transcends the humanities perspective that suggests one must project refined tastes, manners, and have a good education as exhibited by the elite class to have culture. The perspective of social scientists reinforce the ideology that cultures are integrated and patterned systems not simply desired characteristics that distinguish the ruling class.

Cultural patterns are a set of integrated traits transmitted by communication or social interactions (Kottak and Kozaitis 2012). Consider the cultural patterns associated with housing. Each cultural group or society maintains a housing system comprised of particular cultural traits including kitchen, sofa, bed, toilet, etc. The cultural traits or each individual cultural item is part of the home or accepted cultural pattern for housing.

Not only do people share cultural traits, but they may also share personality traits. These traits are actions, attitudes, and behaviors (e.g., honesty, loyalty, courage, etc.). Shared personality traits develop through social interactions from core values within groups and societies (Kottak and Kozaitis 2012). Core values are formally (legally or recognized) and informally (unofficial) emphasized to develop a shared meaning and social expectations. The use of positive (reward) and negative (punishment) **sanctions** help in controlling desired and undesired personality traits. For example, if we want to instill courage, we might highlight people and moments depicting bravery with verbal praise or accepting awards. To prevent cowardness, we show a deserter or run-away to depict weakness and social isolation.

Doing culture is not always an expression of **ideal culture**. People's practices and behaviors do not always abide or fit into the ideal ethos we intend or expect. The Christmas holiday is one example where ideal culture does not match the real culture people live and convey. Christmas traditionally represents an annual celebration of the birth of Jesus Christ; however, many individuals and families do not worship Christ or attend church on Christmas day but instead exchange gifts and eat meals together. The ideal

or public definition of Christmas does not match the real or individual practices people express on the holiday. Throughout history, there have always been differences between what people value (ideal culture) and how they actually live their lives (real culture).

Cultural Change

People biologically and culturally adapt. **Cultural change** or evolution is influenced directly (e.g., intentionally), indirectly (e.g., inadvertently), or by force. These changes are a response to fluctuations in the physical or social environment (Kottak and Kozaitis 2012). Social movements often start in response to shifting circumstances such as an event or issue in an effort to evoke cultural change. People will voluntarily join for collective action to either preserve or alter a cultural base or foundation. The fight over control of a cultural base has been the central conflict among many civil and human rights movements. On a deeper level, many of these movements are about cultural rights and control over what will be the prevailing or dominant culture.

Changes in cultural traits are either **adaptive** (better suited for the environment) or **maladaptive** (inadequate or inappropriate for the environment). During times of natural
disasters, people must make cultural changes to daily norms and practices such as donating time and money to help relief efforts (adaptive) while also rebuilding homes and businesses. However, not all relief efforts direct money, energy, or time into long-term contributions of modifying physical infrastructures including roads, bridges, dams, etc. or helping people relocate away from high disaster areas (maladaptive). People adjust and learn to cope with cultural changes whether adaptive or maladaptive in an effort to soothe psychological or emotional needs.

Though technology continues to impact changes in society, culture does not always change at the same pace. There is a **lag** in how rapidly cultural changes occur. Generally, material culture changes before non-material culture. Contact between groups diffuses cultural change among groups, and people are usually open to adapt or try new artifacts or material possessions before modifying their values, beliefs, norms, expressive symbols (i.e., verbal and non-verbal language), or practices. Influencing fashion trends is easier than altering people's religious beliefs.

Through travel and technological communications, people are sharing cultural elements worldwide. With the ability to travel and communicate across continents, time and space link the exchange of culture. Modern society is operating on a global scale (known as globalization) and people are now interlinked and mutually dependent. **Acculturation** or the merging of cultures is growing. Groups are adopting the cultural traits and social patterns of other groups leading to the blending of cultures. **Cultural leveling** is the process where cultures are becoming similar to one another because of globalization.

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Social Production of Culture

When people discuss love, they imagine it in their minds and feel it in their hearts even though no one can truly touch love in a physical form. We associate love to a variety of mental and physical interactions, but love itself is not tangible or concrete. Whereas, material culture is associated with physical artifacts projecting a clear understanding of its nature because it is visible, audible, and can be touched. We buy and give gifts to express our love. The material artifact we give to someone is a tangible expression of love. In this example, the expression of non-material culture is evident in material culture (love = gift) and material culture represents non-material culture (gift = love) making both forms cultural "objects."



Figure 1: Brown Bear Plush Toy Holding Red Rose Flower. (CC BY 4.0; Acharaporn Kamornboonyarush).

Cultural objects become representations of many things and can have many meanings based on the history and biography of an individual, group, or society. Think about the mantra, "Follow your dreams." The expression is often used in the United States when discussing educational and career motivation and planning. For many U.S. citizens, this statement creates an open space for academic or professional choices and opportunities. However, the "object" is limited to the culture of the individual. In other words, your "dream" is limited to the cultural environment and social location you occupy. For example, if you are in a family where men and women fill different roles in work and family then your educational and career choices or pathways are limited to the options within the context of your culture (i.e., values, beliefs, and norms). Afghan culture does not value or permit the education of girls. In Afghanistan, one third of girls marry before 18, and once married they are compelled to drop out of school (Human Rights Watch 2017). The educational and career choices of Afghan girls is limited to the culture of their country and the social location of their gender. This means to "follow your dreams" in Afghanistan is confined to what a dream as an object can represent based on the gender of the person.

How does culture become an "object" or solidified, socially accepted, and followed? According to Griswold (2013) people create, articulate, and communicate culture. However, this does not mean every cultural idea or creation is accepted by society. Though people create culture, other people must receive or accept culture to become tangible, real, or recognized as an object including artifacts. The creation of cultural ideas and concepts must have an audience to receive it and articulate its meaning in order for culture to be established and accepted. The context of the social world including time, place, conditions, and social forces influence whether an audience accepts or rejects a cultural object. Consider the many social media applications available to us today. With so many social media outlets and options available, which are the most recognized and used? Which social media apps have become part of our everyday lives, and which do we expect people to use and be familiar with as a norm?

When Jack Dorsey, Noah Glass, Biz Stone, and Evan Williams created Twitter, they introduced a cultural idea to society. As word spread about the application and people began to use it, communication about its relevance and usefulness grew. As the network of users grew more and more people were intrigued to discover the application and make it part of their lives leading to Twitter becoming a cultural object. Not only did Twitter need to demonstrate relevance to reach potential users, but it also had to be timely and applicable in context or to the needs of modern society.

Since the development of the Internet, many people and organizations have developed a variety of social media applications, but only a few apps have transcended time to become part of our culture because they were able to develop an audience or significant number of cultural receivers to legitimize them. Other than Twitter, what social media applications have become part of our culture? Research and describe the demographics of the audience or receivers for each application identified and discuss the context or environment that made the app relevant for its time and users.

DISSECTING CULTURAL CONSTRUCTION-cyberbullying

Consider the social issue of cyberbullying.

1. Describe the social context or environment that has led to the development and growth of this issue.

2. What cultural elements do we associate with cyberbullying? What are the values, beliefs, norms, symbolic expressions, and artifacts or materials used by perpetrators to create a culture of cyberbullying?
3. How do victims, observers, and the public receive this culture? What meanings do people associate by the expressions used by perpetrators that make the issue "real"?
4. Reflecting on your responses to Questions 1-3, explain how social context, cultural creation, and cultural acceptance work to make the issue of cyberbullying a cultural object.

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CHAPTER OVERVIEW

12.4: Cultural Power

Learning Objectives

At the end of the module, students will be able to:

1. explain the implications of culture on social status and stratification
2. summarize the mechanisms used by dominant groups to develop and sustain culturalpower
3. understand cultural hegemony
4. describe the consequences of social conflicts over cultural power
5. identify and evaluate cultural prejudice and discrimination

All humans are comprised of the same biological structure and matter. The unique distinctions among us stem from our culture (Kottak and Kozaitis 2012). The differences in our values, beliefs, norms, expressive language, practices, and artifacts is which stands us apart from each other. Being culturally unique projects exclusivity that draws attention to our variations and differences. People find cultural fit or acceptance from those who share uniqueness or the same cultural characteristics. Consequently, people may find or experience intolerance or rejection from those with different cultural traits.

Cultural Hegemoney
Cultural Hierarchies
Cultural Power (Summary)
Prejudice and Discrimination
Social and Cultural Capital

Thumbnail: Counter service in a McDonald's restaurant in Dukhan, Qatar. Image used with permission (CC BY-SA 3.0 Unported; Vincent van Zeijst).

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Cultural Hegemoney

The very nature of cultural creation and production requires an audience to receive a cultural idea or product. Without people willing to receive culture, it cannot be sustainable or become an object (Griswold 2013). Power and influence play an integral part in **cultural creation** and marketing. The ruling class has the ability to establish cultural norms and manipulate society while turning a profit. Culture is a commodity and those in a position of power to create, produce, and distribute culture gain further social and economic power.

Culture producing organizations such as multinational corporations and media industries are in the business of producing mass culture products for profit. These organizations have the power to influence people throughout the world. Paul Hirsch (1972) referred to this enterprise as the **culture industry system** or the "market." In the culture industry system, multinational corporations and media industries (i.e., cultural creators) produce an excess supply of cultural objects to draw in public attention with the goal of flooding the market to ensure receipt and acceptance of at least one cultural idea or artifact by the people for monetary gain.

The culture industry system produces mass culture products to generate a **culture of consumption** (Grazian 2010). The production of mass culture thrives on the notion that culture influences people. In line with the humanities' perspective on culture, multinational corporations and media industries, believe they have the ability to control and manipulate culture by creating objects or products that people want and desire. This viewpoint suggests **cultural receivers** or the people are weak, apathetic, and consume culture for recognition and social status (Griswold 2013). If you consider the cultural object of buying and owning a home, the concept of owning a home represents attaining the "American dream." Even though not all Americans are able to buy and own a home, the cultural industry system has embedded home ownership as a requisite to success and achievement in America.



Figure 1: Street Lights of Times Square. (CC BY 4.0; Jose Francisco Fernandez Saura).

In contrast, **popular culture** implies people influence culture. This perspective indicates people are active makers in the creation and acceptance of cultural objects (Griswold 2013). Take into account one of the most popular musical genres today, rap music. The creative use of language and rhetorical styles and strategies of rap music gained local popularity in New York during the 1970s and entered mainstream acceptance in mid-1980s to early '90s (Caramanica 2005). The early developments of rap music by the masses led to the genre becoming a cultural object.

IS BROWN THE NEW GREEN?

Latinos are the largest and fastest growing ethnic group in the United States. The culture industry system is seeking ways to profit from this group. As multinational corporations and media industries produce cultural objects or products geared toward this population, their cultural identity is transformed into a new subculture blending American and Latino values, beliefs, norms, and practices. Phillip Rodriguez is a documentary filmmaker on Latino culture, history, and identity. He and many other race and diversity experts are exploring the influence of consumption on American Latino culture.

1. Research the products and advertisements targeting Latinos in the United States. Describe the cultural objects and messaging encouraging a culture of consumption among this group.

2. What type of values, beliefs, norms, and practices are reinforced in the cultural objects or projects created by the culture industry system?
3. How might the purchase or consumption of the cultural objects or products you researched influence the self-image, identity, and social status of Latinos?
4. What new subculture arises by the blending of American and Latino culture? Describe the impact of uniting or combining these cultures on Latinos and Americans.

Today, rap music like other forms of music is being created and produced by major music labels and related media industries. The culture industry system uses media gatekeepers to regulate information including culture (Grazian 2010). Even with the ability of the people to create popular culture, multinational corporations and media industries maintain power to spread awareness, control access, and messaging. This power to influence the masses also gives the **hegemonic ruling class** known as the culture industry system the ability to reinforce stereotypes, close minds, and promote fear to encourage acceptance or rejection of certain cultural ideas and artifacts.

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Cultural Hierarchies

Cultural distinctions make groups unique, but they also provide a social structure for creating and ranking cultures based on similarities or differences. A cultural group's size and strength influences their power over a region, area, or other groups. Cultural power lends itself to social power that influences people's lives by controlling the prevailing norms or rules and making individuals adhere to the dominant culture voluntarily or involuntarily.

Culture is not a direct reflection of the social world (Griswold 2013). Humans mediate culture to define meaning and interpret the social world around them. As a result, dominant groups able to manipulate, reproduce, and influence culture among the masses. Common culture found in society is actually the selective transmission of elite-dominated values (Parenti 2006). This practice known as **cultural hegemony** suggests, culture is not autonomous, it is conditional dictated, regulated, and controlled by dominant groups. The major forces shaping culture are in the power of elite-dominated interests who make limited and marginal adjustments to appear culture is changing in alignment with evolving social values (Parenti 2006). The culturally dominating group often sets the standard for living and governs the distribution of resources.

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Cultural Power (Summary)

Key Terms and Concepts

Achieved Status	Discrimination
Ascribed Status	Dominant Group
Cognitive Dissonance	Ethnocentrism
Cultural Capital	Hegemonic Ruling Class
Cultural Creation	Popular Culture
Cultural Fit	Prejudice
Cultural Hegemony	Social Capital
Cultural Power	Social Labels
Cultural Receivers	Social Status
Cultural Relativism	Socializing Agents
Cultural Stratification	Status Shifting
Culture Industry System	Stereotypes
Culture Of Consumption	Subordinate Group
Culture Producing Organizations	

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Prejudice and Discrimination

Cultural intolerance may arise when individuals or groups confront new or differing values, beliefs, norms, expressive symbols, practices, or artifacts. Think about a time when you came across someone who did not fit the cultural "norm" either expressively or behaviorally. How did the person's presence make you feel? What type of thoughts ran through your head? Were you compelled to understand the differences between you and the other person or were you eager to dismiss, confront, or ignore the other person?

Living in a culturally diverse society requires us to tackle our anxiety of the unknown or unfamiliar. The discomfort or **cognitive dissonance** we feel when we are around others who live and think differently than ourselves makes us alter our thoughts and behaviors towards acceptance or rejection of the "different" person in order to restore cognitive balance (Festinger 1957). When people undergo culture shock or surprise from experiencing new culture, their minds undergo dissonance. Similar to a fight or flight response, we choose to learn and understand cultural differences or mock and run away from them.

People have a tendency to judge and evaluate each other on a daily basis. Assessing other people and our surroundings is necessary for interpreting and interacting in the social world. Problems arise when we judge others using our own cultural standards. We call the practice of judging others through our own cultural lens, **ethnocentrism**. This practice is a cultural universal. People everywhere think their culture is true, moral, proper, and right (Kottak and Kozaitis 2012). By its very definition, ethnocentrism creates division and conflict between social groups whereby mediating differences is challenging when everyone believes they are culturally superior and their culture should be the standard for living.



Figure 1: Man with Gray Wash in Full Face Tattoo. (CC BY 4.0; vjapratama).

In contrast, **cultural relativism** insinuates judging a culture by the standards of another is objectionable. It seems reasonable to evaluate a person's values, beliefs, and practices from their own cultural standards rather than judged against the criteria of another (Kottak and Kozaitis 2012). Learning to receive cultural differences from a place of empathy and understanding serves as a foundation for living together despite variances. Like many aspects of human civilization, culture is not absolute but relative suggesting values, beliefs, and practices are only standards of living as long as people accept and live by them (Boas 1887). Developing knowledge about cultures and cultural groups different from our own allows us to view and evaluate others from their cultural lens.

Sometimes people act on ethnocentric thinking and feel justified disregarding cultural relativism. Overcoming negative attitudes about people who are culturally different from us is challenging when we believe our culture and thinking are justified. Consider the social issue of infanticide or the killing of unwanted children after birth. The historical practice occurred in times of famine or hardship when resources were scarce to keep non-productive humans alive. Many people find infanticide a human rights violation regardless of a person's cultural traditions and beliefs and think the practice should stop. People often feel justified condemning the practice of infanticide and the people who believe and practice the tradition.

Stereotypes are oversimplified ideas about groups of people (Griffiths et al. 2015). **Prejudice** is an attitude of thoughts and feelings directed at someone from prejudging or making negative assumptions. Negative attitudes about another's culture is a form of prejudice or bias. Prejudice is a learned behavior. Prejudicial attitudes can lead to discriminatory acts and behaviors. **Discrimination** is an action of unfair treatment against someone based on characteristics such as age, gender, race, religion, etc.

PRIVILEGE AND LIFE CHANCES

Research YouTube user-created videos on privilege and life chances such as the following:

- Privilege Activity by Adam Doyne (https://youtu.be/EIJqtWUiUCs)
- What is Privilege by BuzzFeedYellow (https://youtu.be/hD5f8GuNuGQ)

- Check Your Perspective, Not Your Privilege by Rachel West (https://youtu.be/zvWGINdhGiQ)

Complete the Test Your Life Chances exercise and type a written response addressing the following questions:

1. What life barriers or issues are you able to identify about yourself after completing the exercise?
2. What life advantages or opportunities are you able to distinguish about yourself after completing the exercise?
3. Were there any statements you found more difficult or easier to answer? Explain.
4. Were there any life challenges or obstacles that you have faced missing in the exercise? If so, explain.
5. Were there any life privileges you have experienced missing in the exercise? If so, explain.
6. Did you ever answer untruthfully on any of the statements? If you are comfortable sharing, explain which one(s)? Why did you not answer truthfully?
7. How do life's barriers and opportunities influence people's lives? What connections do you see among upward mobility and life chances in regards to: disability, racial-ethnic identity, gender identity, language, sexuality, and social class?

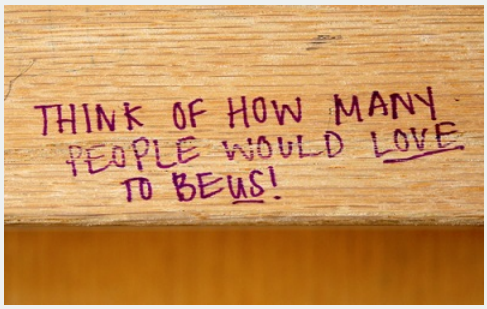


Figure 2: Day 173: Awareness of Privilege. Used with permission (CC BY-SA 4.0; Quinn Dombrowski).

Thinking the practice of infanticide should stop and those who practice it malevolent is prejudicial. Trying to stop the practice with force is discriminatory. There are times in the case of human rights issues like this where the fine line between criticizing with action (ethnocentrism) and understanding with empathy (cultural relativism) are clear. However, knowing the appropriate context when to judge or be open-minded is not always evident. Do we allow men to treat women as subordinates if their religion or faith justifies it? Do we allow people to eat sea turtles or live octopus if it is a delicacy? Do we stop children who do not receive vaccinations from attending school? All of these issues stem from cultural differences and distinguishing the appropriate response is not always easy to identify.

When social groups have or are in power, they have the ability to discriminate on a large scale. A dominant group or the ruling class impart their culture in society by passing laws and informally using the culture industry system or "market" to spread it. Access to these methods allows hegemonic groups to institutionalize discrimination. This results in unjust and unequal treatment of people by society and its institutions. Those who culturally align to the ruling class fare better than those who are different.

VISUAL ETHNOGRAPHY

PART 1

Visual ethnography is a qualitative research method of photographic images with socio-cultural representations. The experience of producing and discussing visual images or texts develops ethnographic knowledge and provides sociological insight into how people live. In your home or the place you live, take one photo of the following:

- The street you live on
- Your home
- Front door of your home
- Your family
- The living room
- The ceiling
- Your sofa or seating
- Lamps or lighting
- The stove
- The kitchen sink
- Your cutlery drawer
- Pantry or where you store food
- The toilet
- The shower or bathing area
- Your toothbrush
- Your bedroom
- Your wardrobe
- Your shoes
- Children's toys (if applicable)
- Children's playground (if applicable)
- Your pets
- Your car or method of transportation

PART 2

1. Watch the video by Anna Rosling Ronnlund entitled See How the Rest of the World Lives, Organized by Income: https://goo.gl/uJc6Vd
2. Next visit the website Dollar Street: https://goo.gl/Rb8WUJ
3. Once you have accessed the Dollar Street website, take the Quick Tour for a tutorial on how to use the site. If the Quick Tour does not appear when you click the site link, click the menu on the right-hand top corner and select Quick Guide, which will open the Quick Tour window.
4. After completing the Quick Tour, access your visual ethnography photos and compare your photographs with other people throughout the world.
5. For your analysis, in complete sentences explain the differences and similarities based on income and country. Specifically, describe what the poorest conditions are for each item as well as the richest conditions and what cultural similarities and/or differences exist in comparison to your items.

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Social and Cultural Capital

Social and cultural relationships have productive benefits in society. Research defines social capital as a form of economic (e.g., money and property) and cultural (e.g., norms, fellowship, trust) assets central to a social network (Putnam 2000). The social networks people create and maintain with each other enable society to function. However, the work of Pierre Bourdieu (1972) found social capital produces and reproduces inequality when examining how people gain powerful positions through direct and indirect social connections. Social capital or a social network can help or hinder someone personally and socially. For example, strong and supportive social connections can facilitate job opportunities and promotion that are beneficial to the individual and social network. Weak and unsupportive social ties can jeopardize employment or advancement that are harmful to the individual and social group as well. People make cultural objects meaningful (Griswold 2013). Interactions and reasoning develop cultural perspectives and understanding. The “social mind” of groups process incoming signals influencing culture within the social structure including the social attributes and status of members in a society (Zerubavel 1999). Language and symbols express a person’s position in society and the expectations associated with their status. For example, the clothes people wear or car they drive represents style, fashion, and wealth. Owning designer clothing or a high performance sports car depicts a person’s access to financial resources and worth. The use of formal language and titles also represent social status such as salutations including your majesty, your highness, president, director, chief executive officer, and doctor.

People may occupy multiple statuses in a society. At birth, people are **ascribed** social status in alignment to their physical and mental features, gender, and race. In some cases, societies differentiate status according to physical or mental disability as well as if a child is female or male, or a racial minority. According to Dr. Jody Heymann, Dean of the World Policy Analysis Center at the UCLA Fielding School of Public Health, "Persons with disabilities are one of the last groups whose equal rights have been recognized" around the world (Brink 2016). A report by the World Policy Analysis Center (2016) shows only 28% of 193 countries participating in the global survey guarantee a right to quality education for people with disabilities and only 18% guarantee a right to work.

In some societies, people may earn or **achieve** status from their talents, efforts, or accomplishments (Griffiths et al. 2015). Obtaining higher education or being an artistic prodigy often correspond to high status. For example, a college degree awarded from an “Ivy League” university social weighs higher status than a degree from a public state college. Just as talented artists, musicians, and athletes receive honors, privileges, and celebrity status.

Additionally, the social, political hierarchy of a society or region designates social status. Consider the social labels within class, race, ethnicity, gender, education, profession, age, and family. **Labels** defining a person’s characteristics serve as their position within the larger group. People in a majority or **dominant group** have higher status (e.g., rich, white, male, physician, etc.) than those of the minority or **subordinate group** (e.g., poor, black, female, housekeeper, etc.). Overall, the location of a person on the social strata influences their social power and participation (Griswold 2013). Individuals with inferior power have limitations to social and physical resources including lack of authority, influence over others, formidable networks, capital, and money.

Social status serves as method for building and maintaining boundaries among and between people and groups. Status dictates social inclusion or exclusion resulting in **cultural stratification** or hierarchy whereby a person’s position in society regulates their cultural participation by others. Cultural attributes within social networks build community, group loyalty, and personal and social identity.

People sometimes engage in **status shifting** to garner acceptance or avoid attention. DuBois (1903) described the act of people looking through the eyes of others to measure social place or position as double consciousness. His research explored the history and cultural experiences of American slavery and the plight of black folk in translating thinking and behavior between racial contexts. DuBois’ research helped sociologists understand how and why people display one identity in certain settings and another in different ones. People must negotiate a social situation to decide how to project their social identity and assign a label that fits (Kottak and Kozaitis 2012). Status shifting is evident when people move from informal to formal contexts. Our cultural identity and practices are very different at home than at school, work, or church. Each setting demands different aspects of who we are and our place in the social setting.

THE SIGNIFICANCE OF CULTURAL CAPITAL

This short video (https://youtu.be/5DBEYiBkgp8) summarizes Pierre Bourdieu's (1930-2002) theory of cultural capital or “the cultural knowledge that serves as currency that helps us navigate culture and alters our experiences and the opportunities available to us.” The video discusses three different forms of cultural capital: embodied state, objectified state, and

institutionalized state with examples of each type that students can apply to their own lives. At the end of the video, discussion questions are included to assist students in applying the concept of cultural capital to what is happening in the world today. Prepare a written response addressing the four discussion questions presented in the video to share with the class.



Pierre Bourdieu (1930-2002). (Public Domain).

Submitted By: Sociology Live!, Cindy Hager. "Cultural Capital" by The Sociological Cinema is licensed under CC BY 4.0

Sociologists find **cultural capital** or the social assets of person (including intellect, education, speech pattern, mannerisms, and dress) promote social mobility (Harper-Scott and Samson 2009). People who accumulate and display the cultural knowledge of a society or group may earn social acceptance, status, and power. Bourdieau (1991) explained the accumulation and transmission of culture is a social investment from **socializing agents** including family, peers, and community. People learn culture and cultural characteristics and traits from one another; however, social status effects whether people share, spread, or communicate cultural knowledge to each other. A person's social status in a group or society influences their ability to access and develop cultural capitol.

Cultural capital provides people access to cultural connections such as institutions, individuals, materials, and economic resources (Kennedy 2012). Status guides people in choosing who and when culture or cultural capital is transferable. Bourdieu (1991) believed cultural inheritance and personal biography attributes to individual success more than intelligence or talent. With status comes access to social and cultural capital that generates access to privileges and power among and between groups. Individuals with cultural capital deficits face social inequalities (Reay 2004). If someone does not have the cultural knowledge and skills to maneuver the social world she or he occupies, then she or he will not find acceptance within a group or society and access to support and resources.

COLLEGE SUCCESS AND CULTURAL CAPITAL

Cultural capital evaluates the validity of culture (i.e., language, values, norms, and access to material resources) on success and achievement. You can measure your cultural capital by examining the cultural traits and patterns of your life. The following questions examine student values and beliefs, parental and family support, residency status, language, childhood experiences focusing on access to cultural resources (e.g., books) and neighborhood vitality (e.g., employment opportunities), educational and professional influences, and barriers affecting college success (Kennedy 2012).

1. What are the most important values or beliefs influencing your life?
2. What kind of support have you received from your parents or family regarding school and your education?
3. How many generations has your family lived in the United States?
4. What do you consider your primary language? Did you have any difficulty learning to read or write the English language?
5. Did your family have more than fifty books in the house when you were growing up? What type of reading materials were in your house when you were growing up?
6. Did your family ever go to art galleries, museums, or plays when you were a child? What types of activities did your family do with their time other than work and school?
7. How would you describe the neighborhood where you grew up?
8. What illegal activities, if any, were present in the neighborhood where you grew up?
9. What employment opportunities were available to your parents or family in the neighborhood where you grew up?
10. Do you have immediate family members who are doctors, lawyers, or other professionals? What types of jobs have your family members had throughout their lives?
11. Why did you decide to go to college? What has influenced you to continue or complete your college education?
12. Did anyone ever discourage or prevent you from pursuing academics or a professional career?
13. Do you consider school easy or difficult for you?

14. What has been the biggest obstacle for you in obtaining a college education?
15. What has been the greatest opportunity for you in obtaining a college education?
16. How did you learn to navigate educational environments? Who taught you the “ins” and “outs” of college or school?

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CHAPTER OVERVIEW

12.5: Cultural Identity

Learning Objectives

At the end of the module, students will be able to:

1. explain the influence of culture on social and self-identity
2. discuss how personal, cultural, and universal identities shape perceptions
3. illustrate the relationship between self and social labels on status
4. assess the impact of technological advances and innovation on identity

Trying to figure out who you are, what you value and believe, and why you think the way you do is a lifelong process. In the first chapter of *Thinking Well*, Stewart E. Kelly suggests, "we all have lenses through which we view reality, and we need to know what our individual lens is composed of and how it influences our perception of reality." Take a moment to reflect and hypothetically paint a picture of yourself with words. Try to capture the core of your being by describing who you are. Once you have formulated a description of yourself, evaluate what you wrote. Does your description focus on your personal characteristics or your cultural characteristics you learned from other people in your life (i.e., family, friends, congregation, teachers, community, etc.)?

Cultural Identity (Summary)
Geographic Region
Identitiy Formation
Identity Labels and Categories
Race and Ethnicity
Social Class

Thumbnail: Major Alan G. Rogers holding hands with his partner on the left at a same-sex wedding ceremony on June 28, 2006 (Public Domain; Stagedoorjohnny)

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Cultural Identity (Summary)

Key terms and Concepts

Age Stratification	Life Course
Anticipatory Socialization	Meritocracy
Assimilation	Minority Groups
Collective Identity	Multiculturalism
Color Blind Racism	Net-Worth
Cultural Codes	Patterns Of Intergroup Relations
Cultural Identity	Pluralism
Cybersocial Interactions	Population Transfer
Dominant Regional Culture	Power
Ethnicity	Queer Theory
Fitness-Minded Culture	Race
Formal Religion	Racial Privilege
Gatekeepers	Racism
Gay Culture	Religion
Gender	Segregation
Gender Identity	Sex
Gender Inequality	Sexual Identity
Gender Socialization	Sexual Orientation
Gender Stratification	Sexuality
Genocide	Sick Role
Individual Discrimination	Social Stigma
Informal Religion	Social Stratification
Institutional Discrimination	Socio-Economic Status
Internal Colonialism	Wealth

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Geographic Region

The place people live or occupy renders a lifestyle and cultural identity. People identify with the geographic location they live in as a part of who they are and what they believe (Kottak and Kozaitis 2012). Places have subcultures specific to their geographic location, environmental surroundings, and population.

As one of the largest cities in the United States, New York City is home to 21 million together speaking over 200 languages (U.S. News and World Report 2017). The city itself is fast-paced and its large population supports the need for around the clock services as the "city that never sleeps." With so many people living in the metropolis, it is a diverse melting pot of racial, ethnic, and socio-economic backgrounds though each neighborhood is its own enclave with its own identity. This large, heterogeneous population effects the impersonal, sometimes characterized as "dismissive and arrogant" attitudes of its residents. By the very nature and size of the city, people are able to maintain anonymity but cannot develop or sustain intimacy with the entire community or its residents. With millions of diverse people living, working, and playing in 304 square miles, it is understandable why tourists or newcomers feel that residents are in a rush, rude, and unfriendly.

On the opposite side of the nation in the Central Valley of California, many residents live in rural communities. The Central Valley is home to 6.5 million people across 18,000 square miles (American Museum of Natural History 2018). Though there is a large, metropolitan hub of Fresno, surrounding communities identify themselves as small, agricultural with a country lifestyle. Here residents seek face-to-face interactions and communities operate as kin or families.



Figure 1: Man Watering the Plant during Daytime. (CC0 1.0; Pixabay).

Like other social categories or labels, people use location to denote status or lifestyle. Consider people in the U.S. who "live in Beverly Hills" or "work on Wall Street." These locations imply socio-economic status and privilege. Values of a **dominant regional culture** marginalize those who do not possess or have the cultural characteristics of that geographic location (Kottak and Kozaitis 2012). People who do not culturally fit in a place face social stigma and rejection.

People move to explore new areas, experience new cultures, or change status. Changing where we live means changing our social and cultural surroundings including the family, friends, acquaintances, etc. The most desirable spaces are distributed inequitably (Kottak and Kozaitis 2012). Wealth and privilege provide access to desirable locations and living conditions. The poor, immigrants, and ethnic minorities are most likely to be concentrated in poor communities with less than optimal living standards (Kottak and Kozaitis 2012). Impoverished groups are the most likely to be exposed to environmental hazards and dangerous living conditions. The disproportionate impact of ecological hazards on people of color has led to the development of the environmental justice movement to abolish environmental racism and harm (Energy Justice Network 2018).

Geographic places also convey or signify stereotypes. People living in or being from an area inherent the region's stereotypes whether they are accurate or not. Think about the previous U.S. examples of "living in Beverly Hills" or "working on Wall Street." Stereotypes associated with these labels imply wealth and status. However, approximately 10% of people living in Beverly Hills are living below the poverty rate and most people employed on Wall Street do not work for financial institutions instead are police, sanitation workers, street vendors, and public employees to name a few (Data USA 2018).

YOUR REGIONAL CULTURE

The place someone lives influences his or her value system and life. Describe the geographic location you live and the culture of your community. What values and beliefs do the social norms and practices of your neighborhood instill or project among residents? What type of artifacts or possessions (i.e., truck, luxury car, recreational vehicle, fenced yard, swimming pool, etc.) do people living in your community seek out, dismiss, or condone? Do you conform to the cultural standards where you live or deviate from them? Explain how the place you live influences your perceptions, choices, and life.

Body and Mind

Like other human characteristics, society constructs meaning and defines normality to physical and mental ability and appearance (Kottak and Kozaitis 2012). Behavior categorized as "normal" is the standard for determining appropriate thinking and behavior from an illness or disorder. An example of this construct is the criteria for determining mental illness that involves examining a person's functionality around accepted norms, roles, status, and behavior appropriate for social situations and settings (Cockerham 2014). The difficulty in defining mental disorders, similar to defining other illness or deformities, is the ever-changing perspectives of society. For example, "homosexuality was considered a mental disorder by American psychiatrists until the early 1970s" (Cockerham, 2014:3). Other terms and classifications have either been eliminated or evolved over time including Melancholia (now Depression), Amentia (once referred to Mental Retardation is no longer used), and Neurosis (which is now classified into subtypes).

Primitive society believed mental illness derived from supernatural phenomena (Cockerham 2014). Because mental disorders were not always observable, people thought supernatural powers were the cause of illness. These preliterate cultures assumed people became sick because they lost their soul, invaded by an evil spirit, violated a taboo, or were victims of witchcraft (Cockerham 2014). Witch doctors or shamans used folk medicine and religious beliefs to produce cures. Many of these healers older in age, had high intellect, were sometimes sexual deviants, orphans, disabled, or mentally ill themselves (Cockerham 2014). Nonetheless, healers helped reduce anxiety and reinforce faith in social norms and customs.

Both physical and mental health conditions become part of a person's identity. Medical professionals, as was the case with witch doctors and shamans, play a role in labeling illness or defect internalizing a person's condition as part of one's identity (Kottak and Kozaitis 2012). As a result, the culture free, scientific objectivity of medicine has come into question. For centuries in western society, science sought to validate religious ideologies and text including the natural inferiority of women and the mental and moral deficiencies of people of color and the poor (Parenti 2006). Many scientific opinions about the body and mind of minority groups have been disproven and found to be embellished beliefs posing as objective findings. Medicine and psychiatry like other aspects of social life have entrenched interests and do not always come from a place of bias-free science.



Figure 2: Photo of Head Bust Print Artwork. (CC BY 4.0; 0 1.0; meo).

People adopt behaviors to minimize the impact of their illness or ailment on others. A sick person assumes a **sick role** when ill and not held responsible for their poor health or disorder, the sick individual is entitled release from normal responsibilities and must take steps to regain his or her health under care of a physician or medical expert (Parsons 1951). Because society views illness as a dysfunction or abnormality, people who are ill or have a condition learn the sick role or social expectations to demonstrate their willingness to cooperate with society though they are unable to perform or maintain standard responsibilities (i.e., attend school, work, participate in physical activity, etc.).

Social attributes around an ideal body and mind center on youthfulness and wellness without deformity or defect. Though a person's physical and mental health ultimately affects them intrinsically, society influences the social or extrinsic experience related to one's body and mind attributes. People face **social stigma** when they suffer from an illness or condition. Erving Goffman (1963) defined stigma as an unwanted characteristic that is devalued by society. Society labels health conditions or defects (e.g., cancer, diabetes, mental illness, disability, etc.) as abnormal and undesirable creating a negative social environment for people with physical or mental differences.

Individuals with health issues or disparities face suspicion, hostility, or discrimination (Giddens, Duneier, Applebaum, and Carr 2013). Social stigma accentuates one's illness or disorder marginalizing and alienating persons with physical or cognitive limitations. During the Middle Ages, the mentally ill were categorized as fools and village idiots. Some people were tolerated for amusement, others lived with family, and some were placed on ships for placement at a distant place (Cockerham 2014). People often blame the victim suggesting one's illness or disability resulted from personal choice or behavior, and it is their responsibility to resolve, cope, and adapt. Blaming the victim ignores the reality that an illness or defect is always be preventable, people cannot

always afford health care or purchase the medications to prevent or alleviate conditions, and care or treatment is not always available.

Social stigma often results in individuals avoiding treatment for fear of social labeling, rejection, and isolation. One in four persons worldwide will suffer a mental disorder in their lifetime (Cockerham 2014). In a recent study of California residents, data showed approximately 77% of the population with mental health needs received no or inadequate treatment (Tran and Ponce 2017). Children, older adults, men, Latinos, and Asians, people with low education, the uninsured, and limited English speakers were most likely to have an unmet need of treatment. Respondents in the study reported the cost of treatment and social stigma were the contributing factors to not receiving treatment. Untreated mental disorders have high economic and social costs including alcoholism, drug abuse, divorce, domestic violence, suicide, and unemployment (Cockerham 2014). The lack of treatment have devastating effects on those in need, their families, and society.

Society promotes health and wellness as the norm and ideal life experience. Media upholds these ideals by portraying the body as a commodity and the value of being young, fit, and strong (Kottak and Kozaitis 2012). This **fitness-minded culture** projects individuals who are healthy and well with greater social status than those inflicted with illness or body and mind differences. In today's society, there is low tolerance for unproductive citizens characterized by the inability to work and contribute to the economy. Darwinian (1859) ideology embedded in modern day principles promote a culture of strength, endurance, and self-reliance under the guise of survival of the fittest. This culture reinforces the modern-day values of productivity associated to one being healthy and well in order to compete, conquer, and be successful in work and life.

There are body and mind differences associated with age, gender, and race. Ideal, actual, and normal body characteristics vary from culture to culture and even within one culture over time (Kottak and Kozaitis 2012). Nonetheless, cultures throughout the world are obsessed with youth and beauty. We see examples of this in media and fashion where actors and models are fit to match regional stereotypes of the young and beautiful. In the United States, most Hollywood movies portray heroines and heroes who are fit without ailment or defect, under the age of 30, and reinforce beauty labels of hyper-femininity (i.e., thin, busty, sexy, cooperative, etc.) and hyper-masculinity (i.e., built, strong, aggressive, tough, etc.). The fashion industry also emphasizes this body by depicting unrealistic ideals of beauty for people to compare themselves while nonetheless achievable by buying the clothes and products models sell.

Body and mind depictions in the media and fashion create appearance stereotypes that imply status and class. If one contains the resources to purchase high-end brands or expense apparel, she or he are able to project status through wealth. If one is attractive, she or he are able to project status through beauty. Research shows stereotypes influence the way people speak to each other. People respond warm and friendly to attractive people and cold, reserved, and humorless to unattractive (Snyder 1993). Additionally, attractive people earn 10-15% more than ordinary or unattractive people (Judge et al. 2009; Hamermesh 2011). We most also note, if one is able to achieve beauty through plastic surgery or exercise and have no health conditions or deformities, they are also more likely to be socially accepted and obtain status.

People with disabilities have worked to dispel misconceptions, promote nondiscrimination, and fair representation (Kottak and Kozaitis 2012). Individuals with body and mind illnesses and differences form support groups and establish membership or affinity based on their condition to organize politically. By acknowledging differences and demanding civil rights, people with illnesses and disabilities are able to receive equal treatment and protection under the law eliminating the stigma and discriminatory labels society has long placed on them. Political organization for social change has given people with body and mind differences the ability to redefine culture and insist on social inclusion and participation of all people regardless of physical or mental differences, challenges, or limitations.

An illustration of civil rights changes occurred in the 20th century with a paradigm shift and growth of professionals, paraprofessionals, and laypeople in mental health (Cockerham 2014). Treatment altered to focus on psychoanalysis and psychoactive drugs rather than institutionalization. With this new approach, hospital discharges increased and hospitalization stays decreased (Cockerham 2014). The most recent revolution in mental health treatment was the development of the community mental health model. The model emphasizes local community support as a method of treatment where relationships are the focus of care. This therapeutic approach uses mental health workers who live in the community to fill the service gaps between the patient and professionals stressing a social rather than medical model (Cockerham 2014). The community mental health model extends civil rights putting consent to treatment and service approach in the hands of patients.

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Identitiy Formation

Cultural identity, like culture itself, is a social construct. The values, beliefs, norms, expressive symbols, practices, and artifacts we hold develop from the social relationships we experience throughout our lives. Not only does cultural identity make us aware of who we are, but it also defines what we stand for in comparison to others. Cultural identity is relational between individuals, groups, and society meaning through culture people are able to form social connections or refrain from them. It is real to each of us with real social consequences.

As defined in Module 1, we learn culture through the process of enculturation. Socializing agents including family, peers, school, work, and the media transmit traditions, customs, language, tools, and common experiences and knowledge. The passage of culture from one generation to the next ensures sustainability of that culture by instilling specific traits and characteristics of a group or society that become part of each group member's identity.

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Identity Labels and Categories

Identity shapes our perceptions and the way we categorize people. Our individual and collective views influence our thinking. Regardless of personal, cultural, or universal identity people naturally focus on traits, values, behaviors, and practices or behaviors they identify with and have a tendency to dismiss those they do not.

Age Cohorts

Our numeric ranking of age is associated with particular cultural traits. Even the social categories we assign to age express cultural characteristics of that age group or cohort. Age signifies one's cultural identity and social status (Kottak and Kozaitis 2012). Many of the most common labels we use in society signify age categories and attributes. For example, the terms "newborns and infants "generally refer to children from birth to age four, whereas "school-age children" signifies youngsters old enough to attend primary school.

Each age range has social and cultural expectations placed upon by others (Kottak and Kozaitis 2012). We have limited social expectations of newborns, but we expect infants to develop some language skills and behaviors like "potty training" or the practice of controlling bowel movements. Even though cultural expectations by age vary across other social categories (e.g., gender, geography, ethnicity, etc.), there are universal stages and understanding of intellectual, personal, and social development associated with each age range or cohort.

Throughout a person's **life course**, they will experience and transition across different cultural phases and stages. Life course is the period from one's birth to death (Griffiths et al. 2015). Each stage in the life course aligns with age-appropriate values, beliefs, norms, expressive language, practices, and artifacts. Like other social categories, age can be a basis of social ranking (Kottak and Kozaitis 2012). Society finds it perfectly acceptable for a baby or infant to wear a diaper but considers it a taboo or fetish among an adult 30 years old. However, diaper wearing becomes socially acceptable again as people age into senior years of life when biological functions become harder to control. This is also an illustration of how people will experience more than one age-based status during their lifetime.

Aging is a human universal (Kottak and Kozaitis 2012). Maneuvering life's course is sometimes challenging. Cultural socialization occurs throughout the life course. Learning the cultural traits and characteristics needed at certain stages of life is important for developing self-identity and group acceptance. People engage in **anticipatory socialization** to prepare for future life roles or expectations (Griffiths et al. 2015). By engaging in social interactions with other people, we learn the cultural traits, characteristics, and expectations in preparation for the next phase or stage of life. Thinking back to "potty training" infants, parents and caregivers teach young children to control bowel movements so they are able to urinate and defecate in socially appropriate settings (i.e., restroom or outhouse) and times.

Generations have **collective identity** or shared experiences based on the time-period the group lived. Consider the popular culture of the 1980s to today. In the 1980s, people used a landline or fixed line phone rather than a cellular phone to communicate and went to a movie theater to see a film rather than downloaded a video to a mobile device. Therefore, someone who spent his or her youth and most of their adulthood without or with limited technology may not deem it necessary to have or operate it in daily life. Whereas, someone born in the 1990s or later will only know life with technology and find it a necessary part of human existence.

Each generation develops a perspective and cultural identify from the time and events surrounding their life. Generations experience life differently resulting from cultural and social shifts over time. The difference in life experience alters perspectives towards values, beliefs, norms, expressive symbols, practices, and artifacts. Political and social events often mark an era and influence generations. The ideology of white supremacy reinforced by events of Nazi Germany and World War II during the 1930s and 1940s instilled racist beliefs in society. Many adults living at this time believed the essays of Arthur Gobineau (1853-1855) regarding the existence of biologically differences between racial groups (Biddis 1970). It was not until the 1960s and 1970s when philosophers and critical theorists studied the underlying structures in cultural products and used analytical concepts from linguistics, anthropology, psychology, and sociology to interpret race discovering no biological or phenological variances between human groups and finding race is a social construct (Black and Solomos 2000). Scientists found cultural likeness did not equate to biological likeness. Nonetheless, many adults living in the 1930s and 1940s held racial beliefs of white supremacy throughout their lives because of the ideologies spread and shared during their lifetime. Whereas, modern science verifies the DNA of all people living today is 99.9% alike and a new generation of people are learning that there is only one human race despite the physical variations in size, shape, skin tone, and eye color (Smithsonian 2018).



Figure 1: Photo of Two Men Wearing Coats. (CC BY 4.0; Tojo Tantely).

Because there are diverse cultural expectations based on age, there can be conflict between age cohorts and generations. **Age stratification** theorists suggest that members of society are classified and have social status associated to their age (Riley, Johnson, and Foner 1972). Conflict often develops from age associated cultural differences influencing social and economic power of age groups. For example, the economic power of working adults conflicts with the political and voting power of the retired or elderly.

Age and generational conflicts are also highly influenced by government or state-sponsored milestones. In the United States, there are several age-related markers including the legal age of driving (16 years old), use of tobacco products (21 years old), consumption of alcohol (21 years old), and age of retirement (65-70 years old). Regardless of knowledge, skill, or condition, people must abide by formal rules with the expectations assigned to the each age group within the law. Because age serves as a basis of social control and reinforced by the state, different age groups have varying access to political and economic power and resources (Griffiths et al. 2015). For example, the United States is the only industrialized nation that does not respect the abilities of the elderly by assigning a marker of 65-70 years old as the indicator for someone to become a dependent of the state and an economically unproductive member of society.

Sex and Gender

Each of us is born with physical characteristics that represent and socially assign our sex and gender. **Sex** refers to our biological differences and **gender** the cultural traits assigned to females and males (Kottak and Kozaitis 2012). Our physical make-up distinguishes our sex as either female or male implicating the **gender socialization** process we will experience throughout our life associated with becoming a woman or man.



Figure 2: Portrait of Young Man. (Public Domain; Pixabay).

Gender identity is an individual's self-concept of being female or male and their association with feminine and masculine qualities. People teach gender traits based on sex or biological composition (Kottak and Kozaitis 2012). Our sex signifies the gender roles (i.e., psychological, social, and cultural) we will learn and experience as a member of society. Children learn gender roles and acts of sexism in society through socialization (Griffiths et al. 2015). Girls learn feminine qualities and characteristics and boys masculine ones forming gender identity. Children become aware of gender roles between the ages of two and three and by four to five years old, they are fulfilling gender roles based on their sex (Griffiths et al. 2015). Nonetheless, gender-based characteristics do not always match one's self or cultural identity as people grow and develop.

GENDER LABELS

1. Why do people need and use gender labels?
2. Why do people create gender roles or expectations?
3. Do gender labels and roles influence limitations on individuals or the social world? Explain.

Gender stratification focuses on the unequal access females have to socially valued resources, power, prestige, and personal freedom as compared to men based on differing positions within the socio-cultural hierarchy (Light, Keller, and Calhoun 1997). Traditionally, society treats women as second-class citizens in society. The design of dominant gender ideologies and inequality maintains the prevailing social structure, presenting male privilege as part of the natural order (Parenti 2006). Theorists suggests society is a male dominated patriarchy where men think of themselves as inherently superior to women resulting in unequal distribution of rewards between men and women (Henslin 2011).

Media portrays women and men in stereotypical ways that reflect and sustain socially endorsed views of gender (Wood 1994). Media affects the perception of social norms including gender. People think and act according to stereotypes associated with one's gender broadcast by media (Goodall 2016). Media stereotypes reinforce **gender inequality** of girls and women. According to Wood (1994), the underrepresentation women in media implies that men are the cultural standard and women are unimportant or invisible. Stereotypes of men in media display them as independent, driven, skillful, and heroic lending them to higher-level positions and power in society.



***Figure** 3: Man in Brown Long Sleeved Button Up Shirt Standing While Using Gray Laptop Computer on Brown Wooden Table Beside Woman in Gray Long Sleeved Shirt Sitting. (Public Domain; rawpixel.com).*

In countries throughout the world, including the United States, women face discrimination in wages, occupational training, and job promotion (Parenti 2006). As a result, society tracks girls and women into career pathways that align with gender roles and match gender-linked aspirations such as teaching, nursing, and human services (Henslin 2011). Society views men's work as having higher value than that of women. Even if women have the same job as men, they make 77 cents per every dollar in comparison (Griffiths et al. 2015). Inequality in career pathways, job placement, and promotion or advancement result in an income gap between genders effecting the buying power and economic vitality of women in comparison to men.

The United Nations found prejudice and violence against women are firmly rooted in cultures around the world (Parenti 2006). Gender inequality has allowed men to harness and abuse their social power. The leading cause of injury among women of reproductive age is domestic violence, and rape is an everyday occurrence and seen as a male prerogative throughout many parts of the world (Parenti 2006). Depictions in the media emphasize male dominant roles and normalize violence against women (Wood 1994). Culture plays an integral role in establishing and maintaining male dominance in society ascribing men the power and privilege that reinforces subordination and oppression of women.

Cross-cultural research shows gender stratification decreases when women and men make equal contributions to human subsistence or survival (Sanday 1974). Since the industrial revolution, attitudes about gender and work have been evolving with the need for women and men to contribute to the labor force and economy. Gendered work, attitudes, and beliefs have transformed in responses to American economic needs (Margolis 1984, 2000). Today's society is encouraging gender flexibility resulting from cultural shifts among women seeking college degrees, prioritizing career, and delaying marriage and childbirth.

SEX-ROLE INVENTORY TRAITS

Your task is to find the ten words on the sex-role inventory trait list below that are most often culturally associated with each of the following labels and categories: femininity, masculinity, wealth, poverty, President, teacher, mother, father, minister, or athlete. Write down the label or category and ten terms to compare your lists with other students.

1. self-reliant 2. yielding 3. helpful 4. defends own beliefs 5. cheerful 6. moody 7. independent 8. shy 9. conscientious 10. athletic 11. affectionate 12. theatrical 13. assertive 14. flatterable 15. happy 16. strong personality 17. loyal 18. unpredictable 19. forceful 20. feminine	21. reliable 22. analytical 23. sympathetic 24. jealous 25. leadership ability 26. sensitive to other's needs 27. truthful 28. willing to take risks 29. understanding 30. secretive 31. makes decisions easily 32. compassionate 33. sincere 34. self-sufficient 35. eager to soothe hurt feelings 36. conceited 37. dominant 38. soft-spoken 39. likable 40. masculine	41. warm 42. solemn 43. willing to take a stand 44. tender 45. friendly 46. aggressive 47. gullible 48. inefficient 49. act as leader 50. childlike 51. adaptable 52. individualistic 53. does not use harsh language 54. unsystematic 55. competitive 56. loves children 57. tactful 58. ambitious 59. gentle 60. conventional

Compare your results with other students in the class and answer the following questions:

1. What are the trait similarities and commonalities between femininity, masculinity, wealth, poverty, President, teacher, mother, father, minister, and athlete?
2. How are masculinity and femininity used as measures of conditions and vocations?

Sexuality and Sexual Orientation

Sexuality is an inborn person's capacity for sexual feelings (Griffiths et al. 2015). Normative standards about sexuality are different throughout the world. **Cultural codes** prescribe sexual behaviors as legal, normal, deviant, or pathological (Kottak and Kozaitis 2012). In the United States, people have restrictive attitudes about premarital sex, extramarital sex, and homosexuality compared to other industrialized nations (Griffiths et al. 2015). The debate on sex education in U.S. schools focuses on abstinence and contraceptive curricula. In addition, people in the U.S. have restrictive attitudes about women and sex, believing men have more urges and therefore it is more acceptable for them to have multiple sexual partners than women setting a double standard.

Sexual orientation is a biological expression of sexual desire or attraction (Kottak and Kozaitis 2012). Culture sets the parameters for sexual norms and habits. Enculturation dictates and controls social acceptance of sexual expression and activity. Eroticism like all human activities and preferences, is learned and malleable (Kottak and Kozaitis 2012). Sexual orientation labels categorize personal views and representations of sexual desire and activities. Most people ascribe and conform to the sexual labels constructed and assigned by society (i.e., heterosexual or desire for the opposite sex, homosexual or attraction to the same sex, bisexual or appeal to both sexes, and asexual or lack of sexual attraction and indifference).

The projection of one's sexual personality is often through gender identity. Most people align their sexual disposition with what is socially or publically appropriate (Kottak and Kozaitis 2012). Because sexual desire or attraction is inborn, people within the socio-sexual dominant group (i.e., heterosexual) often believe their sexual preference is "normal." However, heterosexual fit or type is not normal. History has documented diversity in sexual preference and behavior since the dawn of human existence (Kottak and Kozaitis 2012). There is diversity and variance in people's libido and psychosocial relationship needs. Additionally, sexual activity or fantasy does not always align to sexual orientation (Kottak and Kozaitis 2012). Sexual pleasure from use of sexual toys, homoerotic images, or kinky fetishes do not necessarily correspond to a specific orientation, sexual label, or mean someone's desire will alter or convert to another type because of the activity. Regardless, society uses **sexual identity** as an indicator of status dismissing the fact that sexuality is a learned behavior, flexible, and contextual (Kottak and Kozaitis 2012). People feel and display sexual variety, erotic impulses, and sensual expressions throughout their lives.



Figure 4: Photo of Women Facing Each Other. I (CC BY 4.0; Brett Sayles).

Individuals develop sexual understanding around middle childhood and adolescence (APA 2008). There is no genetic, biological, developmental, social, or cultural evidence linked to homosexual behavior. The difference is in society's discriminatory response to homosexuality. Alfred Kinsley was the first to identify sexuality is a continuum rather than a dichotomy of gay or straight (Griffiths et al. 2015). His research showed people do not necessarily fall into the sexual categories, behaviors, and orientations constructed by society. Eve Kosofky Sedgwick (1990) expanded on Kinsley's research to find women are more likely to express homosocial relationships such as hugging, handholding, and physical closeness. Whereas, men often face negative sanctions for displaying homosocial behavior.

Society ascribes meaning to sexual activities (Kottak and Kozaitis 2012). Variance reflects the cultural norms and sociopolitical conditions of a time and place. Since the 1970s, organized efforts by LGBTQ (Lesbian, Gay, Bisexual, Transgender, and Questioning) activists have helped establish a gay culture and civil rights (Herdt 1992). **Gay culture** provides social acceptance for persons rejected, marginalized, and punished by others because of sexual orientation and expression. **Queer theorists** are reclaiming the derogatory label to help in broadening the understanding of sexuality as flexible and fluid (Griffiths et al. 2015). **Sexual culture** is not necessarily subject to sexual desire and activity, but rather dominant affinity groups linked by common interests or purpose to restrict and control sexual behavior.

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Race and Ethnicity

There are two myths or ideas about race. The first suggests people inherit physical characteristics distinguishing race. Second, the idea that one race is superior to others or that one “pure” race exists. In actuality, scientific research mapping of the human genome system found that humans are homogenous (Henslin 2011). **Race** is truly an arbitrary label that has become part of society’s culture with no justifiable evidence to support differences in physical appearance substantiate the idea that there are a variety of human species. Traditionally, racial terms classify and stratify people by appearance and inherently assign racial groups as inferior or superior in society (Kottak and Kozaitis 2012). Scientific data finds only one human species making up only one human race. Evidence shows physical differences in human appearance including skin color are a result of human migration patterns and adaptions to the environment (Jablonski 2012). Nonetheless, people use physical characteristics to identify, relate, and interact with one another.

Ethnicity refers to the cultural characteristics related to ancestry and heritage. Ethnicity describes shared culture such as group practices, values, and beliefs (Griffiths et al. 2015). People who identify with an ethnic group share common cultural characteristics (i.e.,nationality, history, language, religion, etc.). Ethnic groups select rituals, customs, ceremonies, and other traditions to help preserve shared heritage (Kottak and Kozaitis 2012). Lifestyle requirements and other identity characteristics such as geography and region influence how we adapt our ethnic behaviors to fit the context or setting in which we live. Culture is also key in determining how human bodies grow and develop such as food preferences and diet and cultural traditions promote certain activities and abilities including physical well-being and sport (Kottak and Kozaitis 2012). Someone of Mexican decent living in Central California who is a college professor will project different ethnic behaviors than someone of the same ethnic culture who is a housekeeper in Las Vegas, Nevada. Differences in profession, social class, and region will influence each person’s lifestyle, physical composition, and health though both may identify and affiliate themselves as Mexican.

Not all people see themselves as belonging to an ethnic group or view ethnic heritage as important to their identity. People who do not identify with an ethnic identity either have no distinct cultural background because their ancestors come from a variety of cultural groups and offspring have not maintained a specific culture, instead have a blended culture, or they lack awareness about their ethnic heritage (Kottak and Kozaitis 2012). It may be difficult for some people to feel a sense of solidarity or association with any specific ethnic group because they do not know where their cultural practices originated and how their cultural behaviors adapted over time. What is your ethnicity? Is your ethnic heritage very important, somewhat important, or not important in defining who you are? Why?

Race and ethnic identity like other cultural characteristics influence social status or position in society. **Minority groups** are people who receive unequal treatment and discrimination based on social categories such as age, gender, sexuality, race and ethnicity, religious beliefs, or socio-economic class. Minority groups are not necessarily numerical minorities (Griffith et al. 2015). For example, a large group of people may be a minority group because they lack social power. The physical and cultural traits of minority groups “are held in low esteem by the dominant or majority group which treats them unfairly” (Henslin 2011:217). The dominant group has higher power and status in society and receives greater privileges. As a result, the dominant group uses its position to discriminate against those that are different. The dominant group in the United States is represented by white, middle-class, Protestant people of northern European descent (Doane 2005). Minority groups can garner power by expanding political boundaries or through expanded migration though both of these efforts do not occur with ease and require societal support from minority and dominant group members. The loss of power among dominant groups threatens not only their authority over other groups but also the privileges and way of life established by the majority.



Figure 1: Women Falling in Line Holding Each Other. (CC BY 4.0; mentatdgt).

There are seven **patterns of intergroup relations** between dominant and minority groups influencing not only the racial and ethnic identity of people but also the opportunities and barriers each will experience through social interactions. Maladaptive contacts and exchanges include genocide, population transfer, internal colonialism, and segregation. **Genocide** attempts to destroy a group of people because of their race or ethnicity. “Labeling the targeted group as inferior or even less than fully human facilitates genocide” (Henslin 2011:225). **Population transfer** moves or expels a minority group through direct or indirect transfer. Indirect transfer forces people to leave by making living conditions unbearable, whereas, direct transfer literally expels minorities by force.

Another form of rejection by the dominant group is a type of colonialism. **Internal colonialism** refers to a country’s dominant group exploiting the minority group for economic advantage. Internal colonialism generally accompanies segregation (Henslin 2011). In **segregation**, minority groups live physically separate from the dominant group by law.

Three adaptive intergroup relations include assimilation, multiculturalism, and pluralism. The pattern of **assimilation** is the process by which a minority group assumes the attitudes and language of the dominant or mainstream culture. An individual or group gives up its identity by taking on the characteristics of the dominant culture (Griffiths et al. 2015). When minorities assimilate by force to dominant ideologies and practices, they can no longer practice their own religion, speak their own language, or follow their own customs. In permissible assimilation, minority groups adopt the dominant culture in their own way and at their own speed (Henslin 2011).

Multiculturalism is the most accepting intergroup relationship between dominant and minority groups. Multiculturalism or pluralism encourages variation and diversity. Multiculturalism promotes affirmation and practice of ethnic traditions while socializing individuals into the dominant culture (Kottak and Kozaitis 2012). This model works well in diverse societies comprised of a variety of cultural groups and a political system supporting freedom of expression. **Pluralism** is a mixture of cultures where each retains its own identity (Griffiths et al. 2015). Under pluralism, groups exist separately and equally while working together such as through economic interdependence where each group fills a different societal niche then exchanges activities or services for the sustainability and survival of all. Both the multicultural and pluralism models stress interactions and contributions to their society by all ethnic groups.

REDUCING ETHNIC CONFLICT

Research three online sources on methods and approaches to reducing ethnic conflict such as the following:



***Video** 1: The Path to Ending Ethnic Conflicts by Stefan Wolff (https://youtu.be/UfM7t_oqNDw)*

1. What is your reaction or feelings about the suggestions or ideas for ending ethnic conflicts presented in the sources you identified?
2. Why does type of leadership, approaches to diplomacy, and collective or organizational design matter in reducing ethnic conflicts?
3. What is the most important idea from the sources you identified as they relate to peacekeeping and multiculturalism?

Race reflects a social stigma or marker of superiority (Kottak and Kozaitis 2012). When discrimination centers on race, it is **racism**. There are two types of racial discrimination: individual and institutional. **Individual discrimination** is “unfair treatment directed against someone” (Henslin 2011:218). Whereas, **institutional discrimination** is negative systematic treatment of individuals by society through education, government, economy, health care, etc. According to Perry (2000), when people focus on

racial-ethnic differences, they engage in the process of identity formation through structural and institutional norms. As a result, racial-ethnic identity conforms to normative perceptions people have of race and ethnicity reinforcing the structural order without challenging the socio-cultural arrangement of society. Maintaining racial-ethnic norms reinforces differences, creates tension, and disputes between racial-ethnic groups sustaining the status quo and reasserting the dominant groups position and hierarchy in society.

Upon the establishment of the United States, white legislators and leaders limited the roles of racial minorities and made them subordinate to those of white Europeans (Konradi and Schmidt 2004). This structure systematically created governmental and social disadvantages for minority groups and people of color. Today, toxic waste dumps continue to be disproportionately located in areas with nonwhite populations (Kottak and Kozaitis 2012). It has taken over 200 years to ensure civil rights and equal treatment of all people in the United States; however, discriminatory practices continue because of policies, precedents, and practices historically embedded in U.S. institutions and individuals behaving from ideas of racial stereotypes. Think about the differences people have in employment qualifications, compensation, obtaining home loans, or getting into college. What racial and ethnic stereotypes persist about different racial and ethnic groups in these areas of life?

Whites in the United States infrequently experience racial discrimination making them unaware of the importance of race in their own and others' thinking in comparison to people of color or ethnic minorities (Konradi and Schmidt 2004). Many argue racial discrimination is outdated and are uncomfortable with the blame, guilt, and accountability of individual acts and institutional discrimination. By paying no attention to race, people think racial equality is an act of **color blindness** and it will eliminate racist atmospheres (Konradi and Schmidt 2004). They do not realize the experience of not "seeing" race itself is **racial privilege**. Research shows the distribution of resources and opportunities are not equal among racial and ethnic categories, and White groups do better than other groups and Blacks are predominantly among the underclass (Konradi and Schmidt 2004). Regardless of social perception, in reality, there are institutional and cultural differences in government, education, criminal justice, and media and racial-ethnic minorities received subordinate roles and treatment in society.

Religion and Belief Systems

The concept of a higher power or spiritual truth is a cultural universal. Like ethnicity, religion is the basis of identity and solidarity (Kottak and Kozaitis 2012). People's beliefs and faith support their values, norms, and practices. Individual faith influences one's extrinsic motivation and behaviors including treatment of others.

Religion is malleable and adaptive for it changes and adapts within cultural and social contexts. Human groups have diverse beliefs and different functions of their faith and religion. Historically, religion has driven both social union and division (Kottak and Kozaitis 2012). When religious groups unite, they can be a strong mobilizing force; however, when they divide, they can work to destroy each other.



Figure 2: Architecture Art Cathedral Chapel. (CC0 1.0; Pixabay).

Religion may be formal or informal (Kottak and Kozaitis 2012). Someone who is a member of an organized religious group, attends religious services, and practices rituals is a participant in **formal or institutional religion**. Whereas, someone participating in **informal religion** may or may not be a member of an organized religious group and experiencing a communal spirit, solidarity, and togetherness through shared experience. Informal religion may occur when we participate as a member of a team or during a group excursion such as camp.

Religion is a vehicle for guiding values, beliefs, norms, and practices. People learn religion through socialization. The meaning and structure of religion controls lives through sanctions or rewards and punishments. Religion prescribes to a code of ethics to guide behavior (Kottak and Kozaitis 2012). One who abides by religious teachings receives rewards such as afterlife and one who contradicts its instruction accepts punishment including damnation. People engage in religion and religious practices because they think it works (Kottak and Kozaitis 2012). The connection between religious faith and emotion sustains belief playing a strong role

on personal and social identity. What formal or informal religious experiences have you encountered during your life? How does your faith and spirituality conform or deviate from your family of origin and friends?

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Social Class

A person's **socio-economic status** influences her or his personal and social identity. In society, we rank individuals on their wealth, power, and prestige (Weber [1968] 1978). The calculation of **wealth** is the addition of one's income and assets minus their debts. The **net worth** of a person is wealth whereas income from work and investments is the resources a person has available to access. **Power** is the ability to influence others directly or indirectly and prestige is the esteem or respect associated with social status (Carl 2013). This social stratification system or ranking creates inequality in society and determines one's social position in areas such as income, education, and occupation.

Multiple factors influence social standing, however, people often assume hard work and effort leads to a high status and wealth. Socialization reinforces the ideology that social stratification is a result of personal effort or merit (Carl 2013). The concept of meritocracy is a social ideal or value, but no society exists where the determination of social rank is purely on merit. Inheritance alone shows social standing is not always individually earned. Some people have to put little to no effort to inherit social status and wealth. Additionally, societies operating under a caste system where birth determines lifelong status undermines meritocracy. Caste systems function on the structure that someone born into a low-status group remains low status regardless of their accomplishments, and those born into high-status groups stay high status (Henslin 2011). The caste system reinforces ascribed status rather than achieved to ensure sustainment of multiple roles and occupations in society.

In modern societies, there is evidence of merit based standing in academics and job performance but other factors such as age, disability, gender, race, and region influence life's opportunities and challenges for obtaining social standing. A major flaw of meritocracy is how society measures social contributions. Janitorial and custodial work is necessary in society to reduce illness and manage waste just as much as surgery is to keep people healthy and alive, but surgeons receive greater rewards than janitors do for their contributions.

Marx and Engels (1967) suggested there is a social class division between the capitalists who control the means of production and the workers. In 1985, Erik Wright interjected that people can occupy contradictory class positions throughout their lifetime. People who have occupied various class positions (e.g., bookkeeper to manager to chief operating officer) relate to the experiences of others in those positions, and as a result may feel internal conflict in handling situations between positions or favoring one over another. Late in the twentieth century, Joseph Kahl and Dennis Gilbert (1992) updated the theoretical perspective of Max Weber by developing a six-tier model portraying the United States class structure including underclass, working-poor, working, lower middle, upper middle, and capitalists. The social class model depicts the distribution of property, prestige, and power among society based on income and education.

Each class lifestyle requires a certain level of wealth in order to acquire the material necessities and comforts of life (Henslin 2011). The correlation between the standard of living and quality of life or life chances (i.e., opportunities and barriers) influences one's ability to afford food, shelter, clothing, healthcare, other basic needs, and luxury items. A person's standards of living including income, employment, class, and housing effects their cultural identity.



Figure 1: Man Praying on Sidewalk with Food in Front. (CC BY 4.0; Sergio Omassi).

Social class serves as a marker or indication of resources. These markers are noticeable in the behaviors, customs, and norms of each stratified group (Carl 2013). People living in impoverished communities have different cultural norms and practices compared to those with middle incomes or families of wealth. For example, the urban poor often sleep on cardboard boxes on the ground or on sidewalks and feed themselves by begging, scavenging, and raiding garbage (Kottak and Kozaitis 2012). Middle income and wealth families tend to sleep in housing structures and nourish themselves with food from supermarkets or restaurants.

Language and fashion also vary among these classes because of educational attainment, employment, and income. People will use language like “white trash” or “welfare mom” to marginalize people in the lower class and use distinguished labels to identify the upper class such as “noble” and “elite.” Sometimes people often engage in conspicuous consumption or purchase and use certain products (e.g., buy a luxury car or jewelry) to make a social statement about their status (Henslin 2011). Nonetheless, the experience of poor people is very different in comparison to others in the upper and middle classes and the lives of people within each social class may vary based on their position within other social categories including age, disability, gender, race, region, and religion.

Similar to people, nations are also stratified. The most extreme social class differences are between the wealthiest in industrialized countries and the poorest in the least developed nations (Kottak and Kozaitis 2012). The most industrialized or modern countries have the greatest property and wealth. Most industrialized nations are leaders in technology and progress allowing them to dominant, control, and access global resources. Industrializing nations have much lower incomes and standards of living than those living in most industrialized nations (Henslin 2011). The least industrialized nations are not modern, and people living in these nations tend to be impoverished and live on farms and in villages.

HIDDEN RULES OF CLASS

Could you survive in poverty, middle class, or wealth? In her book *A Framework for Understanding Poverty* (2005), Dr. Ruby K Payne presents lists of survival skills needed by different societal classes. Test your skills by answering the following questions:

Could you survive in . . . (mark all that apply)

POVERTY

1. ____ find the best rummage sales.
2. ____ locate grocery stores’ garbage bins that have thrown away food.
3. ____ bail someone out of jail. ____ get a gun, even if I have a police record.
4. ____ keep my clothes from being stolen at the laundromat.
5. ____ sniff out problems in a used car.
6. ____ live without a checking account.
7. ____ manage without electricity and a phone.
8. ____ entertain friends with just my personality and stories.
9. ____ get by when I don’t have money to pay the bills.
10. ____ move in half a day.
11. ____ get and use food stamps.
12. ____ find free medical clinics.
13. ____ get around without a car.
14. ____ use a knife as scissors.

MIDDLE CLASS know how to....

1. ____ get my children into Little League, piano lessons, and soccer.
2. ____ set a table properly.
3. ____ find stores that sell the clothing brands my family wears.
4. ____ use a credit card, checking and /or savings account.
5. ____ evaluate insurance: life, disability, 20/80 medical, homeowners, and personal-property.
6. ____ talk to my children about going to college.
7. ____ get the best interest rate on my car loan.
8. ____ help my children with homework and don’t hesitate to make a call if I need more information.

WEALTH, check if you....

1. ____ can read a menu in French, English and another language.
2. ____ have favorite restaurants in different countries around the world.
3. ____ know how to hire a professional decorator to help decorate your home during the holidays.
4. ____ can name your preferred financial advisor, lawyer, designer, hairdresser, or domestic-employment service.
5. ____ have at least two homes that are staffed and maintained.

6. ____ know how to ensure confidentiality and loyalty with domestic staff.
7. ____ use two or three “screens” that keep people whom you don’t wish to see away from you
8. ____ fly in your own plane, the company plane, or the Concorde.
9. ____ know how to enroll your children in the preferred private schools.
10. ____ are on the boards of at least two charities.
11. ____ know the hidden rules of the Junior League.
12. ____ know how to read a corporate balance sheet and analyze your own financial statements.
13. ____ support or buy the work of a particular artist.

IDENTITY TODAY

All forms of media and technology teach culture including values, norms, language, and behaviors by providing information about activities and events of social significance (Griffiths et al. 2015). Media and technology socialize us to think and act within socio-cultural appropriate norms and accepted practices. Watching and listening to people act and behave through media and technology shows the influence this social institution has like family, peers, school, and work on teaching social norms, values, and beliefs.

Technological innovations and advancements have influenced social interactions and communication patterns in the twenty-first century creating new social constructions of reality. These changes, particularly in information technology, have led to further segmentation of society based on user-participant affinity groups (Kottak and Kozaitis 2012). The internet and web-based applications link people together transecting local, state, and national boundaries centered on common interests. People who share interests, ideas, values, beliefs, and practices are able to connect to one another through web-based and virtual worlds. These shared interests create solidarity among user-participants while disengaging them from others with differing or opposing interests. **Cybersocial interactions** have reinforced affinity groups creating attitudes and behaviors that strongly encourage tribalism or loyalty to the social group and indifference to others.

Even though there are so many media, news, and information outlets available online, they are homogenous and tell the same stories using the same sources delivering the same message (McManus 1995). Regardless of the news or information outlets one accesses, the coverage of events is predominantly the same with differences focusing on commentary, perspective, and analysis. Shoemaker and Vos (2009) found this practice allow outlets to serve as **gatekeepers** by shaping stories and messages into mass media-appropriate forms and reducing them to a manageable amount for the audience. Fragmentation of stories and messages occurs solely on ideology related to events rather than actual coverage of accounts, reports, or news.

People no longer form and take on identity solely from face-to-face interactions; they also construct themselves from online communication and cybersocial interactions. Approximately 73 percent of adults engage in some sort of online social networking extending their cultural identity to virtual space and time (Pew Research Center 2011). Technological innovations and advancements have even led some people to re-construct a new online identity different from the one they are in face-to-face contexts. Both identities and realities are real to the people who construct and create them, as they are the cultural creators of their personas.

Technology like other resources in society creates inequality among social groups (Griffiths et al. 2015). People with greater access to resources have the ability to purchase and use online services and applications. Privilege access to technological innovations and advancements depend on one’s age, family, education, ethnicity, gender, profession, race, and social class (Kottak and Kozaitis 2012). Signs of technological stratification are visible in the increasing knowledge gap for those with less access to information technology. People with exposure to technology gain further proficiency that makes them more marketable and employable in modern society (Griffiths et al. 2015). Inflation of the knowledge gap results from the lack of technological infrastructure among races, classes, geographic areas creating a digital divide between those who have internet access and those that do not.

NATIVE ANTHROPOLOGIST

Native anthropologists study their own culture. For this project, you will explore your own culture by answering the questions below. Your response to each question must be a minimum of one paragraph consisting of 3-5 sentences, typed, and in ASA format (i.e., paragraphs indented and double-spaced). You must include parenthetical citations if you ask or interview someone in your family or kin group to help you understand and answer any one of the questions. Here is a helpful link with information on citing interviews in ASA format: libguides.tru.ca/c.php?g=194012&p=1277266.

PART 1

1. In examining your background and heritage, what traditions or rituals do you practice regularly? To what extent are traditional cultural group beliefs still held by individuals within the community? To what extent and in what areas has your ethnic or traditional culture changed in comparison to your ancestors?
2. What major stereotypes do you have about other cultural groups based on age, gender, sex, sexuality, race, ethnicity, region, and social class?
3. Reflecting on your cultural background, how do you define family?
4. What is the hierarchy of authority in your family?
5. What do you think are the functions and obligations of the family as a large social unit to individual family members? To school? To work? To social events?
6. What do you think are the rights and responsibilities of each family member? For example, do children have an obligation to work and help the family?
7. In your culture, what stage of life is most valued?
8. What behaviors are appropriate or unacceptable for children of various ages? How might these conflict with behaviors taught or encouraged in the school, work, or by other social groups?
9. How does your cultural group compute age? What commemoration is recognized or celebrated, if any (i.e., birthdays, anniversaries, etc.)?

PART 2

1. Considering your cultural heritage, what roles within a group are available to whom and how are they acquired?
2. Are there class or status differences in the expectations of roles within your culture?
3. Do particular roles have positive or malevolent characteristics?
4. Is language competence a requirement or qualification for family or cultural group membership?
5. How do people greet each other?
6. How is deference or respect shown?
7. How are insults expressed?
8. Who may disagree with whom in the cultural group? Under what circumstances? Are mitigating forms used?
9. Which cultural traditions or rituals are written and how widespread is cultural knowledge found in written forms?
10. What roles, attitudes, or personality traits are associated with particular ways of speaking among the cultural group?
11. What is the appropriate decorum or manners among your cultural group?
12. What counts as discipline in terms of your culture, and what doesn't? What is its importance and value?
13. Who is responsible and how is blame ascribed if a child misbehaves?
14. Do means of social control vary with recognized stages in the life cycle, membership in various social categories (i.e., gender, region, class, etc.), or according to setting or offense?
15. What is the role of language in social control? What is the significance of using the first vs. the second language?

PART 3

1. What is considered sacred (religious) and what secular (non-religious)?
2. What religious roles and authority are recognized in the community?
3. What should an outsider not know, or not acknowledge knowing about your religion or culture?
4. Are there any external signs of participation in religious rituals (e.g., ashes, dress, marking)?
5. Are dietary restrictions to be observed including fasting on particular occasions?
6. Are there any prescribed religious procedures or forms of participation if there is a death in the family?
7. What taboos are associated with death and the dead?
8. Who or what is believed to cause illness or death (e.g., biological vs. supernatural or other causes)?
9. Who or what is responsible for treating or curing illness?
10. Reflecting on your culture, what foods are typical or favorites? What are taboo?
11. What rules are observed during meals regarding age and sex roles within the family, the order of serving, seating, utensils used, and appropriate verbal formulas (e.g., how, and if, one may request, refuse, or thank)?
12. What social obligations are there with regard to food giving, preparation, reciprocity, and honoring people?
13. What relation does food have to health? What medicinal uses are made of food, or categories of food?
14. What are the taboos or prescriptions associated with the handling, offering, or discarding of food?
15. What clothing is common or typical among your cultural group? What is worn for special occasions?
16. What significance does dress have for group identity?

17. How does dress differ for age, sex, and social class? What restrictions are imposed for modesty (e.g., can girls wear pants, wear shorts, or shower in the gym)?
18. What is the concept of beauty, or attractiveness in the culture? What characteristics are most valued?
19. What constitutes a compliment of beauty or attractiveness in your culture (e.g., in traditional Latin American culture, telling a woman she is getting fat is a compliment)?
20. Does the color of dress have symbolic significance (e.g., black or white for mourning, celebrations, etc.)?

PART 4

1. In your culture, what individuals and events in history are a source of pride for the group?
2. ow is knowledge of the group's history preserved? How and in what ways is it passed on to new generations (e.g., writings, aphorisms or opinions, proverbs or sayings)?
3. Do any ceremonies or festive activities re-enact historical events?
4. Among your cultural group, what holidays and celebrations are observed? What is their purpose? What cultural values do they intend to inculcate?
5. What aspects of socialization/enculturation do holidays and celebrations observed further?
6. In your culture, what is the purpose of education?
7. What methods for teaching and learning are used at home (e.g., modeling and imitation, didactic stories and proverbs, direct verbal instruction)?
8. What is the role of language in learning and teaching?
9. How many years is it considered 'normal' for children to go to school?
10. Are there different expectations with respect to different groups (e.g., boys vs. girls)? In different subjects?
11. Considering your culture, what kinds of work are prestigious and why?
12. Why is work valued (e.g., financial gain, group welfare, individual satisfaction, promotes group cohesiveness, fulfillment or creation of obligations, position in the community, etc.)?

PART 5

1. How and to what extent may approval or disapproval be expressed in you culture?
2. What defines the concepts of successful among your cultural group?
3. To what extent is it possible or proper for an individual to express personal vs. group goals?
4. What beliefs are held regarding luck and fate?
5. What significance does adherence to traditional culture have for individual success or achievement?
6. What are the perceptions on the acquisition of dominant group culture have on success or achievement?
7. Do parents expect and desire assimilation of children to the dominant culture as a result of education and the acquisition of language?
8. Are the attitudes of the cultural community the same as or different from those of cultural leaders?
9. Among your cultural group, what beliefs or values are associated with concepts of time? How important is punctuality, speed, patience, etc.?
10. Are particular behavioral prescriptions or taboos associated with the seasons?
11. Is there a seasonal organization of work or other activities?
12. How do individuals organize themselves spatially in groups during cultural events, activities, or gatherings (e.g., in rows, circles, around tables, on the floor, in the middle of the room, etc.)?
13. What is the spatial organization of the home in your culture (e.g., particular activities in various areas of the home, areas allotted to children, or open to children,)?
14. What geo-spatial concepts, understandings, and beliefs (e.g., cardinal directions, heaven, hell, sun, moon, stars, natural phenomena, etc.) exist among the cultural group or are known to individuals?
15. Are particular behavioral prescriptions or taboos associated with geo-spatial concepts, understandings, and beliefs? What sanctions are there against individuals violating restrictions or prescriptions?
16. Which animals are valued in your culture, and for what reasons?
17. Which animals are considered appropriate as pets and which are inappropriate? Why?
18. Are particular behavioral prescriptions or taboos associated with particular animals?
19. Are any animals of religious significance? Of historical importance?
20. What forms of art and music are most highly valued?
21. What art medium and musical instruments are traditionally used?

22. Are there any behavioral prescriptions or taboos related to art and music (e.g., both sexes sing, play a particular instrument, paint or photograph nude images, etc.)?

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CHAPTER OVERVIEW

12.6: The Multicultural World

Skills to Develop

At the end of the module, students will be able to:

1. understand the influence of globalization on culture and cultural identity
2. differentiate between the social patterns of cultural homogenization and cultural heterogenization
3. explain the role of technological advancements on cultural creation and transmission
4. summarize the process for creating cultural awareness and building cultural intelligence
5. demonstrate methods and approaches for working with others in a culturally diverse society

Everyday production of culture centers on local and global influences (Giddens 1991). With the advancements in technology and communications, people are experiencing greater social forces in the construction of their cultural reality and identity. The boundaries of locality have expanded to global and virtual contexts that create complexities in understanding the creation, socialization, adaptation, and sustainability of culture.

Building Cultural Intellegence
Culture Today
Globalization and Identity
The Multicultural World (Summary)

Thumbnail: Women Falling in Line Holding Each Other. Image used with permission (CC BY 4.0; mentatdgt).

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Building Cultural Intellegence

In a cultural diverse society, it is becoming increasingly important to be able to interact effectively with others. Our ability to communicate and interact with each other plays an integral role in the successful development of our relationships for personal and social prosperity. Building **cultural intelligence** requires active awareness of self, others, and context (Bucher 2008). Self-awareness requires an understanding of our cultural identity including intrinsic or extrinsic bias we have about others and social categories of people. Cultural background greatly influences perception and understanding, and how we identify ourselves reflects on how we communicate and get along with others. It is easier to adjust and change our interactions if we are able to recognize our own uniqueness, broaden our percepts, and respect others (Bucher 2008). We must be aware of our cultural identity including any multiple or changing identities we take on in different contexts as well as those we keep hidden or hide to avoid marginalization or recognition.



Figure 1: Man Looking in Front of Mirror. (CC BY 4.0; Min An)

Active awareness of others requires us to use new **cultural lenses**. We must learn to recognize and appreciate commonalities in our culture not just differences. This practice evelops understanding of each other's divergent needs, values, behaviors, interactions, and approach to teamwork (Bucher 2008). Understanding others involves evaluating assumptions and cultural truths. Cultural lens filter perceptions of others and conditions us to view the world and others in one way blinding us from what we have to offer or complement each other (Bucher 2008). Active awareness of others broadens one's sociological imagination to see the world and others through a different lens and understand diverse perspectives that ultimately helps us interact and work together effectively.

Today's workplace requires us to have a **global consciousness** that encompasses awareness, understanding, and skills to work with people of diverse cultures (Bucher 2008). orking with diverse groups involves us learning about other cultures to manage complex and uncertain social situations and contexts. What may be culturally appropriate or pecific in one setting may not apply in another. This means we must develop a cultural understanding of not only differences and similarities, but those of cultural significance as well to identify which interactions fit certain situations or settings.

CULTURAL INTELLIGENCE RESOURCES

1. How do you develop collaboration among people with different backgrounds and experiences?
2. What role does power play in our ability to collaborate with others and develop deep levels of understanding?
3. How might power structures be created when one group tries to provide aid to another?
4. Research the Cultural Intelligence Center (https://culturalq.com/) and online videos on the topic of building cultural intelligence such as *Cultural Intelligence: A New Way of Thinking by Jeff Thomas* (https://www.youtube.com/watch?v=K3S7...ature=youtu.be). Describe what information and free services are available online to help people improve their knowledge and communication skills with people of different cultural backgrounds and experiences.
5. Provide examples of how you will apply the following skills to develop global consciousness:
   - Minimize culture shock
   - Recognize ethnocentrism
   - Practice cultural relativism
   - Develop multiple consciousness
   - Step outside your comfort zone

As we come into contact with diverse people, one of our greatest challenges will be managing **cross-cultural conflict**. When people have opposing cultural values, beliefs, norms, or practices, they tend to create a mindset of division or the "us vs. them" perspective. This act of loyalty to one side or another displays tribalism and creates an ethnocentric and scapegoating environment where people judge and blame each other for any issues or problems. Everyone attaches some importance to what one values and

believes. As a result, people from different cultures might attach greater or lesser importance to family and work. If people are arguing over the roles and commitment of women and men in the family and workplace, their personal values and beliefs are likely to influence their willingness to compromise or listen to one another. Learning to manage conflict among people from different cultural backgrounds increases our ability to build trust, respect all parties, deal with people's behaviors, and assess success (Bucher 2008). How we deal with conflict influences productive or destructive results for others and ourselves.

Self-assessment is key to managing cross-cultural conflicts. Having everyone involved in the conflict assess herself or himself first and recognize their **cultural realities** (i.e., history and biography) will help individuals see where they may clash or conflict with others. If someone comes from the perspective of men should lead, their interactions with others will display women in low regard or subordinate positions to men. Recognizing our cultural reality will help us identify how we might be stereotyping and treating others and give us cause to adapt and avoid conflict with those with differing realities.

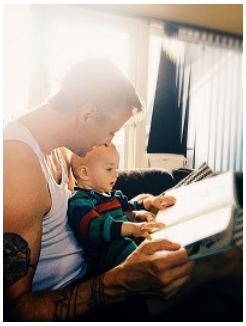


Figure 2: Adult Baby Book Boy. (CC BY 4.0; Rene Asmussen).

Some form of **cultural bias** is evident in everyone (Bucher 2008). Whether you have preferences based on gender, sexuality disability, region, social class or all social categories, they affect your thoughts and interactions with others. Many people believe women are nurturers and responsible for child rearing, so they do not believe men should get custody of the children when a family gets a divorce. Bias serves as the foundation for stereotyping and prejudice (Bucher 2008). Many of the ideas we have about others are ingrained, and we have to unlearn what we know to reduce or manage bias. Removing bias perspectives requires **resocialization** through an ongoing conscious effort in recognizing our bias then making a diligent effort to learn about others to dispel fiction from fact. Dealing with bias commands personal growth and the biggest obstacles are our fears and complacency to change.

Additionally, power structures and stratification emerge in cross-cultural conflicts. The **dynamics of power** impact each of us (Bucher 2008). Our assumptions and interactions with each other is a result of our position and power in a particular context or setting. The social roles and categories we each fall into effect how and when we respond to each other. A Hispanic, female, college professor has the position and authority to speak and control conflict of people in her classroom but may have to show deference and humility when conflict arises at the Catholic Church she attends. The professor's position in society is contextual and in some situations, she has the privileges of power, but in others, she may be marginalized or disregarded.

Power effects how others view, relate, and interact with us (Bucher 2008). Power comes with the ability to change, and when you have power, you are able to invoke change. For example, the racial majority in the United States holds more economic, political, and social power than other groups in the nation. The dominant group's power in the United States allows the group to define social and cultural norms as well as condemn or contest opposing views and perspectives. This group has consistently argued the reality of "reverse racism" even though racism is the practice of the dominant race benefitting off the oppression of others. Because the dominant group has felt prejudice and discrimination by others, they want to control the narrative and use their power to create a reality that further benefits their race by calling thoughts and actions against the group as "reverse racism."

However, when you are powerless, you may not have or be given the opportunity to participate or have a voice. Think about when you are communicating with someone who has more power than you. What do your tone, word choice, and body language project? So now imagine you are the person in a position of power because of your age, gender, race, or other social category what privilege does your position give you? Power implies authority, respect, significance, and value so those of us who do not have a social position of power in a time of conflict may feel and receive treatment that reinforces our lack of authority, disrespect, insignificance, and devalued. Therefore, power reinforces social exclusion of some inflating cross-cultural conflict (Ryle 2008). We must assess our cultural and social power as well as those of others we interact with to develop an inclusive environment that builds on respect and understanding to deal with conflicts more effectively.

Communication is essential when confronted with cross-cultural conflict (Bucher 2008). Conflicts escalate from our inability to express our cultural realities or interact appropriately in diverse settings. In order to relate to each other with empathy and understanding, we must learn to employ use of positive words, phrases, and body language. Rather than engaging in negative words to take sides (e.g., "Tell your side of the problem" or "How did that effect you?"), use positive words that describe an experience or feeling. Use open-ended questions that focus on the situation or concern (e.g., "Could you explain to be sure everyone understands?" or "Explain how this is important and what needs to be different") in your communications with others (Ryle 2008). In addition, our body language expresses our emotions and feelings to others. People are able to recognize sadness, fear, and disgust through the expressions and movements we make. It is important to project expressions, postures, and positions that are open and inviting even when we feel difference or uncomfortable around others. Remember, words and body language have meaning and set the tone or atmosphere in our interactions with others. The words and physical expressions we choose either inflate or deescalate cross-cultural conflicts.

The act of **reframing** or rephrasing communications is also helpful in managing conflicts between diverse people. Reframing requires active listening skills and patience to translate negative and value-laden statements into neutral statements that focus on the actual issue or concern. This form of transformative mediation integrates neutral language that focuses on changing the message delivery, syntax or working, meaning, and context or situation to resolve destructive conflict. For example, reframe "That's a stupid idea" to "I hear you would like to consider all possible options." Conversely, reframe a direct verbal attack, "She lied! Why do you want to be friends with her?" to "I'm hearing that confidentiality and trust are important to you." There are four steps to reframing: 1) actively listen to the statement; 2) identify the feelings, message, and interests in communications; 3) remove toxic language; and 4) re-state the issue or concern (Ryle 2008). These tips for resolving conflict helps people hear the underlying interests and cultural realities.

ETHNOGRAPHY

PART 1

1. Interview another student in class. Record the student's responses to the following:

CULTURAL EXPRESSIONS

- What are typical foods served in the culture?
- Are there any typical styles of dress?
- What do people do for recreation?
- How is space used (e.g., How close should two people who are social acquaintances stand next to one another when they are having a conversation?)
- How is public space used? For example, do people tend to "hang out" on the street, or are they in public because they are going from one place to the next?

STANDARD BEHAVIORS

- How do people greet one another?
- Describe how a significant holiday is celebrated.
- How would a visitor be welcomed into a family member's home?
- What are the norms around weddings? Births? Deaths?

SPECIFIC BELIEFS

- How important is hierarchy or social status?
- How are gender roles perceived?
- How do people view obligations toward one another?
- What personal activities are seen as public? What activities are seen as private?
- What are the cultural attitudes toward aging and the elderly?

ENTRENCHED IDEOLOGIES

- How important is the individual in the culture? How important is the group?
- How is time understood and measured? (e.g., How late can you be to class, work, family event, or appointment before you are considered rude?)
- Is change considered positive or negative?

- What are the criteria for individual success?
- What is the relationship between humans and nature? (e.g., Do humans dominate nature? does nature dominate humans? Do the two live in harmony?)
- What is considered humorous or funny?
- How do individuals “know” things? (e.g., Are people encouraged to question things? Are they encouraged to master accepted wisdom?)
- Are people encouraged to be more action-oriented (i.e., doers) or to be contemplative (i.e., thinkers)?
- What is the role of luck in people’s lives?
- How is divine power or spirituality viewed?

PART 2

1. Exchange the photos each of you took in the exercise.
2. Next visit the website **Dollar Street** (https://goo.gl/Rb8WUJ)
3. Compare the visual ethnography photos with other people throughout the world.
4. In complete sentences, explain the differences and similarities based on income and country. Specifically, describe what the **poorest conditions** are for each item as well as the **richest conditions** and what similarities and/or differences exist in **comparison** to the student photos.

PART 3

Write a paper summarizing the ethnographic data you collected and examined. Your paper must include a description and analysis of the following:

- Thesis statement and introductory paragraph (3-5 sentences) about the student you studied and learned about for this project and methods used to gather data.
- A summary of the ethnography interview containing a minimum of five paragraphs (3-5 sentences each) with first level headings entitled cultural expressions, standard behaviors, specific beliefs, and entrenched ideologies.
- A comparison of visual ethnography photos with other people throughout the world using the Dollar Street website (https://www.gapminder.org/dollar-street/matrix). Write a minimum of 10 paragraphs (3-5 sentences each) discussing the poorest and richest conditions of the archived photos on the website, and explain the similarities and/or differences to the 22 photos shared by your study subject.
- Concluding paragraph (3-5 sentences) telling what you learned by completing an ethnography project and the significance to understanding cultural sociology.

Type and double-space project papers with paragraphs comprised of three to five sentences in length and first level headers (left justified, all caps) as appropriate. Do not write your paper in one block paragraph. Include parenthetical and complete reference citations in ASA format as appropriate.

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Culture Today

With the world in flux from globalization and technological advances, people are developing **multiple identities** apparent in their local and global linkages. Cultural identity is becoming increasingly contextual in the postmodern world where people transform and adapt depending on time and place (Kottak and Kozaitis 2012). Social and cultural changes now adapt in response to single events or issues. The instant response and connections to others beyond time and place immediately impacts our lives, and we have the technology to react quickly with our thoughts and actions.

Approximately two-thirds of American adults are online connecting with others, working, studying, or learning (Griswold 2013). The increasing use of the Internet makes virtual worlds and cybersocial interactions powerful in constructing new social realities. Having a networked society allows anyone to be a cultural creator and develop an audience by sharing their thoughts, ideas, and work online. Amateurs are now **cultural creators** and have the ability to control dissemination of their creations (Griswold 2013). Individuals now have the freedom to restrict or share cultural meaning and systems.

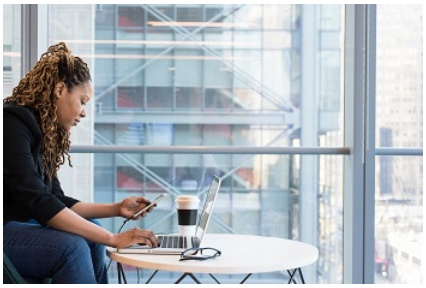


Figure 2: Woman Wearing Black Long Sleeved Shirt Using Laptop. (CC BY 4.0; Christina Morillo).

Postmodern culture and the new borderless world fragments traditional social connections into new cultural elements beyond place, time, and diversity without norms. People can now live within **global electronic cultural communities** and reject cultural meta-narratives (Griswold 2013). Postmodern culture also blurs history by rearranging and juxtaposing unconnected signs to produce new meanings. We find references to actual events in fictional culture and fictional events in non-fictional culture (Barker and Jane 2016). Many U.S. television dramas refer to 9/11 in episodes focusing on terrorists or terrorist activities. Additionally, U.S. social activities and fundraising events will highlight historical figures or icons. The blurring of non-fiction and fiction creates a new narrative or historical reality people begin to associate with and recognize as actual or fact.

CULTURAL TRANSFORMATION

1. How has globalization and technology changed culture and cultural tastes?
2. How have people harnessed these changes into cultural objects or real culture?
3. How do you envision the growth or transformation of receivers or the audience as participants in cultural production?
4. What cultural objects are threatened in the age of postmodern culture?

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Globalization and Identity

Globalization is typically associated to the creation of world-spanning free market and global reach of capitalist systems resulting from technological advances (Back, Bennett, Edles, Gibson, Inglis, Jacobs, and Woodward 2012). However, globalization has the unintended consequences of connecting every person in the world to each other. In this era, everyone's life is connected to everyone else's life in obvious and hidden ways (Albrow 1996). A food production shortage in the United States effects the overall economic and physical well-being and livelihoods of people throughout the world in an obvious way. Our hidden connections stem from the individuals who grow, produce, and transport the food people eat. It is easier for people to recognize the big picture or macrosociological influences we have on each other, but sometimes harder to recognize the role individuals have on each other across the globe.



Figure 1: Light London Adverts Piccadilly Circus. (CC0 1.0; Negative Space).

Globalization also influences our cultural identity and affinity groups. Technology allows us to eliminate communication boundaries and interact with each other on a global scale.

Globalization lends itself to cultural **homogenization** that is the world becoming culturally similar (Back et al. 2012). However, the cultural similarities we now share center on capitalist enterprises including fashion and fast food. Globalization has resulted in the worldwide spread of capitalism (Back et al. 201). **Transnational corporations** or companies with locations throughout the world like McDonald's, Coca-Cola, and Nike dominate the global market with goods and services spreading and embedding their cultural artifacts on a global scale. These corporations increase the influence of global practices on people's lives that sometimes result in economic and social consequences including closing factories in one country and moving to another where costs and regulations are lower.

Along with people throughout the world becoming culturally similar, sociologists also recognize patterns of **cultural heterogenization** where aspects of our lives are becoming more complex and differentiated resulting from globalization. Our social relationships and interactions have become unconstrained by geography (Back et al.). People are no longer restricted to spatial locales and are able to interact beyond time and space with those sharing common culture, language, or religion (Giddens 1990; Kottak and Kozaitis 2012). People can travel across the globe within hours, but also connect with others by phone or the Internet within seconds. These advancements in technology and communications alters what people perceive as close and far away (Back et al. 2012). Our social and cultural arrangements in an era of globalization are adapting and changing the way we think and act.

Today people are able to form and live across national borders. Advances in transportation and communications give people the opportunity to affiliate with multiple countries as **transnationals**. At different times of their lives or different times of the year, people may live in two or more countries.

We are moving beyond local, state, and national identities to broader identities developing from our global interactions forming **transnational communities**. A key cultural development has been the construction of **globality** or thinking of the whole earth as one place (Beck 2000). Social events like Earth Day and the World Cup of soccer are examples of globality. People associate and connect with each other in which they identify. Today people frame their thinking about who they are within global lenses of reference (Back et al. 2012). Even in our global and virtual interactions, people align themselves with the **affinity groups** relative to where they think they belong and will find acceptance. Think about your global and virtual friend and peer groups. How did you meet or connect? Why do you continue to interact? What value do you have in each other's lives even though you do not physical interact?

OUR ONLINE FUTURE

Research three online sources on how online interactions and social media influence human social life such as the following:



The Future of the Web May Not be Social by Mitch Joel (https://www.youtube.com/watch?v=xh0obyhZPM8)

1. What is the relationship between inputting information online and privacy?
2. Do you think the web re-enforces narcissism? How does narcissistic behavior influence our connections to the social world and other people?
3. Even if we choose NOT to participate or be part of the online universe, how does the behavior of other people online affect what the world knows about us?
4. Should everything we do online be open and available to the public? Who should be able to view your browsing patterns, profile, photos, etc.?
5. What rights do you think people should have in controlling their privacy online?

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The Multicultural World (Summary)

Key Terms and Concepts

Affinity Groups	Global Electronic Cultural Communities
Cross-Cultural Conflict	Globality
Cultural Bias	Globalization
Cultural Creator	Multiple Identities
Cultural Heterogenization	Postmodern Culture
Cultural Homogenization	Reframing
Cultural Intelligence	Resocialization
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    - Race and Ethnicity - *CC BY-NC-SA 4.0*
    - Social Class - *CC BY-NC-SA 4.0*
  - 12.6: The Multicultural World - *CC BY-NC-SA 4.0*
    - Building Cultural Intellegence - *CC BY-NC-SA 4.0*
    - Culture Today - *CC BY-NC-SA 4.0*
    - Globalization and Identity - *CC BY-NC-SA 4.0*
    - The Multicultural World (Summary) - *CC BY-NC-SA 4.0*
  - Back Matter - *Undeclared*
    - Index - *Undeclared*
    - Glossary - *Undeclared*
- Back Matter - *Undeclared*
- Front Matter - *Undeclared*
  - TitlePage - *Undeclared*
  - InfoPage - *Undeclared*
  - Table of Contents - *Undeclared*
- Back Matter - *Undeclared*
  - Index - *Undeclared*
  - Glossary - *Undeclared*
  - Detailed Licensing - *Undeclared*