

12^{EDITION}

AMERICAN PUBLIC POLICY

PROMISE AND PERFORMANCE



B. GUY PETERS



American Public Policy

12th Edition

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American Public Policy

Promise and Performance

12th Edition

B. Guy Peters
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Preface

Public policy is the fundamental reason that scholars and citizens should be concerned about government, whether in the United States or in any other country. As much as we may find voting and elections entertaining or find interest in the ways lobbyists cajole public officials, in the end, the outcome of the political process is a set of policies that affect the lives of citizens, often in profound ways. As Harold Lasswell argued more than seventy years ago, politics is about “who gets what.” The policy choices of the United States are particularly important, given that the economic and military power of this single country establishes parameters within which many other political systems make their own policy choices.

At times, public policies change rather rapidly and dramatically, and at times, they persist for long periods with only incremental changes. Most voters expected rapid change after the election of President Barack Obama in 2008, but the complex political process in Washington slowed that change. Many people also expected very rapid change when President Donald Trump came to office but also were disappointed, and almost certainly many will be disappointed by what is possible during the Joe Biden administration. The polarization of political life in the contemporary United States, and the numerous checks and balances in government, prevent rapid change. The policy process itself may appear stable, yet it also undergoes slight changes in response to changing political ideas and the changing relative power of institutions and individuals. Therefore, relatively frequent updates concerning both process and substance are required to capture the contemporary nature of the US government and the dynamics of this extremely complex system for governing and making policy.

The characteristics of continuity and change have been very evident since the last edition of this book. Despite strong efforts by political leaders, some policies, such as Social Security, have been changed hardly at all, whereas others, such as health care, continue to change significantly. The policy process in Washington is on the surface unchanged, but sharp ideological divisions between the two major parties have made it more difficult and more contentious. That conflict was exacerbated by the Trump administration, and President Biden will face a monumental task of rebuilding effective governance. That task will be all the more difficult because of the pandemic.

This book is an attempt to provide a rather comprehensive view of policy and policymaking in the United States. Part I explains the nature of public policy and includes a new chapter, “Explaining Policy Choices,” which outlines several alternative approaches to understanding the policymaking process and evaluating its outcomes. Part II describes the structure of the policymaking system and the process through which ideas and demands are converted into policy. While the stages model used in this analysis is generic, there are a number of important peculiarities in US government that must be examined if we are to understand how

the system succeeds—and why it fails—in making choices. If nothing else, the multiple divisions caused by the separation of powers, federalism, and a decentralized bureaucracy tend to make the process more difficult than in other countries.

Part III examines a number of important policy areas in the United States. These are discussed primarily at the federal level, although state and local governments have a significant impact on each of these areas as well. A detailed analysis of the role of each level of government would require a much larger book.

The final section, Part IV, provides an introduction to two forms of policy analysis. One depends on economic assumptions and is an attempt to make government more efficient and cost-effective. The other focuses on the normative element of public policy, an element of analysis often ignored when people think about policy. Rather than asking questions of efficiency, normative analysis is concerned with equity and justice. Neither of these modes of analysis can provide a complete answer to the difficult question of what is good policy, but in combination, they may begin to help readers develop an answer.

Although I have attempted to be as comprehensive as possible, some aspects of policy must be excluded because the space available is finite. Perhaps most significant, this is a book about federal policy and the federal level of government, although in the United States, state and local governments are also significant actors. I have had to make choices about which policies to include and which to exclude from more detailed discussions. This is done in part because of my own interests but largely because of the impact of those policies on citizens.

I would like to acknowledge the academics whose reviews helped make this new, and I hope improved, edition possible: Michael E. Bednarczuk, the University of Wisconsin-Milwaukee; LaTasha Chaffin, College of Charleston; Thomas W. Haase, Sam Houston State University; Andrea M. Jacks, Arizona State University; Michael Landon-Murray, University of Colorado, Colorado Springs; Mark Misukanis, Metropolitan State University; Linda M. Trautman, Ohio University-Lancaster; Andy Whitford, University of Georgia; and Zach Wilhide, Old Dominion University.

This is the twelfth edition of *American Public Policy* and is the seventh to be published by CQ Press. It has been a pleasure to work with Anna Villarruel and Tiara Beatty and all the other editors and staff at CQ Press. They have been professional, patient, and supportive in preparing this edition and in helping to prepare the enhanced teaching aids for instructors. This edition should continue the movement toward making the book even more student—and professor—friendly than the previous ones.

B. Guy Peters
Pittsburgh, Pa.
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About the Author

B. Guy Peters is Maurice Falk Professor of American Government at the University of Pittsburgh. He is also the founding president of the International Public Policy Association and associate editor of the *Journal of Comparative Policy Analysis*, as well as a member of the editorial boards of a number of journals in public policy and administration. His recent publications include *An Advanced Introduction to Public Policy* and *Policy Problems and Policy Design*.

PART I

The Nature of Public Policy

What Is Public Policy?

1

GOVERNMENT IN THE UNITED STATES has grown from a small, simple “night watchman state” providing defense, police protection, tax collection, and some education into an immense network of organizations and institutions affecting the daily lives of all citizens in countless ways. The United States is not a welfare state in the sense that most European states are, but there is now an extensive array of social and health programs that serve an increasing proportion of the population. The size and complexity of modern government make it necessary to understand what public policies are, how those policies are made and changed, and how to evaluate the effectiveness and morality of policies.

Government in the United States is large. Today, its revenues account for one dollar in three of total national production. Despite the widespread political rhetoric, this money is rarely wasted; most of it returns to citizens through a variety of cash benefit programs or in the form of public services. Likewise, one working person in six is employed by government—mostly in local governments. But the range of activities of modern government in the United States is not confined to such simple measures as spending money or hiring workers. Governments also influence the economy and society through many less obvious instruments—such as regulation, insurance, and loan guarantees.

Government in the United States today is complex and is becoming more complex every day. The institutions of government are becoming more complicated and numerous. More than 90,000 separate governments now exist in the United States, many of which provide a single service and undergo little or no public oversight through elections.¹ Much public business is now conducted through public corporations and quasi-autonomous public bodies. There are also a number of increasingly complex relationships between the public and private sectors, as the private and not-for-profit sectors are becoming heavily involved in delivering public services.² The subject matter of government policy is more complex and technical than it was even a few years ago, and the COVID-19 crisis may expand the involvement of government with science and technology even more. Governments must make decisions about

the risks of nuclear energy, the reliability of technologically sophisticated weapons systems, and the management of a huge and remarkably convoluted economic system. Attempting to influence socioeconomic problems—poverty, homelessness, deficiencies in education—may be even more difficult than addressing problems arising in the physical and scientific worlds, given the absence of a proven method of solving social problems.³ Even when the subject matter of policy is less complex, increasing requirements for participation and accountability make managing a public program a difficult undertaking, often more difficult than managing in the private sector.

This book is intended to help the reader understand the fundamental processes and content of public policy that underlie the size and complexity of American government. It is meant to increase knowledge about how public policies are made, what the policies of the United States are in certain areas, and what standards should be applied in evaluating those policies. I begin with a discussion of the policy process in the United States—concentrating on the federal level—and the impact of the structures and procedures of that government on the content of policies. I then discuss the means that those in government and citizens alike can use to evaluate the effects of public policies and the methods that will enable them to decide what they want and can expect to receive from government.

DEFINING PUBLIC POLICY

Samuel Johnson once commented that patriotism is the last refuge of fools and scoundrels. To some degree, public policy has become just such a refuge for some academic disciplines. As public policy studies are now popular, everything government does is labeled *policy*. I adopt a somewhat more restrictive definition of *public policy*.

Stated most simply, public policy is the sum of government activities, whether pursued directly or through agents, as those activities have an influence on the lives of citizens. Operating within that definition, we can distinguish three separate levels of policy, defined by the degree to which they make real differences in the lives of citizens. At the first level, we have policy *choices*—decisions made by politicians, civil servants, or others granted authority that are directed toward using public power to affect the lives of citizens. Congress members, presidents, governors, administrators, and pressure groups, among others, make such policy choices. What emerges from all those choices is a policy that can be put into action. At the second level, we can speak of policy *outputs*—policy choices being put into action. Here, the government is actually doing things: spending money, hiring people, or promulgating regulations that are designed to affect the economy and society. Outputs may be virtually synonymous with the term *program* as it is commonly used in government circles.⁴

Finally, at the third level, we have policy *impacts*—the effects that policy choices and policy outputs have on citizens, such as making them wealthier or

healthier or the air they breathe less polluted. These impacts may be influenced in part by other factors in the society—economic productivity, education, and the like—but they also reflect to some degree the success or failure of public policy choices and outputs. These policy impacts also may reflect the interaction of a number of different programs. Successful alleviation of poverty, for example, may depend upon social programs, education, economic programs, and the tax system. If any of these do not perform well, it may be impossible for government and the society it represents to reach their desired goals. Further, success in alleviating policy may depend on economic growth as much as it depends on the intervention of the public sector, such that determining cause and effect is difficult.

Several aspects of public policy require some explanation. First, although we are focusing on the central government in Washington, we must always remember that the United States is a federal system in which a large number of subnational governments also make policy decisions. Even when they attempt to cooperate, the levels of government often experience conflicts over policy. For example, attempts by the George W. Bush administration to enforce national standards for education through the No Child Left Behind program encountered opposition from the states and eventually also from Congress, each with its own ideas about what those standards should be and how they should be enforced. Those differences became even more pronounced during the Obama administration and its attempts to create a common core curriculum. Even within the federal government, the actions of one agency may conflict with those of another.

Second, not all government policies are implemented by government employees. Many are implemented by private organizations or by individual citizens, and the involvement of the private sector in implementation continues to increase.⁵ We must understand this if we are to avoid an excessively narrow definition of public policy as only those programs directly administered by a public agency. A number of agricultural, social, and health policies involve the use of private agencies operating with the sanction of and in the name of government. Even the cabin attendant on an airplane, making an announcement to buckle seat belts and not to smoke is implementing a public policy. As government has begun to use an increasing number of alternative mechanisms, such as contracts, for implementation, private sector providers are becoming increasingly important in delivering public policy.

Even if a government implements a program directly, it may not act through its own employees. The federal government in particular depends on state and local governments to implement a large number of its programs, including major social programs, such as Medicaid, the “workfare” reforms to the welfare system, and a good portion of environmental policy. The Affordable Care Act administrators had hoped to use the states to administer the exchanges called for in the act, but only sixteen agreed to do so. The degree of control that the federal government can exercise in those instances may be as small as or even smaller than

when programs are delivered through private sector agents, who often depend on government for contracts and loans and therefore may be very compliant with demands from Washington.

Third, and most important, we are concentrating on the effects of government choices on the lives of individuals within the society. The word *policy* is commonly used in a number of ways. In one usage, it denotes a stated intent of government, as expressed in a piece of legislation or a presidential speech. Unfortunately, any number of steps is required to turn a piece of legislation into an operating program, and all too frequently, significant changes in the intended effects of the program result from difficulties in translating ideas and intentions into actions. In this analysis, we will place greater emphasis on the effects of policies than on the intentions of the individuals who formulated them. We must also have some degree of concern for the legislative process, which produces the good intentions that may or may not come to fruition.

Our definition recognizes the complexity and the interorganizational nature of public policy. Few policy choices are decided and executed by a single organization or even a single level of government. Instead, policies, in terms of their effects on the public, emerge from a large number of programs, legislative intentions, and organizational interactions that affect the daily lives of citizens. For example, environmental issues now are handled not only by the Environmental Protection Agency but also by the Department of the Interior, the Department of Agriculture, the Department of Health and Human Services, and even the Department of Defense.⁶ This conception of policy also points to the frequent failure of governments to coordinate programs, with the consequence that programs cancel one another out or produce a costly duplication of effort.⁷ The question about government that Harold Lasswell posed many years ago, “Who gets what?” is still central for understanding public policy.

THE INSTRUMENTS OF PUBLIC POLICY

Governments have a number of instruments through which they can influence society and the economy and produce changes in the lives of citizens. For example, government can choose to provide education by directly supplying that service, by providing vouchers that parents can use to pay for their children's education, or by subsidizing privately managed charter schools (see Chapter 13). The choice of which instrument to employ for any particular situation may depend on the probable effectiveness of the instrument, its political palatability, the experiences of the policy designers, and national or organizational tradition. Furthermore, policy instruments may be effective in some circumstances but not in others. Unfortunately, governments do not yet have sufficient knowledge about the effects of their “tools” or the relationship of particular tools to particular policy outcomes to be able to make effective matches.⁸ It appears that most choices are made by habit and familiarity, not from knowledge of effectiveness.

Law

Law is a unique resource of government. It is not available to private actors, who have access to the other instruments of policy discussed here.⁹ Governments have the right to make authoritative decrees and to back up those decrees with the legitimate power of the state. In most instances, simply issuing a law is sufficient to produce compliance, but monitoring and enforcement are still crucial to the effectiveness of the instrument. Citizens may obey speeding laws most of the time, but the prospect of a police officer with a radar device or radar gun makes compliance more probable. Citizens daily obey many laws without thinking about them, but police, tax collectors, and agencies monitoring environmental damage, occupational safety, and product safety (to name only a few) are also busy attempting to ensure compliance.

We should make several other points about the use of law as an instrument of public policy. First, laws are used as the means of producing the most important outputs of government: rights. Such laws are usually of a fundamental or constitutional nature and are central in defining the position of citizens in society. In the United States, the fundamental rights of citizens are defined in the Constitution and its amendments, but rights also have been extended in a variety of other legislation. This extension has been most significant for the rights of people of color, and women, as reflected in the passage of the Voting Rights Act of 1965, the Equal Employment Opportunity Act of 1972, and the Civil Rights Act of 1991. The Americans with Disabilities Act (1990) extended a variety of rights to people with various forms of disability, with the courts tending to expand the applicability of that law to groups, such as AIDS sufferers,¹⁰ for whom it was perhaps not originally intended. Law is now being used by some groups to attempt to extend rights, notably the right to marry, to homosexuals, and other groups use law to attempt to limit those rights¹¹ (see Chapter 16).

Second, the United States uses laws to regulate economic and social conditions to a greater extent than most countries do. The United States is frequently cited as having a small public sector in comparison with other industrialized countries because of lower levels of taxing and spending. If, however, the effects of regulations are included, government in the United States approaches being as pervasive as it is in Europe.¹² The costs of government's interventions in the United States tend to appear in the price of products, however, as much as in citizens' tax bills.¹³ This indirect effect of intervention tends to be less visible to the average citizen than a tax and therefore is more palatable in a society that tends to be skeptical about government.

Third, law can be used to create burdens as well as benefits. This is certainly true for tax laws and is also true, for example, of legislation that mandates the recycling of metal, glass, and plastic. Often, a law that creates benefits for one group of citizens is perceived by others to be creating a burden; environmental laws satisfy conservationists but often impose costs on businesses. Any action of government requires some legal peg on which to hang, but the ability of a simple piece of paper to create both rights and obligations is an essential feature of American public policy.

Services

Governments also provide a number of services directly to citizens, ranging from defense to education to recreation. In numbers of people employed, education is by far the largest directly provided public service, employing more than nine million people. The Department of Defense employs just under another three million people, military and civilian. Government tends to provide services when there is a need to ensure that the service is provided in a certain way (education) or where the authority of the state (policing) is involved. Furthermore, services tend to be delivered directly to parts of the population that are less capable of making autonomous decisions on their own, such as children and the mentally impaired.

The direct provision of public services raises several questions, especially as continuing pressures exist for government to control expenditures. An obvious question is whether the direct provision of services is the most efficient means of ensuring that a service is delivered to citizens. Could that service be contracted out instead? A number of public services have been contracted out to private corporations, including traditional government services, such as firefighting, tax collection, and prisons.¹⁴ Contracting out removes the problem of personnel management from government, a problem magnified by the tenure rights and pension costs of public employees under merit systems. Also, government tends to build a capacity to meet maximum demand for services, such as fire protection and emergency medical care, resulting in underutilization of expensive personnel and equipment. This tendency to create too much capacity can be corrected in part by contracting out.

Another interesting development in the direct provision of services is using quasi-governmental organizations to provide services.¹⁵ There are some services that government does not want to undertake entirely but that require public involvement for financial or other reasons. The best example is Amtrak, a means of providing public subsidies for passenger train service in the face of declining rail service in the United States. Government may also choose quasi-governmental organizations for programs that require a great deal of coordination with private sector providers of the same service or when the service is in essence marketable. At an even greater degree of separation, governments also use not-for-profit organizations to provide public services. The George W. Bush administration pressed for wider use of such organizations, especially faith-based organizations. President Barack Obama continued the emphasis, working to mobilize not-for-profit organizations—whether faith based or not.

Money

Governments also provide citizens, organizations, and other governments with money. Approximately 65 percent of all money collected in taxes by the federal government is returned to the economy as transfer payments to citizens. Transfers to citizens range from Social Security and unemployment benefits to

payments to farmers to support commodity prices. Interest on the public debt is also a form of transfer payment, one that now absorbs nearly 9 percent of total federal spending. Another 10 percent of tax receipts are transferred to other levels of government to support their activities.

The use of money transfers to attempt to promote certain behaviors is in many ways an inefficient means for reaching policy goals. The money paid as Social Security benefits, for example, is intended to provide the basics of life for the recipients, but nothing prevents those recipients from using it to buy food for their pets rather than for themselves. The claims about how “welfare” payments are used and abused are legion, if often inaccurate. Thus, although the direct provision of services is costly and requires hiring personnel and erecting buildings, many transfer programs, though less expensive, are much less certain of achieving the goals for which they were intended.

Money dispersed to other levels of government can be restricted or unrestricted. Of the over \$500 billion given to state and local governments in 2019, most was distributed as categorical grants, with an increasing proportion being given as block grants. Categorical grants channel resources to the problems identified by the federal government as needing attention, but they also tend to centralize decision-making about public policy in Washington.¹⁶ Categorical grants also tend to encourage state and local spending through matching requirements and to create clienteles that governments may not be able to eliminate after the federal support has been exhausted. Although this pattern of funding was largely associated with social and economic programs, the Clinton administration’s program for funding additional police hiring created expectations among citizens that local governments would have to fulfill in the future, and Homeland Security funding created the same effect after the Bush administration.

The federal government has less control over the impact of block grants than over the effects of categorical grants.¹⁷ State and local governments can determine their own priorities for these funds, but most still have some strings attached. Also, giving block grants to the states tends to concentrate power in state governments rather than allowing local (especially city) governments to bargain with Washington directly. Given that state governments are, on average, more conservative than local governments—especially large city governments that need federal grant money the most—block grants have been a useful tool for Republican administrations to control public spending.¹⁸

Taxes

The government giveth and the government taketh away. But the way in which it chooses to take away may be important in changing the distribution of burdens and benefits in society. In the United States, we are familiar with tax “loopholes,” or more properly, *tax expenditures*.¹⁹ The latter term is derived from the theory that granting tax relief for an activity is the same as subsidizing that activity directly through an expenditure program.²⁰ For example, in 2019, the

federal government did not collect roughly \$29 billion in income tax payments because of mortgage interest deductions and another \$16 billion because state and local property taxes were deductible. This is in many ways exactly the same as government subsidizing private housing, and it is greater than the amount spent on public housing by all levels of government. The use of the tax system as a policy instrument as well as for revenue collection has less certain targeting than transfer payments, for the system is essentially providing incentives rather than mandating activities. Citizens have a strong incentive to buy a house, but there is no program to build houses. These instruments are, however, very cheap to administer, given that citizens make all the decisions and then file their own tax returns.

Taxes may also be used more directly to implement policy decisions. For example, there are proposals to substitute taxes on pollution for direct prohibitions and regulation of emissions, including carbon taxes to address climate change.²¹ The logic is that such an action would establish a “market” in pollution; firms willing to pay the price of polluting would be able to pollute, while those less willing (or, more important, less able) because of inefficient production would have to alter their modes of production or go out of business. Critics argue that what is being created is a “market in death,” when the only real solution to the problem is the prohibition or severe restriction of pollution.

Tax incentives are a subset of all incentives available to government to encourage or discourage activities. The argument for their use is that private interests (e.g., avarice) can be used for public purposes.²² If incentives can be structured effectively, then demands on the public sector can be satisfied in a more efficient and inexpensive manner than through direct regulation. Clearly, this form of policy instrument is applicable to a rather narrow range of policies, mostly those now handled through command and control regulation, but even in that limited range, the savings in costs of government and in the costs imposed on society may be significant. The use of such incentives, as opposed to command and control regulation, also conforms to traditional American ideas about limited government and the supremacy of individual choice.²³

Other Economic Instruments

Government has a number of other economic weapons at its disposal.²⁴ Governments supply credit for activities such as a farmer’s purchase of seed and supplies.²⁵ When it does not directly lend money, the government may guarantee loans, thus making credit available (e.g., Federal Housing Administration [FHA] mortgages) that might otherwise be denied. Governments can also insure certain activities and property. For example, federal flood insurance made possible the development of some lands along the coasts of the United States, thereby creating both wealth and environmental degradation. Almost all money in banks and thrift institutions is now protected by one of several insurance corporations within the federal government. And governments may simply use market mechanisms to encourage citizens and firms to behave in certain ways.²⁶

Although these instruments may be important to their beneficiaries and may influence the spending of large sums of money, they do not appear as large expenditures in most government accounting schemes. Thus, as with regulations and their costs, the true size of government in the United States may be understated if one looks simply at expenditure and employment figures. In addition, the ability of these programs to operate “off budget” makes them not only less visible to voters but also more difficult for political leaders and citizens to control. Only when there are major problems, as in the bursting of the housing bubble and the credit crisis in 2008, do government insurance, guarantee schemes, and federal “bailouts” make the news.

Suasion

When all other instruments of policy fail, governments can use moral suasion to attempt to influence society. Government as a whole or particular political officials are often in a good position to use such suasion because they can speak in the name of the public interest and make those who oppose them appear unpatriotic and selfish. As Theodore Roosevelt said, the presidency is a “bully pulpit.” Suasion, however, is often the velvet glove disguising the mailed fist, for governments have formal and informal means of ensuring that their wishes are fulfilled. So when John F. Kennedy “jawboned” steel industry officials to roll back a price increase, the patriotism of the steel officials was equaled by their fear of lost government contracts and Internal Revenue Service investigations of their corporate and personal accounts.

Suasion is an effective instrument as long as the people regard the government as a legitimate expression of their interests. There is evidence that the faith and trust of US citizens in government has been declining (see Table 1.1) in response to the excesses of Watergate, budget deficits, the inadequate response to COVID-19, and endless wars. Congress members in particular are regarded very poorly by the public. As government legitimacy decreases, its ability to use suasion naturally declines, pushing it toward more direct tools of intervention that could lead to increases in government employment and taxation and perhaps to an accelerated downward spiral of government authority. In 2019, the public viewed Congress members only slightly more favorably than car salesmen, who anchored the bottom of the scale. On the other hand, police had achieved a major increase in respect, in part because of their heroism after 9/11. The second President Bush also used suasion and manipulated powerful national symbols in the “war on terror,” although his ability to do so declined as his term ended.

Suasion is one version of using information and argumentation to produce behavior changes. Governments have, however, been moving toward using more subtle instruments to encourage individuals to behave in certain ways. Generally called “nudge,” the assumption is that if governments can make compliance fun or persuade individuals to do the right thing, then they can produce desired policy outcomes at minimal cost.²⁷ While this less visible form of suasion can

TABLE 1.1

Public Perception of Honesty and Ethics in Various Professions (percentages of “very high” and “high” responses combined)

	1981	1985	1990	1992	1995	2005	2008	2011	2017
Pharmacists	59	65	62	66	66	67	70	73	62
Clergy	63	67	57	54	56	54	56	52	42
Medical doctors	51	50	52	52	54	65	64	70	65
Engineers	48	53	50	48	53	n.a.	n.a.	n.a.	n.a.
Police	44	47	49	42	41	61	56	54	56
Journalists	32	31	30	27	23	28	25	26	25
Bankers	39	38	32	27	27	41	23	25	25
Lawyers	25	27	22	18	16	18	18	19	18
Business executives	19	23	25	18	16	16	12	18	16
Local officeholders	14	18	21	15	21	n.a.	20	n.a.	24
Real estate agents	14	15	16	14	15	20	17	20	n.a.
Labor union leaders	14	13	15	14	14	16	16	18	n.a.
US senators	20	23	24	13	12	16	n.a.	n.a.	n.a.
State officeholders	12	15	17	11	15	n.a.	12	n.a.	19
Members of Congress	15	20	20	11	10	14	12	7	11
Car salespeople	6	5	6	5	5	8	7	7	10

Sources: Adapted from Gallup Poll Monthly, November 1995, 31; Gallup Poll, January 18, 2005; Gallup Poll, November 7, 2008; Gallup Poll, June 23, 2011; Gallup Poll, December 7–8, 2014; Gallup Poll, Dec. 4–11, 2017.

Note: n.a. = not available.

be considered paternalistic or even undemocratic, it is an increasingly common form of intervention.

The Effects of Tools

Governments have a number of instruments with which they attempt to influence the economy and society by distributing what burdens and benefits they have at their disposal. The most fundamental benefits governments have to confer are rights. These are largely legal and participatory, but with the growth of large entitlement programs that distribute cash benefits to citizens, rights may now be said to include those programs as well.

Governments also distribute goods and services. They do so by giving money to people who fall into certain categories (e.g., the unemployed) or by directly providing public services, such as education. They also do so less directly by structuring incentives for individuals to behave in certain ways. Governments also distribute goods and services through private organizations and through other governments, in attempts to reach their policy goals. A huge amount of money flows through the public sector, where it is shuffled around and given to different people.²⁸ The net effect is not as great as might be expected from the number of large expenditure and revenue programs in operation in the United States, but that effect is to make the distribution of income and wealth somewhat more equal than that produced by the market.²⁹

Finally, governments distribute burdens as well as benefits. They do this through taxation and through programs such as conscription for military service.³⁰ Like expenditures, taxes are distributed broadly across the population, with state and local taxes tending to be collected from an especially broad spectrum. Even the poorest citizens have to pay sales taxes on many things they purchase, and they must pay Social Security taxes as soon as they begin to work. In other words, everyone in society benefits from the activities of government, but everyone also pays for them.

THE ENVIRONMENT OF PUBLIC POLICY

Several characteristics of the political and socioeconomic environment in the United States influence the nature of policies adopted and the effects of those policies on citizens. Policy is not constructed in a vacuum; it is the result of the interaction of all the background factors with the desires and decisions of those who make policies. Neither individual decision-makers nor the nature of “the system” appear capable alone of explaining policy outcomes. Instead, policy emerges from the interaction of a large number of forces, many of which are beyond the control of decision-makers.

The background for policy in the United States has changed dramatically over the past several years. Politically, the divisions between right and left have become more intense and compromise has seemed impossible. Economically, the

COVID-19 pandemic produced massive levels of unemployment and pushed the United States into a recession, if not a depression. Socially, demands for greater diversity and inclusion have questioned the foundations of the society. And governmentally, the failures of government in dealing with the pandemic reduced already low levels of trust in the capacity of government—especially the federal government—to govern effectively.

Conservatism

US politics is relatively conservative in policy terms. The social and economic services usually associated with the mixed-economy welfare state are generally less developed in the United States than in Europe, and to some extent have declined since the 1990s, and especially in the Trump administration. In general, that is the result of the continuing American belief in limited government. As Anthony King has said, “The State plays a more limited role in America than elsewhere because Americans, more than other people, want it to play a limited role.”³¹ The rise of the Tea Party movement and the appeal of some libertarian candidates in the Republican primaries of 2012 indicate how intense the conservative ideology is for some elements within the population.

The elections of Barack Obama and Joe Biden, however, showed that there are limits to that conservatism and that the American public has some underlying commitment to social values. In addition, the major Democratic victory in the Congressional elections of 2018, and the election of some very progressive candidates, demonstrated further that liberal politics are far from entirely dead.

Several points should be brought out that counter the description of US government as a welfare state laggard. First, the government of the United States regulates and controls the economy in ways not common in Europe, and in some areas such as consumer product safety, it appears to be ahead of many European governments. If the effects of regulation are tabulated along with more direct public interventions into the economy, the US government appears more similar to those of other industrialized countries. We also tend to forget about the activities of state and local governments, which frequently provide gas, electricity, water, and even banking services to their citizens.

It is easy to underestimate the extent of the changes in public expenditures and the public role in the economy that followed World War II. Let us take 1948 as the starting point. Even in that relatively peaceful year, defense expenditures were 29 percent of total public expenditures and 36 percent of federal expenditures. At the height of the Cold War, in 1957, defense expenditures were 62 percent of federal expenditures and 37 percent of total public expenditures. In contrast, in 2018, defense expenditures were 7 percent of total expenditures and 15 percent of federal expenditures. Spending on social services—including education, health, social welfare, and housing—increased from 7 percent of total spending in 1948 to over 50 percent in 2018. Even for the federal government, social spending now accounts for more than 50 percent of total expenditures. The US government and its policies may be conservative, but they are less so

than commonly believed and less so in the early twenty-first century than in the 1950s.

It is also easy to overestimate the conservatism of the American public because Americans are often very ambivalent about government.³² Lloyd A. Free and Hadley Cantril described Americans as “ideological conservatives” and “operational liberals,”³³ because they tend to respond negatively to the idea of a large and active government but positively to individual public programs (e.g., Social Security and education). For example, a majority of voters leaving the polls in California after voting in favor of Proposition 13, to cut taxes severely in that state, were in favor of reducing public expenditures for only one program—social welfare. For most programs the researchers mentioned, larger percentages of respondents wanted to increase expenditures than wanted to reduce them.³⁴ Likewise, citizens express great skepticism about government in polls, but in the 2018 elections, the voters approved most propositions on state and local ballots to raise revenues for specific purposes as well as voted for a liberal president and Congress.

The election of 2016 may be taken as something of a triumph for conservatism, given that both houses of Congress and the presidency were taken by the Republicans. Although President Trump’s campaign had a number of conservative positions, its populist positions were not compatible with usual conservative ideology. The difficulties in legislating after the election demonstrated that not all Republicans had the same conservative agenda. The major exceptions to that generalization were a major tax bill and the appointment of a number of conservative federal judges.

The huge federal deficit to some degree reflects this set of mismatched ideas about government; politicians can win votes both by advocating reducing taxes and by advocating spending for almost any program. For example, surveys show that the majority of Americans believe that they pay too many taxes and that the federal government wastes almost half of all the tax money it collects.³⁵ On the other hand, there are generally majorities in favor of a variety of social programs, especially those for the “deserving poor”—the elderly, unemployed workers whose companies have closed, divorced and widowed mothers, and the like. Furthermore, although Americans dislike the idea of socialized medicine, they also dislike the inequality in health in the United States and now favor Obamacare (see Chapter 11).

Participation

Another attitudinal characteristic that influences public policy in the United States is the citizen’s desire to participate directly in government. A natural part of democratic politics, public participation has a long history in the United States. The cry “No taxation without representation” was essentially a demand to participate. More recently, populist demands for participation and the right of “the little man” to shape policy have been powerful political forces. In a large and decentralized political system that deals with complex issues, however,

effective participation may be difficult to achieve. Although the 2008 elections saw an increase in voter turnout, especially among young people and minorities, the low rate of participation in most elections appears to indicate that citizens do not consider voting a particularly effective means of influencing government. But turnout in the election of 2020—66.7 percent—was higher than it had been for over a century.

Government has increasingly fostered participation. The laws authorizing “community action” in 1964 were the first to mandate “maximum feasible participation” of the affected communities in urban renewal decisions. Similar language was written into a number of other social and urban programs. The regulatory process also imposes requirements for notification and participation that, in addition to their positive effects, have slowed the process considerably. Government also has been allowing more direct participation in agency rule making, with affected interests allowed to negotiate among themselves the rules that will govern a policy area.

The desire for effective participation has to some degree colored popular impressions of government. Citizens tend to demand local control of policy and to fear the “federal bulldozer.” Although objective evidence may be to the contrary, citizens tend to regard the federal government as less benevolent and less efficient than local governments. The desire to participate and to exercise local control produces a tendency toward decentralized decision-making and a consequent absence of national integration. In many policy areas, decentralization is benign or actually beneficial. In others, it may produce inequities and inefficiencies.

Ideas about participation in the United States also have at times had a strong strand of populism, meaning the belief that large institutions—whether in government, business, or even labor—are inimical to the interests of the people. The antigovernment, anti-tax rhetoric that President George W. Bush used so effectively is one example of that populist style in American politics. That style of populism can be contrasted with a rather different approach by President Obama, who appealed to the American people with a message of unification that defies partisanship. The populist ideas reasserted themselves in 2010 and after in both the Tea Party and the Occupy movements. The Trump campaign and its assault on political elites—including invading the Capitol—in Washington was clearly in the populist style. Balancing popular demands for greater direct democracy with the requirements of governing an immense land-mass with over three hundred million citizens will continue to be a challenge for American democracy.

Pragmatism

The reference to ideological desires seemingly contradicts another cultural characteristic of US policymaking, pragmatism—the belief that one should do whatever works rather than follow a basic ideological or philosophical system. For most of our collective history, American political parties have tended to be

centrist and nonideological; perhaps the surest way to lose an election in the United States has been to discuss philosophies of government. Ronald Reagan questioned that characteristic of American politics to some degree, interjecting an ideology of government that was partly continued by George H. W. Bush. Bill Clinton's self-description as a "new Democrat" represented a return to greater pragmatism. George W. Bush claimed to be a "compassionate conservative" in his first election campaign, but his style, and especially that of members of Congress, transformed American politics into something of a battle of ideologies.

The years following the election of Barack Obama as president have, however, been marked by intense partisan and ideological debate. A long history of compromise was transformed into one of opposition and gridlock. The clearest manifestations of this were in battles over the debt ceiling and over the administration's policies to combat the "Great Recession." While Congress, the president, and other political elites continue to wrangle and make partisan pronouncements, the US public has expressed its dismay and disgust with the inability of the political system to make effective decisions to address the problems of the nation.³⁶ The ideological divide grew, if possible, even more pronounced during the Trump administration, with the inability to address the pandemic effectively being the starkest indication of the loss of pragmatic governance in the United States.

One standard definition of what will work in government is "that which is already working," and so policies tend to change slowly and incrementally.³⁷ The



Simon Simard/Bloomberg via Getty Images

Elections determine who controls Congress and the presidency and, therefore, set the parameters for policy choices in American government. Representative Joe Kennedy, D-Mass., speaks to Latinx business owners on a campaign stop for Senator in Lawrence, Massachusetts.

fundamentally centrist pattern of US political parties tended to produce agreement on most basic policies, and each successive president tends to jiggle and poke policy but not attempt significant change. A crisis such as the Great Depression or a political leader such as Reagan may introduce some radical changes, but stability and gradual evolution are the most acceptable patterns of policymaking. Indeed, American government is different after Reagan but not as different as he had hoped or intended.³⁸ Barack Obama was generally incapable of bringing about the type of grand change that he proposed during his campaign, except for passing the Affordable Care Act (see Chapter 11). And President Trump's vision of draining the swamp and radically changing Washington has been largely unsuccessful.³⁹

As mentioned above, the pragmatism of American politics has been declining, and declining rapidly. Several issues over which there appears to be little room for compromise have split the US public. The obvious example is abortion, which intruded into the debate over national health care reform during the Clinton administration, with some members of Congress refusing to support any bill that paid for abortions and others opposing any bill that did not.⁴⁰ The support for Planned Parenthood through Medicaid was also a point of contention in the 2017 debates on health care.⁴¹ Other issues with a moral, religious, or ethnic basis also have taken more prominent places in the political debate, leaving fewer possibilities for compromise or pragmatic resolution of disputes. The religious right has become especially important in the internal politics of the Republican Party, as groups such as the Christian Coalition and the Family Research Council have taken over at local and even state levels and attempted to shape the party's national policies.⁴²

The seeming decline in pragmatism in American politics is not just a function of religion. The political parties themselves have become more ideological.⁴³ Congressional politics has become more sharply divided along party lines, and compromise has become much more difficult, if not impossible, to achieve. Even when the country was facing potential financial disaster, President Obama's stimulus plan received no Republican votes in the House of Representatives and only three in the Senate.⁴⁴ Citizens say that they do not like the wrangling among parties, but the parties seem more committed to their own views of politics than in the past. And some evidence indicates that the population is also clearly divided into political camps that find compromise difficult.⁴⁵ One major exception to this generalization was the capacity to pass several economic relief packages during the COVID pandemic.⁴⁶ But despite efforts from the "Problem Solvers Caucus" in Congress, the attempts of the Biden administration to pass another COVID relief bill in its early days have become marked by partisanship.

Wealth

Another feature of the environment of American public policy is the country's great wealth. Although it is no longer the richest country in the world in per capita terms, the United States remains the largest single economy in the world. This wealth permits the US government great latitude for action so that even the massive deficits experienced for several decades have not required government to

alter significantly its folkways. The federal government can continue funding a huge variety of programs and policy initiatives, even while trying to control the size of the budget (see Chapter 7).

That great wealth is threatened by two factors, however. First, the US economy is increasingly dependent on the rest of the world. That is apparent in financial and monetary policy, as the United States has become the world's largest debtor, but it is true especially in dependence on raw materials and parts for manufacturing from abroad. The United States has been heavily dependent on foreign oil, but the economy also relies on other countries for a range of commodities necessary to maintain its high standard of living. The American economy historically has been relatively self-sufficient, but increasing globalization in recent decades has emphasized its relationship to the world economy.⁴⁷

Wealth in the United States is also threatened by the relatively slow rate of capital investment and savings. The savings rate for the average American family was 5.3 percent in 2016, up from the period of the financial crisis, but still indicating that relatively little capital is available for investment. The average American worker is still very productive but has lost ground to workers in other countries. Also, many US factories are outmoded, so competition on the world market is difficult. These factors, combined with relatively high wages, mean that many manufacturing jobs have gone overseas and more are likely to do so. This loss of jobs played a significant role in the 2016 presidential campaign, but there is little evidence that the trend will be reversed. The US government has had to borrow abroad to fund its deficits, and the country has chronic balance of payments problems because exports trail imports.

In addition to the changing distribution of wealth in the United States relative to the remainder of the world, the internal distribution of wealth has been changing and changing rapidly. Although there was substantial economic growth during the first decade of the twenty-first century, most of the economic growth went to the most affluent segments of society, while the real earnings of most citizens were stagnant or even declining. The economic (and political) strength of the United States has been built on a large middle class, a group now under great threat. They are in part under threat because of the international trade issues and falling wages used as a means of competing with overseas manufacturers. The distribution of wealth following the Great Recession, and then the pandemic, has become increasingly skewed toward the very wealthy, with the middle class tending to lose wealth in absolute as well as relative terms.⁴⁸

Diversity

The diversity of the American society and economy provides a great deal of richness and strength to the country as well as real policy problems. The issue of diversity and of the inequalities in the United States have been present in the United States for its entire history, but reached a new level of intensity in June, 2020. Following the death of George Floyd while being arrested in Minneapolis, there has been extended discussion, and some swift action, attempting to address

problems of racial discrimination. However, race pervades policymaking and politics in the United States, and that fundamental fact conditions our understanding of education, poverty, and human rights.

In addition, one of the most obvious diversities is the uneven distribution of income and wealth. Even with the significant social expenditures mentioned earlier, approximately forty-six million people (1 in 6) in the United States live below the poverty line (see Chapter 12). The persistence of poverty in the midst of plenty remains perhaps the most fundamental policy problem for the United States, if for no other reason than that it affects so many other policy areas,⁴⁹ including health care, housing, education, crime, and race relations. Moreover, there is growing concentration of income and wealth in the very affluent stratum at the top of society that may undermine confidence in the economic and social justice of the political system.

The social and economic characteristics of the country taken as a whole are also diverse. The United States is both urban and rural, both industrial and agricultural, both young and old. It is a highly educated society with several million illiterates; it is a rich country with millions of people living in poverty. In at least one state, California, there already is no majority ethnic group, and in a few generations, that may be true for the country as a whole. American policymakers cannot concentrate on a single economic class or social group but must provide something for everyone if the interests of the society as a whole are to be served. But serving that whole range of social interests forces government to spend—for other purposes—the resources that could be applied to rectifying the worst inequalities of income and opportunity.

World Leadership

The United States has been an economic, political, and military world leader. Since the collapse of the Soviet Union, it has been the only remaining superpower. If the United States sneezes, the world still catches cold, because the sheer size of the American economy is so important in influencing world economic conditions, as the 2008 financial crisis demonstrated. Despite the upheaval in global political alignments, the world still expects military and diplomatic leadership for the West to come from the United States.

The US position as world leader has imposed burdens on American policymakers. Although the Cold War had ended, the role of peacekeeper required a good deal of US military might, even before the war on terror escalated military spending. Burdens also arise from providing diplomatic and political leadership. The US dollar, despite some competition, remains a major reserve currency in the world economy, and that status imposes additional economic demands. The role of world leader is an exhilarating one, but it is also one filled with considerable responsibility and economic cost. Indeed, the globalization of the economic system is making many Americans rethink the desirability of major international involvement. American acceptance of this role may also be waning as the costs (human and material) of involvement in Iraq and Afghanistan

and greater insecurity at home have turned more attention inward rather than outward to the world.

The Trump administration has willingly abdicated the world leadership that has characterized the position of the United States. This willingness to give up leadership was seen in the repudiation of the Paris Climate Accord⁵⁰ and in withdrawing from the World Health Organization in the midst of the pandemic. It has also been seen in deteriorating relationships with North Atlantic Treaty Organization (NATO) and the economic partners in the group of twenty (G-20) countries. While a reduced international role may have some benefits, it also fundamentally alters not only American policies but also the international system.

SUMMARY

American public policy is the result of complex interactions among a number of complex institutions. It also involves a wide range of ideas and values about what the goals of policy should be and what are the best means of reaching them. In addition to the interactions that occur within the public sector are the interactions with an equally complex society and economy. Indeed, society is playing an increasingly important role in policymaking and implementation, with public sector reforms placing increasing emphasis on the capacity of the private sector to implement, if not make, public policy.

Making policy requires reaching some form of social and political consensus among all these forces. There does not have to be full agreement on all the values and all the points of policy, but enough common ground must be found to pass and implement legislation. Building those coalitions can extend beyond reaching ideological agreement to include bargaining and horse trading, which assign a central role to individual policy entrepreneurs and brokers. There is so much potential for blockage and delay in the American political system that some driving force may be needed to make it function.

NOTES

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2. See Lester Salamon, ed., *Handbook of Policy Instruments* (New York: Oxford University Press, 2001), Introduction.
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The Structure of Policymaking in American Government

2

THE STRUCTURES THROUGH WHICH public policy is formulated, legitimated, and implemented in the United States are extremely complex. It could be argued that American government has a number of structures but no real organization, for the fundamental characteristic of the structures is the absence of effective coordination and control. The absence of central control is largely intentional. The framers of the Constitution were concerned about the potential for tyranny of a powerful central executive; they also feared the control of the central government over the states. The system of government the framers designed divides power among the three branches of the central government and further between the central government and state governments. As the system of government has evolved, it has become divided even further, as individual policy domains have been able to gain substantial autonomy from central coordination. To understand American policymaking, therefore, we must understand the extent of fragmentation existing in this political system and the (relatively few) mechanisms devised to control that fragmentation and enhance coordination.

The fragmentation of American government presents some advantages. First, having a number of decision-makers involved in every decision should reduce errors, as all must agree before a proposal can become law or be implemented. The existence of multiple decision-makers should also permit greater innovation both in the federal government and in state and local governments. And as the framers intended, diffused power reduces the capacity of central government to abuse the rights of citizens or the interests of socioeconomic groups. For citizens, the numerous points of access to policymaking permit losers at one level of government or in one institution to become winners at another point in the process.

Americans also pay a price for this lack of policy coherence and coordination. It is sometimes difficult to accomplish *anything*, and elected politicians with policy ideas find themselves thwarted by the large number of decision points in the policymaking system. The policymaking situation in the United States has been described as *gridlock*, in which the different institutions block one another from developing and enforcing policies.¹ The crisis provoked by the

attacks of September 11, 2001, eliminated that gridlock for a short period, but it soon returned, even in some aspects of national security. For example, the USA PATRIOT Act could not be renewed in late 2005 because of sharp partisan differences over domestic wiretapping. There was also substantial gridlock during many years of the Obama administration, as well as for much of the last years of the Trump administration. But even a government that has all three actors—House of Representatives, Senate, and president—controlled by the same party may still have difficulties in legislating. This is especially true when the president is an outsider and not well integrated with his party.

The division of government into many separate policy fiefdoms also means that programs may cancel one another out. For example, progressive (if decreasingly so) federal taxes and regressive state and local taxes combine to produce a tax system in which most people pay about the same proportion of their income as tax. The surgeon general's antismoking policies and the few remaining Department of Agriculture's tobacco subsidies attempt to please both pro- and anti-tobacco interests. The apparent inability or unwillingness of policymakers to choose among options means that policies will be incoherent, and that because potential conflicts are resolved by offering every interest in society some support from the public sector, taxes and expenditures are higher than they might otherwise be.

I have already mentioned the divisions that exist in American government. I now look at the more important dimensions of that division and the ways in which they act and interact to effect policy decisions and real policy outcomes for citizens. *Divided government* and *gridlock* have become standard descriptions of American government, and their impact as well as that of federalism must be considered in analyzing the way in which policy emerges from the political system. But we should be careful to understand the extent to which gridlock really exists as more than simply a convenient description of institutional conflict—some periods of divided government were able to produce effective governance.

FEDERALISM

The most fundamental division in American government traditionally has been *federalism* or the constitutional allocation of governmental powers between the federal and state governments. This formal, constitutional allocation at once reserves all powers not specifically granted to the federal government to the states (Ninth and Tenth Amendments) and establishes the supremacy of federal law when there are conflicts with state and local law (Article 6). Innumerable court cases have resulted from this somewhat ambiguous division of powers among levels of government.

By the first decades of the twenty-first century, American federalism had changed significantly from the federalism described in the Constitution. The original constitutional division of power assumed that certain functions of

government would be performed entirely by the central government, and other functions would be carried out by state or local governments. In this “layer cake” federalism, or separated powers model, the majority of public activities were to be performed by subnational governments, leaving a limited number of functions, such as national defense and minting money, as the responsibility of the federal government.²

As the activities of government at all levels expanded, the watertight separation of functions broke down, and federal, state, and local governments became involved in many of the same activities. The layer cake then was transformed into a “marble cake,” with the several layers of government still distinct but no longer horizontally separated. This form of federalism still involved intergovernmental contacts through central political officials. The principal actors were governors and mayors, and intergovernmental relations remained on the level of high politics, with the representatives of subnational governments acting as supplicants for federal aid. Furthermore, in this form of federalism, the state government retained its role as intermediary between the federal government and local governments.

Federalism evolved further from a horizontal division of activities into a set of vertical divisions. Whereas functions were once neatly compartmentalized by level of government, the major feature of “picket fence” federalism is the development of policy subsystems defined by policy rather than level of government.³ Thus, many significant decisions about health policy are made by specialized networks involving actors from all levels of government and from the private sector. Those networks, however, may be relatively isolated from other subsystems making decisions about highways, education, or whatever. The principal actors in these subsystems frequently are not political leaders but administrators and substantive policy experts. Local health departments work with state health departments and with the Department of Health and Human Services (HHS) in Washington in making health policy, and these experts are not dependent on the intervention of political leaders to make the process function.

In many ways, it makes little sense to discuss federalism in its original meaning; it has been argued that contemporary federalism is as much facade as picket fence. A term such as *intergovernmental relations* more accurately describes the complex crazy quilt of overlapping authority and interdependence among levels of government than does a more formal, constitutional term such as *federalism*.⁴ In addition to being more oriented toward administrative issues than high politics, contemporary intergovernmental relations are more functionally specific and lack the coherence that might result if higher political officials were involved in the principal decisions. Thus, as with much of the rest of American politics, intergovernmental relations often are without the mechanisms that could generate effective policy control and coordination.

Despite the complexity, overlap, and incoherence that exist in intergovernmental relations, one can still argue that centralization has increased in the federal system.⁵ The degree of dependence of state and local governments on federal

financial support for their services has varied over the past several decades. The Reagan administration reduced federal support for state and local activities, especially social services, but the level of federal support has been creeping back up (see Table 2.1). The increase of federal support is driven in part by the rapid increase in Medicaid spending.⁶ The Affordable Care Act expanded Medicaid spending for those states that accepted the expansion, but it was financed almost entirely by federal funds.

Along with financing comes increased federal control over local government activities. In some cases, that control is absolute, as when the federal government mandates equal access to education for those with disabilities or establishes water quality standards for sewage treatment facilities. In other instances, controls on state and local governments are conditional, based on the acceptance of a grant: If a government accepts the money, it must accept the controls accompanying that money.

In general, the number and importance of mandates on state and local governments and the conditions attached to grants have been increasing. For example, the Department of Health and Human Services threatened to cut off funding for immunization and other public health programs in states that did not implement restrictions on procedures performed by doctors and dentists with AIDS. Even the existence of many federal grant programs may be indicative of subtle control from the center, inasmuch as they direct the attention and

TABLE 2.1
Changing Levels of Federal Grants-in-Aid to State and Local Governments

	1970	1980	1985	1990	1995
Total amount (\$ millions)	24,065	91,385	105,852	135,325	224,991
Percentage of state and local expenditures	29.1	39.9	29.6	25.2	31.5

	2000	2007	2012	2019
Total amount (\$ millions)	284,659	443,797	544,569	749,554
Percentage of state and local expenditures	31.3	31.9	34.1	33.7

Source: Historical Tables, *Budget of the United States Government* (Washington, DC: Office of Management and Budget, 2014).

especially the money of local governments in directions they might not otherwise have chosen.

In addition to controls exercised through grants, the federal government has increased its controls over subnational governments through intergovernmental regulation and mandating. Regulations require the subnational government to perform a function such as wastewater treatment, whether or not there is federal money available to subsidize the activity. These regulations are certainly intrusive and can be expensive for state and local governments. Even when the mandates are not expensive and are probably effective, such as the requirement that states raise the minimum drinking age to twenty-one or lose 5 percent of their federal highway money, they can still be perceived as “federal blackmail” of the states.⁷

The Unfunded Mandates Reform Act of 1995 requires the Congressional Budget Office to estimate the mandated costs of legislation reported out of committee in Congress. This provision by no means outlaws federal mandates, but it does require that members of Congress at least know what they are doing to the states and localities when they pass legislation. That measure did not affect existing mandates, nor will the federal government have to pay the bill for those mandates. Conservatives believed that in practice the legislation has been largely toothless,⁸ while liberals believed that environmental and consumer standards were in danger of being undermined. The No Child Left Behind program of President George W. Bush imposed potentially huge costs on the states and localities (for testing and for supporting students in “failing schools”) with little funding attached. The Obama administration loosened controls over the states in this program, but there are still significant educational requirements imposed,⁹ and the Trump administration has not altered those educational mandates (see Chapter 13).

One factor complicating intergovernmental relations has been the proliferation of local governments in the United States. As fiscal constraints on local governments have caused problems for mayors and county commissioners, new local governments have been created to circumvent those restrictions. States frequently restrict the level of taxation or bonded indebtedness of local governments, but when a local government reaches its legal limit, it may simply create a special authority to undertake some functions that the general-purpose local authority formerly carried out. For example, as Chicago faced severe fiscal problems in 2005, it sold its Skyway toll road to a private contractor; it leased Midway Airport to combat the financial crisis of 2008.

An average of almost five hundred local governments are created every year, primarily special districts to provide services, such as transportation, water, sewerage, fire protection, and other traditional local government services.¹⁰ The new special-purpose governments, which multiply the problems of coordination, may frustrate citizens who want to control tax levels but find that every time they limit the power of one government, a new one is created with more fiscal powers. These districts also present problems of democratic accountability. The leaders of special-purpose governments often are not elected, and the public can influence

their actions only indirectly through the cities and counties that appoint the boards of the special-purpose authorities.¹¹

Centralization versus decentralization has been a consistent theme in intergovernmental relations. The Clinton administration was as decentralizing as most previous Republican administrations and perhaps even more so. For example, the welfare reform passed in 1996 passed major powers to the states. Like President Clinton, President George W. Bush had been a governor and brought a decentralizing agenda to the White House, but the September 11 attacks tended to move power back toward Washington more clearly than at any time since the 1960s. The Bush administration was, in fact, one of the most centralizing in recent American history and involved the federal government in local education, law enforcement, and health issues in ways that previous administrations had not thought appropriate.

The American federal system still centralizes power more than was planned when the federal system was formed. The grant system has been purchasing a more centralized form of government, although the shift in power appears to have come less from power hunger on the part of federal bureaucrats and politicians than from the needs to standardize many public services and to promote greater equality for minorities. Furthermore, even if federal programs are intended to be managed with no strings attached, there is a natural tendency, especially in Congress, to monitor the expenditure of public funds to ensure that the money is used to attain the desired goals. In an era in which the accountability of government is an increasingly important issue, monitoring is likely to increase in intensity, even when Republican members of Congress stress the need to limit federal power.

The Obama administration also tended to centralize, although not without a few comments on the sort of federalism that it would find most congenial; in large part, this centralization has been the result of the fiscal crisis beginning in 2008 and the poor condition of state and local finances. For example, the Stimulus Package of 2009 provided billions of dollars to state and local governments to support infrastructure programs and some service delivery in areas such as education. Likewise, the passage of the Affordable Care Act placed the federal government in a much more central position in health care, including a significant expansion of Medicaid, a program run by the states with federal subsidies.

The Trump administration has expressed a general interest in returning more powers to the state and local governments, but the failure of various attempts at repealing Obamacare and the general absence of legislative action in the first years of the administration did not yield any such shifts. Indeed, if anything, that inaction at the federal level has tended to move more responsibility down to the state level. The states, for example, have been innovating in health care even when the federal government has not been able to act. And inaction in the COVID-19 pandemic forced the states to become the leaders in coping with the crisis.

SEPARATION OF POWERS

The second division of American government exists within the federal government itself—and within most state and local governments as well. The Constitution distributes the powers of the federal government among three branches, each capable of applying checks and balances to the other two. In addition to providing employment for constitutional lawyers, this division of power has a substantial impact on public policies. In particular, the number of “veto points” in the federal government alone makes adopting any policy difficult and preventing change relatively easy.¹² It also means, as I mentioned when discussing the incoherence of American public policy, that the major task in making public policy is forming a coalition across a number of institutions and levels of government. Without “legislating together” in such a coalition, either nothing will happen or the intentions of a policymaker will be modified substantially in the policy process.¹³

The president, Congress, and the courts are constitutionally designated institutions that must agree to a policy before it can be fully legitimated. The bureaucracy, although it is only alluded to in the Constitution, is now also a force in the policy process with which elected politicians must contend. Despite its conservative and obstructionist image, the bureaucracy is frequently the institution most active in promoting policy change, as a result of government workers’ close connections with the individuals and interests to which they provide services as well as their own ideas about public policy.¹⁴ The bureaucracy is also given latitude to elaborate congressional legislation as well as to adjudicate the application of laws within each policy area.¹⁵

The bureaucracy—or, more properly, the individual agencies of which it is composed—has interests that can be served through legislation.¹⁶ The desired legislation may only expand the budget of an agency, but it usually has a broader public policy purpose as well. Administrative agencies can, if they wish, also impede policy change or perhaps even block it entirely. Almost every elected or appointed politician has experienced delaying tactics by nominal subordinates who disagree with a policy choice and want to wait until the next election or cabinet change to see if someone with more compatible policy priorities will come into office. The permanence of the bureaucrats, along with their command of technical details and of the procedural machinery, provides bureaucratic agencies much more power over public policies than one would assume from reading formal descriptions of government institutions. It has become increasingly evident that agencies may drive the congressional agenda almost as much as Congress shapes the agenda of the agencies.¹⁷

The institutional separation in American government has led to a number of critiques based on the concept of divided government.¹⁸ Those critiques argue that American government is incapable of being the decisive governance system required in the twenty-first century and that some means must be found of generating coherent decisions. This has been an issue especially when the

presidency and Congress have been controlled by different political parties, as they were during the second half of both President Obama's and President Trump's administrations. In both cases, there were also divisions within their own parties that made policymaking difficult. Despite the impacts of divided government, David Mayhew, Charles O. Jones, and other scholars have argued that the system can govern effectively: make decisions and even rapidly apply or deploy policy innovation.¹⁹

Whether the policymaking system is efficient or not, one principal result of the necessity to form coalitions across a number of institutions is the tendency to produce small, incremental changes rather than major revamping of policies.²⁰ This might be described as policymaking by the lowest common denominator. The need to involve and placate all institutions within the federal government—including the many component groups of individuals within each—and perhaps state and local governments as well means that only rarely can there be more than minor changes in the established commitments to clients and producer groups if the policy change is to be successful.²¹ The resulting pattern of incremental change has been both praised and damned. It has been praised for providing stability and limiting errors that might result from more significant shifts in policy. If only small policy changes are made and those changes do not stray far from previously established paths, then it is unlikely that major mistakes will be made.

Incremental change is perfectly acceptable if the basic patterns of policy are acceptable, but in some areas such as health care and mass transportation, a majority of Americans have said (at least in polls) that they would like some significant change.²² The existing system of policymaking appears to produce major desired changes only with great difficulty; the increasing partisanship in Congress has made change—even repeal of existing programs—more difficult. In addition, the reversibility of small policy changes, assumed to be an advantage of incrementalism, is often overstated.²³ Once a program is implemented, a return to the conditions that existed before the policy choice is often difficult. Clients, employees, and organizations are created by any policy choice, and they usually will exert powerful pressures for the continuation of the program.

The division of American government by the constitutional separation of powers doctrine creates a major institutional confrontation at the center of the federal government. Conflicts between the president and Congress over such matters as war powers, executive privilege, and the budget also test and redefine the relative powers of institutions. These conflicts became more apparent in 2014 when President Obama used an executive order to delay deportation of a number of illegal immigrants, and later similar conflicts occurred numerous times in the Trump administration. Is the modern presidency inherently imperial, or is it subject to control by Congress and the courts? Does too much checking by each institution of the others generate gridlock and indecision? Likewise, can the unelected Supreme Court have as legitimate a rulemaking role in the political system as the elected Congress and president? Do the regulations made by the public bureaucracy really have the same standing in law as the legislation passed