

OUTLINES

Constitutional background

Articles of Confederation

confederation

New Jersey Plan, Virginia Plan, Great Compromise

Constitution of the United States of America

Federalist Papers

Bill of Rights

amendments

separation of powers

checks and balances

federalism

expressed/delegated, reserved, and concurrent powers

supremacy clause

The first government of the newly born United States of America was formed under the Articles of Confederation, the predecessor of the Constitution. The government under the Articles achieved some notable accomplishments, such as

- it won the Revolutionary War and negotiated the treaty that ended the war;
- it established the methods by which new states would enter the Union;
- it set the confederation frame which distributed power between the federal government and the states.

On the other hand, it had considerable weaknesses that put the new state at risk of its existence. Among others, the federal government under the Articles of Confederation

- was not permitted to tax citizens, thus being dependent on state legislatures for revenue;
- had no Supreme Court to interpret law;
- needed unanimity to amend the Articles and approval from 9 to 13 states to pass legislation;
- had no executive branch to enforce national law;

- had no national currency;
- could not control interstate trade etc.

Therefore, the necessity for a new document was badly needed. The convention was summoned to Philadelphia in 1787 where the Framers of the Constitution met and discussed the views of appropriate power and responsibilities of the government. There were several crucial fields of disagreement over

- the strength of federal government;
- the balance between small and big states;
- slavery.

The major change compared to the Articles was as follows

- the office of chief executive, or presidency, was created, with appropriate powers;
- the bicameral legislature was instituted;
- the Supreme Court was created;
- the separation of powers resulted in delegating tasks to three branches of government
- the system of checks and balances was incorporated in the Constitution to prevent the abuse of power;
- the idea of federalism was incorporated in the Constitution, distributing the powers between the Union and the states.

The demand for the protection of the rights of individuals from the government infringement resulted in adoption of the first 10 amendments of the Constitution, or the Bill of Rights. The amendment process is specified in the Constitution. Until now, only 27 amendments were ratified and became part of the Constitution.

The term federalism refers to a system of government under which the national government and local governments share powers. Under federalism, some powers

- belong exclusively to the national government – they are called expressed, delegated or enumerated powers (printing money; regulating interstate and international trade; making treaties and conducting foreign policy; declaring war);
- belong exclusively to states – these are called reserved powers (regulation of intrastate trade; power to issue licenses; the responsibility to run and pay for federal elections);
- are shared by the federal AND state governments – these are called concurrent powers (powers to collect taxes, build roads, operate courts of law, borrow money).

The supremacy clause in the Constitution requires conflicts between federal law and state law to be resolved in favor of federal law.

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Why did the Articles of Confederation fail?

How did the Constitution solve weaknesses found in the Articles?

What is the difference between the Constitution and the Bill of Rights?

What role do the amendments play?

What are the three branches of government?

What is the purpose of the separation of powers?

What is the purpose of checks and balances, how do they work?

What is the structure of federalism?

How are the powers between the national government and states distributed?

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The Presidency

Article II of the Constitution

expressed/granted powers, inherent powers, implied powers

executive powers, legislative powers, judicial powers, powers in foreign affairs

appointive powers

power of veto

executive agreements, executive orders

War Powers Act

commander-in-chief

stewardship theory

imperial presidency

impeachment

The powers delegated by the Constitution to the executive branch in the head with the president are found in Article II, Section 2. They are rather vague in formulation. The broadly defined powers were intended to give flexibility but have instead resulted in greatly expanded power.

The president is responsible for enforcing the laws, handling foreign policy, and serving as the ceremonial head of state. He/she is the administrative head of the government and commander-in-chief. Some of his powers are formal, as defined in the constitution (expressed, granted powers), some result from certain responsibilities (implied powers), some are derived from loosely worded statements in the Constitution (inherent powers). The other group of powers represents informal powers (those not enumerated in the Constitution). The president's ability to use them considerably determines the success of his/her presidency. Among them, the abilities to communicate with the public and the press, and to use his/her charisma to build morale, consensus among citizens, and coalitions in Congress are the most important.

Regardless of the expansive powers, president must cooperate with Congress because the powers of the presidency are intermingled with the powers of the legislature (presidential veto, presidential appointive powers, ratification of international treaties). Probably the most complex situation results from president's role as a commander-in-chief. While this role is reserved for the president, and president can "make war", he nevertheless does not have the power to declare the war – only the Congress possesses this power.

The interpretation of the office and its execution depends on the personality of the particular president. Some presidents expanded policy-making roles (Theodore Roosevelt, stewardship theory of presidency), the others expressed much more restrained conception (William Taft). Presidential activism, or the stewardship theory has prevailed in the course of the twentieth century.

The Constitution gives Congress the power to remove the president from the office for "treason, bribery, or other high crimes or misdemeanors" through the process of impeachment. President cannot dismiss Congress.

What are the multiple roles of the president?

What is the difference between the laws and executive agreements?

How does the president use the power of veto?

How does the president use the appointment power to ensure that his policies are carried out?

Why did Congress pass the War Powers Acts?

What purpose does the impeachment serve and how does it work?

What are the constitutional and informal powers of the president, how does he/she use them?

The Executive Branch

cabinet

secretaries

White House staff

chief of staff

Executive Office of the President

Office of Management and Budget

regulatory agencies and government corporations

appointive powers of the president

political appointees

career bureaucrats

The Constitution vests the executive power in the president. To carry out this responsibility, he/she presides over the executive branch of the government – a vast organization numbering several million people.

There is no separate advisory council defined in the Constitution. Therefore, the president relies on the complex executive structure consisting of the (1) Executive Office of the President, (2) Cabinet, and (3) regulatory agencies and commissions and government corporations.

The Executive Office of the President brings presidential perspective to policy making and coordinates within the executive branch. Among its bodies, the Office of Management and Budget has a special importance as its main function is to assist the president in preparing the budget and measuring the quality of agency programs, policies and procedures to see if they comply with the president's policies. It also prepares the statements of administration policies (SAP) towards the bills of laws.

One of the bodies of the EOP is the White House, both the residence and the office of the president. White House decreases president's dependence on the departments and agencies, gives president more discretion and more personal credit, and accelerates the shift of power towards the president.

The Cabinet currently consists of secretaries of fifteen departments, senior aides and chief advisors. It implements policies, provides president with advice and creates [partisan] support. However, the decline in importance of the cabinet as a collective body can be observed (due to demand for narrow, highly specialized information, some competition among the departments – "going native", and the idea that the cabinet meetings are time-demanding and less discreet). Cabinets are what any particular president makes them.

The bureaucracy is organized as a hierarchy of pyramids. At the top of each pyramid is the secretary of the department, who is appointed by the president and confirmed by the Senate. Because

secretaries are presidential political appointees, they are replaced at the end of a president's term. Most of the staff in the lower positions of the pyramid are so called career bureaucrats.

Regulatory agencies are supposed to act as watchdogs over the federal government and bring expertise the legislation and the executive branch do not possess (The Food and Drug Administration, The Federal Energy Regulatory Commission and many others.). Government corporations are hybrid organizations between private business corporation and a government agency such as Amtrak or United States Postal Service.

As for the staffing the bureaucracy, the nominees are either political appointees or career officials. Increase in the former (cca 200 in Kennedy administration to cca 800 in Obama's administration; altogether with ambassadors and judges makes for cca 1800 appointments to go through the Senate ---slow and time consuming procedure for the president).

There are internal rivalries within bureaucracy: senior aides usually enjoy higher status and easier access to the president compared to senior departmental officials. They compete with the departments and agencies for influence.

What is the structure of the executive branch?

What are the tasks of the Executive Office of the President?

How do regulatory agencies work to protect society?

What is the difference between political appointees and career bureaucrats?

What positions in the government has the president fill with his nominees?

Why is the Cabinet losing its importance as a collective body?

Who makes the Cabinet and who presides it?

Legislative Branch

congressional district

census

redistricting

gerrymandering

House of Representatives, Congressmen

Senate, Senators

majority leader

minority leader

Speaker of the House

president pro tempore

committees

bill of law

Congress is the bicameral legislation body responsible for writing the laws of the nation. Congress also serves the other functions, such as overseeing the bureaucracy, consensus building, clarifying policy, legitimizing, and expressing diversity. It is made up of a House of Representatives of 435 members and a Senate of 100 members

Every 10 years a census is taken by the federal government to count the population to determine the number of each state's congressional districts. Each state must then redraw its congressional boundaries to ensure that each district is equal in population. Congressional redistricting is done by each state legislature. Therefore, the political party in control of the state legislature controls how the districts are drawn. In some states, such as Alaska and Wyoming, the populations are so small that the entire state becomes a congressional district; all states are guaranteed at least one seat in the House of Representatives. Every state regardless of its size or population has two Senators.

Both houses have the same, complementary powers.

Those delegated powers which require both houses to work in concert with each other, include

-taxing

-borrowing money

-regulating commerce,

-raising an army

-creating and making rules for federal courts

-establishing naturalization laws

-establishing post offices

-providing for a militia

-making any law that is considered necessary and proper for carrying out these powers.

Each house has also unique powers. Only the House of Representatives may initiate tax laws and spending bills. The Senate has only amending powers on revenue bills. The Senate unique powers

include the confirmation of presidential nominations to the federal courts and executive and foreign service positions. The Senate must also ratify all treaties signed by the president.

There are also some restrictions to congressional actions. Congress may not pass the bills of attainders or ex post facto (retroactive) laws and may not levy export taxes or grant titles of nobility.

Apart of its primary legislative responsibility, Congress also performs other functions, such as

-oversight. Through the committees and subcommittees, Congress reviews the work of federal agencies and confirms presidential appointees (Senate). This helps check the executive branch.

-public education. Committee hearings and floor debates increase public awareness of government and societal problems.

-representing constituents within the government. Members of Congress can help voters on complaints in federal services, sponsor voters who seek scholarships of federal contracts, and solicit suggestions on how to improve government.

How is the congressional district created?

What is the least number of representatives per state?

What are the unique powers of the Senate?

What are the functions the Congress performs?

How a bill becomes a law?

What are the powers of the leaders in the House and in the Senate?

The Judicial Branch

judicial review

Marbury vs. Madison

Supreme Court

justices

judicial review

Federal District Courts

Federal Circuit Courts of Appeal

judges

jury

judicial appointment

There are four underlying principles that make up foundation of the U.S. legal system:

- equal justice under the law;
- due process of law;
- the adversarial system;
- presumption of innocence.

In the United States, most legal cases involve either civil law (which resolves the disputes over things like contracts, property, custody of kids etc.) or criminal law. In criminal trials, the state (at the state level) or United States (at the federal level) is always involved as the party opposing the accused person. Unlike the criminal law cases, the government is only involved in a civil case if it happens to be the party sued.

The federal courts are responsible for interpreting and settling disputes arising out of federal law; state courts do the same for the state law. It is possible for a citizen to commit a single act that violates both state and federal law – trading in drugs and tax evasion are the two examples. Sometimes, the two laws can come into conflict (medical marijuana e.g.)

There are three levels of federal courts as follows:

- 94 Federal District Courts, which have original jurisdiction and decide both civil and criminal cases;
- 13 Federal Circuit Courts of Appeal, which hear cases on appeal from the district Courts;
- the Supreme Court, which hears appeals of cases dealing with constitutional questions and, rarely, original suits between states.

The Supreme Court does not have a jury. It consists of nine justices. The Constitution does not specifically grant the Supreme Court the right to judge the constitutionality of laws. The power was established by the case of *Marbury vs. Madison* (1803). This extremely important power is called judicial review.

All judges in federal judiciary are appointed by the president for lifetime terms. Appointees must go through a confirmation process in the Senate. To maintain judicial neutrality and integrity, impeachment is the only method of removal.

The appointment process has become very political. Nominees are almost always of the same party as the president. In nomination hearings before the senate Judiciary Committee, members of both parties try to determine how potential judges would rule in cases dealing with issues such as abortion rights, affirmative action, or school prayer. Senators in state where where an appointee will sit have traditionally exercised senatorial courtesy: - they submit a list of acceptable names of nominees to the president.

Liberals and conservatives often argue over a nominee's judicial philosophy or level of judicial activism. Judges who are reluctant to overturn the acts of legislation, are said to practice judicial restraint; those are willing to do so, are considered judicial activists. Compromise between these two positions is sometimes very difficult to achieve. The public argues whether the judges should or should not be constitutional interpreters who should reflect current values.

What is the structure of federal judicial branch?

What purpose does the judicial review serve?

What control does Congress have over judiciary?

How does the process of staffing judicial branch work?

How do politics enter into Supreme Court decisions?

Presidential and Congressional Elections

nominations

primary election, caucus

open, closed, blanket primaries

delegates, superdelegates

conventions

general election

midterm election

incumbent, challenger

winner-take-all system

voter turnout

election campaign

PAC or Political Action Committee

Federal Election Commission

swing (battleground) states

The federal government holds election every two years. Each election gives voters chance to select a new representative in the House of Representatives. Every other election allows them to vote for president. Each of a state's two seats in the Senate is contested every six years.

General elections for federal office are held on the first Tuesday after first Monday of November. Elections in which the president is being chosen are called presidential elections. Those that occur between presidential elections are called midterm elections.

To cut expenses and to encourage voter turnout, states often hold their elections at the same time as federal elections. Thus voters choose not only federal officials at election time, but also state legislators, judges, the governor, and local officials. They may be also asked to vote on referenda and state bond issues.

Election consists of two phases:

- nomination, during which the parties choose their candidates for general elections;
- general elections, during which voters decide who will hold the office.

The primaries are usually held between February and late spring (except Iowa and New Hampshire. Many states hold their primaries all on the same day in early March (called Super Tuesday). Strategy of states to move forward the primaries in hopes of having a greater influence on which candidates win the nomination is called frontloading.

Each state sets its own rules for these elections, and there is considerable variation in primary procedures:

- closed primary (voting is restricted to registered members of a political party);
- open primary (voters may vote only in one party's primary);
- blanket primaries (voters may vote for one candidate per office of either party – only Alaska and Washington state use this primary system).

The candidate who receives a plurality or majority of votes is the winner. In case a minimum percentage of votes is required, run-off primary may be held between the top two candidates.

In primary elections for the presidency, voters choose delegates pledged to a particular presidential candidate. Winning delegates attend their party's national convention. Some states select presidential convention delegates at state caucuses.

The Democratic Party uses a third method to choose some delegates to its national convention. It grants automatic delegate status to many elected party leaders. These superdelegates usually support the frontrunner. The official party presidential candidate is elected on his/her party

convention. It is there where he formally announces his/her running mate, or vice-presidential candidate.

A successful presidential campaign requires much more than an appealing candidate. It needs a huge supporting staff and the resources to hire consultants, pollsters, and advertising agencies. One of the most important skills a candidate can possess is the ability to raise money. Presidential candidates who meet certain prerequisites may receive federal money, so called matching funds. To receive matching funds, candidates must agree to obey federal spending limits. Recently, some candidates tend to rely on their own funds. To assist candidates with the cost of the campaign, organizations called Political Action Committees, PACs or Super PACs, are created. They pool campaign contributions from members and donate those funds to campaign for or against candidates.

Candidates planning their campaign strategy must consider the nature of the electoral college. Each state is given a number of electors equal to the sum of its federal legislators. The winner of the presidential election in each state (with the exception of Nebraska and Maine) wins all that state's electors which is why this system is referred to as a winner-take-all system. The electoral college system places greater emphasis on election results in large states but candidates often devote a bulk of their time and campaign money to "swing" states - areas in which polls indicates a close race. Sometimes the results of the nationwide popular vote and electoral vote can differ.

American voter turnout rates are among the lowest in all Western democracies. A citizen must be registered to be enabled to vote. Certain patterns are detectable in voters' behavior. The likelihood that an individual will vote corresponds close to his or her level of education, age, strength of party affiliation, and other factors. Voters are less likely to vote when they believe they know who will win the election.

On election day, the media report not only election results but also the results of exit polls that break down the vote by age, gender, race, income level, and many other demographic factors. They do so in order to predict the winner but also to determine the meaning of the results.

What is the purpose of primary elections?

Who sets the rules for primary elections?

Who exactly is chosen in presidential primaries and caucuses?

What are the two ways of financing presidential campaign?

What is the politics of electoral college?

What role do the swing states play?

What influences voters' turnout?

Why do incumbents win at such high rates?

Political Parties and Interest Groups.

political parties

two-party system

Democrats

Republicans

party coalition

third parties

independent candidates

interest groups

lobbying

political action committees (PACs and superPACs)

Most politically active people work within groups to achieve common political goals, namely to influence the outcomes of elections and legislative struggles. In the USA, the most frequent types of political groupings are

- political parties;
- interest groups;
- political action committees (PACs).

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Political parties, although they are not mentioned in the Constitution, serve as intermediaries between the people and the government. They are organized to

- present positions on policy;
- mobilize voters;
- get their candidates elected to the office;
- organize government activity.

To do so, they need to attract groups of voters, thus putting together a winning coalition, such as

-religious conservatives, military supporters, Libertarians, rural dwellers, opponents of gay marriages and pro-life supporters – Republican coalition.

-African and Hispanic Americans, people with lower incomes, members of labor unions, city dwellers, feminists, environmentalists, pro-choicers – Democratic coalition.

The United States has two major political parties: Democrats and Republicans. The two-party or bipartisan system is reinforced by the nation's electoral system.

Though there are some similarities between the parties (both tend to be centrist and do not question the validity of the nation's economic system), there are nevertheless general ideological differences between the two parties, especially in the way how they deal with the role of government, such as

-measure of government involvement and regulation

-dealing with taxes

-spending on defense, welfare programs, education, government-run health insurance program etc.

The greatest ideological differences are between the liberals in the Democratic Party and the conservatives in the Republican Party.

New parties are occasionally formed in the United States and until these parties reach the level of a major party, they are called third parties. They form to

-(1) represent constituencies that feel disenfranchised from both of the major parties. They unite around the feeling that the major parties are not responding to the demands of some segment of the electorate. The Reform Party, under whose banner Ross Perot ran for president in 1996, is an example.

-(2) reject prevailing attitudes and policies of the political system; sometimes called doctrinal party (Libertarian party)

-(3) promote one principle; they are called single-issue party (Green Party).

Third parties can have a major impact on elections (Nader in 2000 election) but because of the winner-take-all system and other factors, they usually fail to get elect their presidential candidate.

Third-party candidates should not be confused with Independent candidates who run without party affiliation.

US political parties are not hierarchical. The national party organization and each of the state and local organizations are largely autonomous and serve different functions; one does not necessarily take orders from the other.

Party committees are organized by geographic subdivisions. There are committees at the local level; state committees; and finally national party organization consisting of congressional district and senatorial committees chaired by incumbents and staffed by professionals.

The national party plans the national conventions held every four years to nominate a presidential candidate. It sponsors polls to keep party members informed of public opinion and manages issues-oriented advertising and propaganda.

Interest groups are organizations dedicated to a particular political goal. Group members share

- a common bond, such as religious (Christian Coalition), racial (National Association for the Advancement of Colored People), professional (American Medical Association);

- a common interest, such as environment (Sierra Club), political reform (Common Cause), public education (Mothers against Drunken Driving).

They are similar to political parties in that they try to influence the outcome of election and legislation. Unlike political parties, they do not nominate candidates and usually do not address a wide range of issues.

There are thousands of interest groups in the United States. Most groups fall under one of the following categories:

- economic groups (formed to promote and protect members' economic interests – U.S. Chamber of Commerce, American Bar Association, labor unions, such as AFL-CIO, United Auto Workers)

- public interest groups (nonprofit organizations that are organized around a well-defined set of public policy issues - Public Citizen, National Rifle Association etc.);

- government interest groups.

Interest groups use a number of tactics to disseminate information and persuade the branches of government, such as

- direct lobbying

- testifying before Congress

- socializing

- political donations (with the exception of those forbidden to do so by law, such as corporations and trade unions, may do so by forming PACs and super PACs;

- endorsements;

- court action (they file lawsuits to protect and advance their interests).

There are few laws trying to limit the scope of lobbyists' activities, such as prohibiting former legislators and executive officials to lobby for some amount of time or prohibiting campaign contributions from corporations and unions though some rulings were sidestepped or reversed by Supreme Court decision.

Political Action Committees were formed to allow corporations, labor unions, and trade associations to raise campaign funds. After recent change in legislation, PACs that donate to a specific candidate must operate under limits on their contributions and their donations but PACs that do not donate to specific candidates are not limited in their fundraising. In this context, political donations are considered free speech. These unlimited PACs have come to be known as super PACs.

How many relevant political parties are there in the United States?

What is the winner-take-all system?

Why third parties fail to get elect their presidential candidate?

What groups among electorate belong to the two major political parties?

What is the difference between political parties and interest groups?

Give the methods interest groups use to reach their goal?

Why PACs were created?

Public Policy-making

agenda setting

policy implementation

economic policy

trade policy

domestic policy

social welfare programs

entitlements

Policy-making has a number of steps, and each is influenced by politics.

- defining the role of government in solving social and economic issues. (The political left sees a greater responsibility for government than the right, with the result that governments on the left are larger, more active, and more expensive than those on the right.)

- agenda-setting. (Agenda setting identifies the social and economic problems, redefines them into political issues, and ranks them in order of importance.)

-policy formulation and adoption (can be accomplished in numerous ways, such as legislative process in the Congress; use of executive orders by the president; rules enacted by regulatory agencies; precedent-setting decisions by the Supreme Court).

-policy implementation (puts the policy into effect by enforcement through the appropriate government department or agency).

-policy evaluation (provides a feedback to the policy-makers Modifications can be made to better solve the problem or, if the problem has been solved, the policy can be terminated.).

There are obstacles to policy-making resulting from the very frame of the U.S. political system. Due to the separation of powers and dispersed power centers, getting things done may be frustrating. Policies are fragmented, e.g. the War on Drugs has at least seventy-five congressional committees with some type of jurisdiction or oversight, many other bodies on state and local level, as well as Army, Navy, Coast Guard, Border Patrol, FBI, DEA etc.etc. involved.

There are various sorts of public policies, namely

-economic policy

-trade policy

-domestic policy.

Economic policy has been one of the most important areas of public policy in American history. Policy-makers have oscillated between supporting laissez-faire free market principles and redistributive, interventionist policies.

As for trade policy, the United States has joined international trade organizations like the World Trade Organization (WTO) and North American Free Trade Agreement (NAFTA) in order to boost US commerce with the rest of the world. Nevertheless, tariffs and subsidies are still used to protect domestic industry and agriculture.

Before FDR, the federal government did not engage in much domestic policy-making, but since that era we have seen the rise of programs like Social Security, Welfare, and Medicaid. Today there are two kinds of social welfare programs:

-social insurance programs into which employers and employees pay taxes;

-public assistance programs that are a result of condition and a government responsibility to help the needy. Currently, the entitlement programs account for the largest expense in the federal budget.

What steps does the public policy consist of?

What obstacles does the policy-making process face from the US political system?

What role does the federalism play in the implementation of social welfare policy?

What are the two kinds of social welfare programs?

Why is it difficult to pass social welfare policy?