2

Government Institutions and Policy Actors

Stalemate over court nominations. Conflicts between the White House and Congress over both policy issues and nominations are not unusual. The photo shows Judge Brett M. Kavanaugh testifying in front of the Senate Judiciary Committee regarding sexual assault allegations at the Dirksen Senate Office Building on Capitol Hill, September 27, 2018.

Erin Schaff-Pool/Getty Images

CHAPTER OBJECTIVES

- Describe and explain the growth of government throughout U.S. history.
- Analyze the structure of the U.S. government and the implications for policymaking capacity.
- Explain the challenges of policymaking posed by the separation of powers.
- Describe and assess major governmental and nongovernmental actors most involved in the policy process.
- Examine ways to improve governmental policy capacity.
- Assess how citizen involvement can make a difference in policy development.

On February 13, 2016, Supreme Court justice Antonin Scalia passed away unexpectedly while visiting Texas. Justice Scalia was appointed to the Court by Ronald Reagan in 1986 and during his tenure was considered one of its leading conservative voices. Justice Scalia was a strict interpreter of the Constitution, often arguing that judges should follow the actual language in the Constitution rather than applying modern interpretations. His death left the Court with eight justices until a new justice was seated, and set up a situation where there were strong possibilities of a deadlocked court on certain decisions. Whenever a Supreme Court justice needs to be added, there is a tremendous amount of political posturing and debate regarding potential nominees and their ideas regarding constitutional interpretation. This was particularly true in this case since Justice Scalia was such a strong judicial voice for the conservative movement.

The Constitution states that the president nominates justices to the Supreme Court—and, in fact, all federal judges—and the Senate provides "advice and consent" for those nominees. This process typically includes hearings in front of the Senate Judiciary Committee and then a vote by that committee before heading to the full Senate for a vote. Within a day of Justice Scalia's death, some Republicans in the Senate, including the party's leadership, said they would not consider, or hold hearings on, any nominee from President Barack Obama given that the country was in an election year, and that it was only right that the people have a voice in nominating the next Supreme Court justice through their election of the next president. In other words, they were suggesting that the country wait at least a year before the seating of the next Supreme Court justice. Unsurprisingly, President Obama and Senate Democrats disagreed with that view. The president started his vetting process with every intention of following what he said was his constitutional responsibility to nominate someone to the Court. In mid-March, President Obama nominated Merrick B. Garland for the Supreme Court. Garland was the chief judge of the United States Court of Appeals for the District of Columbia Circuit, where he had served since 1997. His decisions on the court reflected a centrist judicial philosophy. As an appellate judge, he already had been through the Senate process and was confirmed on a 76–23 vote.[1]

No one questioned Judge Garland's qualifications for the Supreme Court, yet many Republicans within the Senate continued to state that they would not hold hearings on Garland and in some cases would not even meet with him individually. Democrats cried foul and accused Republicans of not performing their constitutional duties as well as creating institutional problems for the Supreme Court in the coming year. Republicans countered that the presidential election was so important to the direction of the country that the new president should be allowed to make the nomination; essentially, they argued that the voice of the people should prevail. Of course, just about everyone saw through the politics of the situation on both sides. Democrats and President Obama saw an opportunity to place on the Court a justice more to their liking than former justice Scalia. Republicans were hoping for, and received, a victory in November to ensure they could place a more conservative justice on the Court.

Fast-forward to September 2018, when we again saw intense partisanship over a Supreme Court nomination. Upon the retirement of Justice Anthony Kennedy, President Donald Trump had his second chance to nominate a Supreme Court justice, and he nominated Judge Brett M. Kavanaugh. But in this case, Democrats pushed back strongly, once again over the timing. Here, the nomination's timing concerned not a presidential election,

but rather the ongoing investigations conducted by Special Counsel Robert Mueller into President Trump's election campaign and administration, which revolved around potentially illegal or unethical activities. Democrats also raised concerns about the abbreviated hearings into Kavanaugh's background and their lack of access to a large number of records related to his professional work history.[2] Ultimately, Kavanaugh was confirmed in October 2018 on a largely party-line vote of 50 to 48, one of the narrowest margins in history.

This situation regarding the seating of new justices on the Supreme Court illustrates the continued conflict between the branches of government and the gridlock that can occur as a result of this conflict. It also testifies to the challenges of policymaking in the United States today, particularly when the proposed policies are hotly contested, and when both the parties and the citizens are deeply divided over the most appropriate action to take. Democrats and Republicans are frequently at odds over how best to deal with the nation's policies whether they are environmental issues, economic and tax policies, health care, or even something related to government operations such as the nomination and approval of a court justice. Sometimes the outcome is **policy gridlock** or stalemate. Nothing can be done because neither side in bitter disputes over job creation measures, health care reform, and changes in federal entitlement programs such as Social Security and Medicare is willing to compromise. As noted in chapter 1, one result has been record-low levels of approval for governmental institutions and policymakers. The public understandably finds such policy stalemate in the face of serious national problems to be unacceptable (Persily 2015; Thurber and Yoshinaka 2015). Polls show a public that seeks resolution of the nation's problems and cooperation between the parties, and yet elected officials often are unable to reach any agreement in part because the core constituencies within each party adamantly hold firm.[3] Such stalemate also reminds us that the constitutional structure of the U.S. government does not make policymaking easy, as it requires agreement between Congress and the White House, and often the approval of the federal courts.

Most people see policy gridlock over health care reform, immigration, and extending or ending various tax cuts and subsidies as a failure of government, and in many ways it is. But it is also true U.S. political institutions were designed with the clear intention of making actions on public policy—and therefore the expansion of government authority—difficult. The chosen institutional structure reflected the prevailing political values and culture of late-eighteenth-century America. At that time, only about 4 million people lived in the United States, most of them in rural areas and small towns. By 2019, the population was over 330 million, with the overwhelming majority of people living in large metropolitan areas and their suburbs. At its founding, the nation faced relatively few public problems, and most people believed that it was more important to maintain their freedoms than to create a powerful government that could act swiftly in response to national problems. Many critics of the U.S. system wonder whether its political institutions are even capable of responding effectively to the highly complex and interdependent problems the United States faces at home and abroad today, from maintaining a strong economy to dealing with climate change or global terrorism (Chubb and Peterson 1989; Ophuls and Boyan 1992).

Understanding this system of government and how policy actors maneuver within it is essential for students of public policy. It enables us to assess the constraints on policy development and the many opportunities that nevertheless exist within the U.S. political

system for solving public problems through creative policy action. The complexity of many contemporary problems, such as urban sprawl, failing public school systems, or weaknesses in the nation's health care system, also hints at the crucial role that policy analysis plays, or can play, in designing effective, economically feasible, and fair solutions. The next chapter rounds out this introductory section of the text by offering a thorough description and analysis of the policymaking process, with special attention paid to different theories used to explain why this process produces the results that it does, and the opportunities the process offers for public involvement and the use of policy analysis to clarify key issues.

GROWTH OF GOVERNMENT

Most people recognize that government today is much larger than it was at the nation's founding, and that it is also much more likely to affect their lives, from regulation of broadcast media to provision of loans for college education. They may disagree, however, as liberals and conservatives often do, on whether such government involvement is a good thing or not. Most people value the services that government provides, but many also complain about government and the programs it creates, particularly their costs and effectiveness, and these complaints have grown louder in the past few years. Actions taken by the Obama administration and Congress, such as steps to revitalize the economy and dealing with the nation's health care needs, increased the size of government or at least the government's presence even more. So how did government come to be so big and, at least in some views, such an intrusive force in the lives of citizens?

The original U.S. government was quite small, as was the nation itself. The first Congress, representing thirteen states, had sixty-five representatives and twenty-six senators. The bureaucracy consisted of three cabinet-level departments (War, Treasury, and Foreign Affairs, to which one more, Justice, was added). In contrast, today there are fifteen departments, numerous bureaus and agencies, and a bit over two million civilian federal employees, excluding postal workers.[4] Despite widespread belief to the contrary, the federal government's size, measured by employees and not budgets, has been relatively stable since the 1970s. Indeed, it decreased during the 1990s and has seen only a small increase since 2000. However, at the same time, the number of federal contractors and grant recipients has increased substantially since 1990, and particularly since the early 2000s. As Brookings Institution scholar Paul Light has argued, this group constitutes a kind of "hidden" federal workforce and disguises the true size of government today.[5] Much of the rest of the recent growth in number of government employees has been in the states. However, growth in government employment at the state level declined appreciably as states were forced to trim their budgets. Still, viewed in the broad sweep of history, it is important to understand why government has grown to its present size.

Obviously, part of the growth of government results from the expansion of the United States in physical area and population. As noted, the population has increased dramatically from the initial four million residents at the time of the first census in 1790. The population today is also heavily urban and well educated compared to that of 1790, and it occupies land from coast to coast as well as in Alaska and Hawaii. Demographics and geography, however, cannot fully explain the growth of government, which has more to

do with the changing nature of public problems and citizen expectations for government services than it does with the nation's size.

One major reason for government's increasing size is that American society has become more complex and faces more challenging problems. This added complexity, which comes in part from advances in science, technology, and business operations, has led to many kinds of government intervention, from regulation of television, radio, and satellite communications to airline and automobile safety; none was a reason for concern a hundred years ago.

Another reason for the growth of government is the public's acceptance of business regulation. Even though politicians still like to talk about the free-market economy, the United States has moved away from it to a regulated, or mixed, economy. Nowhere does the Constitution mention the power to prevent monopolies, provide for safe food and drugs, assure consumers of product safety, protect air and water quality, or require limits on child labor, but all these policies are in effect, to varying degrees, today. They resulted not only from legislation but also from the Supreme Court's expansive interpretations of the commerce and the necessary and proper clauses of the Constitution.

Viewed from a historical perspective, policy change on government regulation has been astonishing. Congress has enacted regulatory statutes that, prior to the Progressive Era of the late nineteenth and early twentieth centuries, would have been considered improper exercises of government authority. By then, however, social pressure for reform was strong enough that government had the backing to correct some of the excesses flowing from rapid industrialization in the 1800s. These included the prevalence of unsafe food and drugs and dangerous working conditions, and the domination of entire industries by monopolies. These social pressures also spurred major advances in business regulation during President Franklin Roosevelt's New Deal (Harris and Milkis 1996). At first resistant to New Deal legislation, the Supreme Court eventually ruled many of these acts constitutional. In doing so, the Court reflected society's endorsement of these new powers of government.

Attitudes have also changed about government's role in social welfare. Again, under the New Deal, the federal government signaled its responsibility to provide a minimal level of support for certain individuals, including the poor, farmers, and the elderly. By that time, many states had already developed such social programs for certain categories of individuals (Skocpol 1995). President Lyndon Johnson's Great Society agenda expanded those commitments in the 1960s. As government moved into the area of social welfare support, it also grew to administer these programs. For example, Social Security today is the single biggest government program and requires a large organization to administer it.

America's role in the world has also contributed to government growth. After World War II (1941–1945), the United States emerged as a superpower and took a larger role in world affairs. The government had to grow to keep up with the new responsibilities in foreign affairs and national defense. This has meant an increase in the budget and personnel not only of the Departments of Defense and State but also of agencies with peripheral connections to international affairs, such as the Environmental Protection Agency (EPA) and the Departments of Commerce and Agriculture.

In addition, the size, scope, and cost of certain projects mean that only the government can undertake them. They may come about because of a market failure, as discussed in

chapter 1, or changes in public expectations of government. Some individuals and organized groups therefore argue that for social or economic progress to occur, government needs to become involved. No other entity, they say, can perform the functions of government, especially space exploration and other scientific research and development, including work in the areas of defense, energy, and health.

Finally, Americans must accept some responsibility for the growth of government. Citizen demands for government action continue to rise. Americans tend to be ideologically conservative but liberal in practice with respect to provision of government services, from police protection to health care for the elderly. The rise of the Tea Party movement in recent years is partially in response to what its supporters see as a federal government that is overinvolved. One can see the evidence of an expanding role for government throughout the federal rulemaking process, which is a good indicator of the government's growth:

> The American people have long decried government in the abstract but rushed to its waiting arms with their problems or dreams. Throughout the 1980s, the 1990s, and into the 2000s, when skepticism and outright hostility toward the federal government reached unprecedented levels, demands for specific public responses to private needs and desires continued unabated. (Kerwin and Furlong 2019, 83)

The Tenth Amendment to the Constitution declares: "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people." These powers are often called the reserve powers of the states and are the basis for their right to legislate in many areas. Despite the federal government's involvement in public policy issues that were formerly the states' exclusive domain, state and local governments also have grown substantially over the past fifty years. Moreover, the trend toward devolution to the states (discussed later) has meant that many of these governments now are often at the leading edge of policy development.

The effects of government growth are many. First, government policies affect most of what people do every day. Second, government growth has led to an entire occupational sector. Not only are governments at all levels major employers, but also their buying power has a substantial impact on numerous economic sectors that rely on government programs and spending. Third, the scope of government increases the likelihood of conflicting public policies and greater difficulty in addressing society's problems. Fourth, policymaking in a large, complex government organization takes more time and effort—to analyze problems, discuss alternatives, decide on solutions, and implement programs—than in a smaller entity. When such efforts fail, the result is policy stalemate or gridlock, the phenomenon to which we referred at the chapter's opening. This is a major reason why we emphasize in this chapter how the government's **policy capacity**—its ability to identify, assess, and respond to public problems—might be improved.

GOVERNMENT INSTITUTIONS AND POLICY CAPACITY

Many students are already familiar with the major U.S. government institutions. Even so, a brief review of their most notable features and the implications for public policymaking

may be useful. The reason is that the way institutions are designed and structured is critical to how they function, as are the rules they adopt for decision making. Both affect their policy capacity.

The nation's founders created a system of checks and balances among the institutions of government, primarily to ensure that government could not tyrannize the population. That is, power would not be concentrated enough to pose such a threat. The formal structure of government they established well over two hundred years ago remains much the same today. The U.S. system is based on a tripartite division of authority among legislative, executive, and judicial institutions and a federal system in which the national government and the states have both separate and overlapping authority. Each branch of the federal government has distinct responsibilities under the Constitution but also shares authority with the other two. This system of separated institutions sharing power had the noble intention of limiting government authority over citizens and protecting their liberty, but the fragmentation of government power also has a significant impact on policymaking processes and the policies that result.

Fragmented power does not prevent policy action, as the routine administration of current national policies and programs and the development of new policies clearly indicate. Moreover, when conditions are right, U.S. policymaking institutions can act, sometimes quickly, to approve major policy advances. Often they do so with broad bipartisan support (Jones 1999; Mayhew 1991). Some examples include the enactments of the USA PATRIOT Act in 2001, the Emergency Economic Stabilization Act in 2008, and the Every Student Succeeds Act in 2015. What conditions lead to such substantial policy changes in a system that generally poses significant barriers to such action? It is an intriguing question to ponder, and one that this chapter explores.

Despite policy successes, the fragmented U.S. political system generally makes it difficult for policymakers to respond to most public problems in a timely and coherent manner. The same can be said about the constitutional mandate for a federal system in which the states share power with the national government. The fifty states and about eighty thousand local governments chart their own policy courses within the limits set by the Constitution and national law. Stalemate at the national level usually increases during periods of divided government, when one political party controls the presidency and the other at least one house of Congress (Ripley and Franklin 1991; Thurber 1991; Thurber and Yoshinaka 2015). The reasons are clear: members of the same political party tend to have similar beliefs concerning the scope of government and the direction of policies, but the two major parties often hold strongly conflicting views on these matters.

Although divided government makes agreement and cooperation difficult, policymaking can proceed even under these circumstances. In fact, David Mayhew (1991) argues that divided government has had only a limited impact on the enactment of major public policies at the national level. A good illustration is one of the most expansive laws ever written, the Clean Air Act Amendments of 1990, approved in a period of split-party control of the White House and Congress. Democrats took control of the presidency and both houses of Congress in 2009 with a popular president who wanted to bring the parties together to address problems. President Obama, by many measures, had very successful achievements during his first two years in office, including passing a massive economic stimulus package, addressing the financial industry crisis, passing major health care

reform legislation, and making major changes to the college student loan program. These successes occurred primarily through support of the Democratic majority in Congress and were not a result of bipartisan efforts. Yet in the 2010 elections, voters backed Republicans at the national and state levels and created a Republican majority in the House of Representatives beginning in 2011—and thus divided government once again. Results like these suggest that many Americans, and perhaps a majority, were not happy with at least some of the new policy directions.

The election of Donald Trump as president ushered in another period of unified government, in this case with the Republicans in control of both houses of Congress for the first two years of his presidency. While there were some legislative successes during this time, including a very large tax cut, many other agenda items, such as repealing Obamacare, have been unsuccessful. In fact, beyond the tax bill, there have been few major legislative successes despite Republican control of the House, the Senate, and the presidency.[6] With Democrats retaking the House following a very strong showing in the 2018 midterm elections, significant legislative accomplishments became even more difficult as they require cooperation between the two parties that increasingly share few common perspectives on policy choices.

While the above account makes it appear that there is a lot of variability in congressional elections, the truth is that very few House seats are considered competitive in any given election. State legislatures set congressional district boundaries every ten years following a new national census, and in most states they do so in a way to protect the party in power. As a result, many see this process as broken. According to some political analysts, such partisan decision making has resulted in congressional districts that produce more extreme or fringe candidates who believe they can safely ignore dissenting voices within their districts, particularly from the opposing party. This has led to some successful legal challenges to the existing district lines and judicial decisions requiring that these lines be redrawn.[7] In some states, the drawing of district lines also has affected control of the state legislature and congressional delegations—that is, where control in effect goes to the party that won a minority of the overall votes cast.[8] This was seen in the 2018 election results in Wisconsin where the Democrats won 54 percent of the popular vote cast for the state assembly but took only 36 percent of the seats. For these reasons, some states, most notably Iowa and California, have turned to a nonpartisan process for redistricting.[9]

Fragmented power can lead to other concerns. For example, states' policies, such as California's stringent air quality laws and Massachusetts's universal health care plan, sometimes result in significant advantages for their citizens that people living in other states do not enjoy. In addition, serious conflicts can develop between the federal government and the states. In the 1950s and 1960s, the federal government enacted legislation banning segregation in response to state Jim Crow laws that denied African Americans equal rights. But even passage of the federal Civil Rights Act of 1964, which ended legally sanctioned discrimination, did not resolve all the conflicts (Williams 1987). A number of southern states refused to implement the federal statutes, resulting in continued civil rights abuses in those states.

It should be said, however, that the ways government institutions are structured and how they make decisions are not immutable. They can be changed, and occasionally they are, as citizens and policymakers seek to improve government performance or try new

approaches to decision making. In fact, most of the time policymaking involves action that falls between gridlock and innovation. The norm in U.S. politics is **incremental policymaking**, especially for relatively noncontroversial policies. Incremental policy changes are small steps, often taken slowly. They are adjustments made at the margins of existing policies through minor amendments or the gradual extension of a program's mandate or the groups it serves. The Head Start preschool program is a good example of incremental change, made possible because it is seen as a success.

Presidents can play a role in pushing for change, and they sometimes favor dramatic shifts in policies or the structures of government. President Johnson pushed strongly in the early to mid 1960s for enactment of the new civil rights policies discussed above as well as the War on Poverty. In response to the September 11, 2001, attacks on the United States, President George W. Bush proposed creation of a new and large cabinet department, the Department of Homeland Security, to help prevent future terrorist attacks. And as noted, President Obama was instrumental in passing health care reform, which represented a major shift in policy in this arena. Figure 2-1 provides an overview of the U.S. political system, with a focus on its proactive elements—Congress, the president, and the rest of the executive branch. State governments are organized in a similar manner. The figure illustrates the different institutions and policy actors who play a role in public policy development and implementation. It can be read in two somewhat different ways. First, it serves as a reminder that the U.S. system imposes substantial barriers to a top-down, unilateral approach to making public policy. Second, it shows the many different points of access the system affords to policy advocates. State and local governments dominate in many policy areas, such as education and crime control. They also sometimes intervene when the federal government chooses not to act. For example, faced with federal inaction, many states have adopted climate change policies that try to reduce use of fossil fuels (Rabe 2004, 2018).
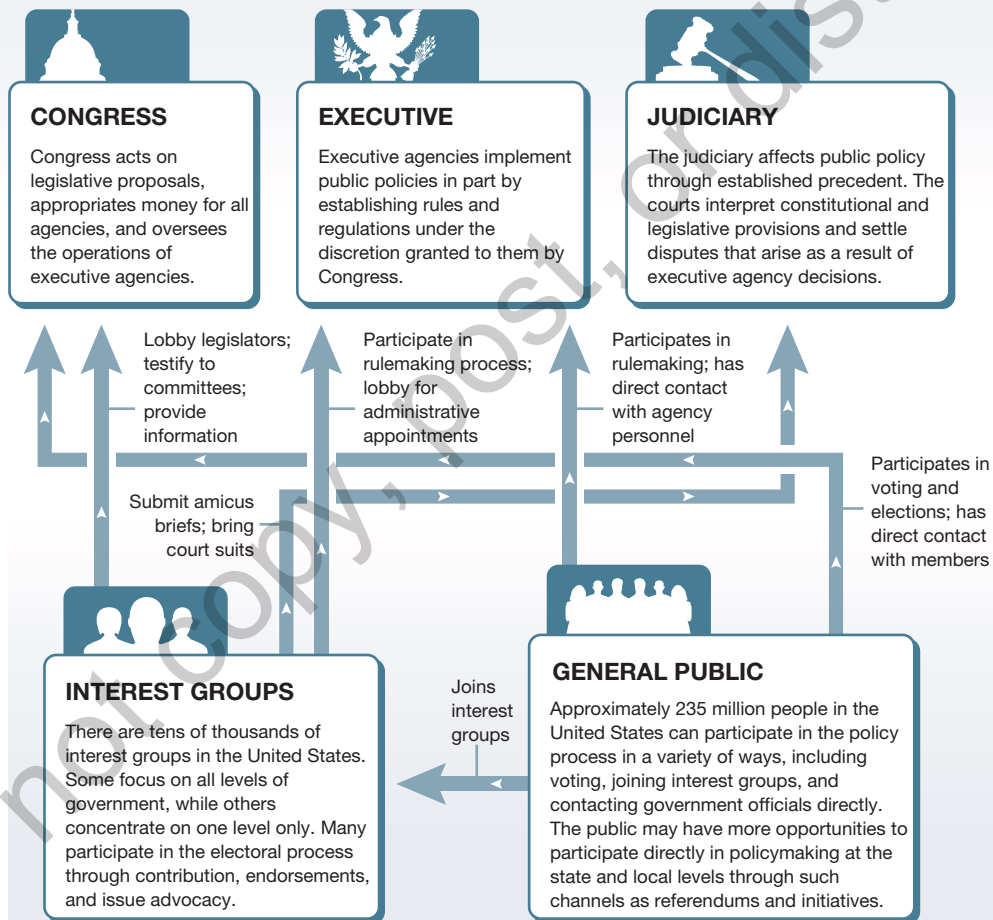
The next section discusses the major features of the U.S. government system, beginning with federalism and followed by the institutions of the federal government. The chapter continues with "informal" policy actors, those outside of government who shape public policy, including the general public and organized interest groups. The purpose of this review is twofold: first, to reacquaint readers with the basic components of government, and second, to encourage them to think about the choices that are represented in these arrangements. Why is government structured one way and not another? What difference does the structure of government make for public policymaking and the substance of public policy? What changes in government might be desirable in terms of improving performance, especially the effectiveness, efficiency, and equity of policies? Or in improving the responsiveness of government to the U.S. public?

FEDERALISM

As noted earlier, the framers of the U.S. Constitution designed a system of government in which power is divided between the national government and the states (and, for some purposes, Native American tribes).[10] Both the national and state governments have the authority to enact laws or public policies. We focus here on the history of federalism,

FIGURE 2-1   Federal, State, and Local Agents of Policymaking and Avenues of Policy Formation

The U.S. government is a highly complex system with multiple actors at all levels and multiple interactions among these different levels. But the system is also fragmented; public policy decisions can often be made within any of the units described. Because of this dispersal of power, the general public and interest groups alike have numerous points of access to decision-making organizations and thus may be able to influence policy decisions. This diagram illustrates these connections for the national level of government. It is also important to recognize that similar points of access occur at the state and local government levels. All state governments have a similar tripartite separation of powers with legislative committees and state-level agencies. Local governments also disperse power in a variety of ways that provide opportunities for groups and citizens to access policymakers.

CONGRESS

Congress acts on legislative proposals, appropriates money for all agencies, and oversees the operations of executive agencies.

EXECUTIVE

Executive agencies implement public policies in part by establishing rules and regulations under the discretion granted to them by Congress.

JUDICIARY

The judiciary affects public policy through established precedent. The courts interpret constitutional and legislative provisions and settle disputes that arise as a result of executive agency decisions.

Lobby legislators; testify to committees; provide information

Participate in rulemaking process; lobby for administrative appointments

Participates in rulemaking; has direct contact with agency personnel

Participates in voting and elections; has direct contact with members

Submit amicus briefs; bring court suits

INTEREST GROUPS

There are tens of thousands of interest groups in the United States. Some focus on all levels of government, while others concentrate on one level only. Many participate in the electoral process through contribution, endorsements, and issue advocacy.

Joins interest groups

GENERAL PUBLIC

Approximately 235 million people in the United States can participate in the policy process in a variety of ways, including voting, joining interest groups, and contacting government officials directly. The public may have more opportunities to participate directly in policymaking at the state and local levels through such channels as referendums and initiatives.

the federal-state relationship, the continuing controversies over the proper allocation of responsibility between the federal government and the states, and the variation among the states in their capacity for public policy innovation.

The Evolution of Federal-State Relations

During the early history of the United States, disputes arose over how much power the national government should have and what should be left to the states. As the national government attempted to assert itself on issues such as the establishment of a national bank and the rules of interstate commerce, its authority was challenged. The Supreme Court, led by Chief Justice John Marshall, supported an expanded role of the national government. Yet, as disagreement over the spread of slavery to new states and the subsequent Civil War showed, major conflicts persisted over interpretation of the national government's powers.

The relationship between national and state governments in policymaking has evolved since the nation's founding. In the late eighteenth century, the functions or responsibilities of each level of government were quite distinct. State governments, for example, were responsible for education and transportation policies. The national government limited itself to larger issues such as national defense and international trade. Little integration of the two levels of government existed. This state of affairs is often referred to as **dual federalism**, and it persisted throughout the nineteenth century, in part because the federal government's activities remained limited.

In the twentieth century, federal-state relations changed significantly, especially in response to the Great Depression of the 1930s. President Roosevelt's legislative program, known as the New Deal, was an expansive economic recovery program that began to break down the imaginary barriers between national and state policy. It was not unusual to see the national government become involved in what were traditionally considered state responsibilities. Thus dual federalism over time evolved into **cooperative federalism**, as collaboration on policymaking between the national and state governments increased. Many large-scale federal programs begun in the 1960s and 1970s, another period of government growth, relied on such a model. The federal clean air and clean water programs, for example, involved a mix of national and state responsibilities, with the national government setting environmental protection standards and the states carrying out most implementation actions.

Much of the cooperation that occurred between the national and state governments was a result of additional monies being provided to the states through **block grants** and **categorical grants**. Block grants are transfers of federal dollars to the states where the states have substantial discretion in how to spend the money to meet the needs of their citizens. Categorical grants also involve the transfer of federal dollars to the states, but in this case the funding must be used for specific purposes. During the 1970s and 1980s, critics of increasing federal power urged the states to retake some of their policymaking responsibilities. President Richard Nixon's "new federalism" initiatives in the early 1970s were designed to move away from categorical grants and toward block grants to give the states more discretion in how they used the funds. The devolution of policy to the states continued under President Ronald Reagan. His conservative philosophy and political

rhetoric gave a significant boost to the trend already under way to restore greater authority to the states. Although many states welcomed this change, they also worried about the subsequent decrease in federal dollars coming into their treasuries.

In addition, the national government had discovered a new way to enact popular policies without paying for them: it gave implementation responsibilities to the states. Federal policymakers received political credit for the new programs without spending federal tax dollars. These **unfunded mandates**—federal requirements placed on the state governments without funds for implementation—added stress to the relationship between the national and state governments. That relationship continues to evolve. In 1995, Congress enacted the Unfunded Mandates Reform Act to limit future financial impacts on the states, but conflict over policymaking in a federal system did not vanish as a result. Congress continued to approve mandates with insufficient funding, at least according to state policymakers. The No Child Left Behind program is one example. Debate focused on the impact on the states of mandatory national standards for promoting primary and secondary school students to the next grade. Supporters of the standards wanted to ensure that students had the skills and knowledge to compete nationally and internationally. Few questioned the goal of improving the quality of the nation's schools, but many had doubts about imposing federal standards in a policy area that has traditionally been a state responsibility.

State Variation in Policy Capacity

Both of the major political parties seem interested in continuing the **decentralization** of power to the states—that is, the transfer of policy authority from the federal government to the states. The focus, however, has shifted to asking whether the states have the capacity to handle additional responsibilities. The issues that arise in this debate parallel the book's main evaluative criteria. For example, critics of decentralization are concerned about the implications for program effectiveness, efficiency, and equity because they recognize that the fifty states are quite different from one another both in their capacity to act on policy issues and in the kinds of policies they enact.

The states also differ in fundamental ways such as physical size, population, extent of industrialization, and affluence. Moreover, each state and region has a distinctive history and culture that shape policy actions (Elazar 1984; Lieske 1993). What may work well and be acceptable to residents of Wisconsin or Minnesota might not be appropriate or feasible in Texas or Mississippi. Some states have extensive state parks and other recreational facilities, while others do not. Some have strict vehicle inspection programs to promote highway safety, and other states have no such programs. Over thirty states do not permit smoking in restaurants, and California in 2008 became the first state to ban the use of trans fats in restaurants; New York City adopted a similar restriction in 2006, and other cities followed suit.[11] There is nothing inherently negative about such policy variation among the states; indeed, throughout the nation's history, Americans have celebrated the rich diversity of state cultures and policy preferences. However, when a state's policies are so different from others that its residents may be deprived of essential human needs or federally protected rights, the federal government is likely to intervene. One might argue that this was the justification for No Child Left Behind: to ensure certain minimal expectations for students

Cannabis and the law. The photo shows employees advising clients on the more than twenty strains available at A Greener Today, a popular cannabis store in Seattle, Washington, in 2014. Because federal laws still prohibit the sale of legal cannabis, stores don't have access to the banking system and have to conduct all business in cash. Doing so complicates business transactions and creates numerous legal issues.

Gilles Mingasson/Getty Images

regardless of where they get their education. Similarly, many applauded a decision by the Food and Drug Administration (FDA) in November 2013 proposing a general ban on trans fats in food to protect public health.

Those who favor increasing state authority tend to believe that the states are capable of handling additional responsibilities and are better equipped than the federal government at defining their citizens' needs. Indeed, for some, the states are the "new heroes" of American federalism, with greater capacity for policy innovation and closer ties to citizens than a national government in which many have lost their faith. Studies show that over the past several decades state legislatures and bureaucracies have become more skilled than they were before at dealing with policy issues (Hedge 1998). Their new capacity comes from growth in their professional staffs and expertise, including the ability to appraise policy needs and evaluate programs with greater accuracy. Depending on its economic conditions, a state could also act on public problems because it may have sufficient funds to do so, from transfer of federal dollars and state taxation (A. Bowman and Kearney 2011). The best evidence supporting these arguments can be found in the many innovative and effective measures states have taken over the past several decades in various areas (Borins 1998; Rabe 2019; Teske 2004). For example, state and local governments are mainly responsible for highway safety, and states have been at the forefront in requiring seat belts and adopting speed limit laws. The box "Working with Sources: State Public Policies" indicates where readers can locate information about variation among the states in public policy.

Nevertheless, analysts have several reasons to remain skeptical of how much more decentralization of federal power to the states is desirable. For example:

- Policy performance varies from state to state, and citizens may suffer the consequences. For example, some states fail to fully test drinking water or to enforce clean air laws, even though they are violating federal environmental laws (Rabe 2019). An example of this is what occurred beginning in 2014 in Flint, Michigan, where the local government failed to test the city's drinking water for toxic levels of lead contamination.

- States with more money and greater expertise than others can design better programs and offer more services to their citizens.

- Business and industry interest groups may exert more influence at the state than at the national level because of the states' eagerness to attract businesses and jobs. One example is the theme park industry in Florida.

- Decisions may be less open and less visible at the state level, despite the closer proximity of government to citizens.

- Many public problems, such as air and water pollution, cross state boundaries, suggesting that a higher level of government is needed to address them adequately.

- Only the federal government has sufficient resources to support policy activities such as scientific research for environmental protection and health care.

WORKING WITH SOURCES

STATE PUBLIC POLICIES

One way to become familiar with public policy variation among the fifty states is to explore what several of them have done in a particular policy area, such as education, health care, environmental protection, economic development, or criminal justice. The website for the National Conference of State Legislatures (NCSL) (www.ncsl.org) is a good place to go to see what differences there may be between states on a variety of issues. The NCSL site has extensive news reports on policy activities that affect the states, including policy innovation. Reading about different policy actions within the states is one of the best ways to become informed about state capacity for policy development and to see how the states differ from one another in this regard.

Visit the NCSL web page; click on Research; and select Immigration, then State Immigration Laws, and then the most recent report. The site also provides a variety of information regarding immigration and related policies. Here you can

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learn more about what states are doing around the issue of immigration. Note what states have adopted or considered policies about sanctuary or refugees, among other areas.

You can also do a Google search on how the federal government is addressing the issues related to immigration. Now that you have explored this policy from different states' perspectives, think about these questions:

- What states appear to be more accepting of immigration? Are there certain characteristics about these states that are similar and may explain their willingness to be more open to immigration?

- How does the federal government address this issue? What role does the federal government have in this area, if any?

- Why are certain decisions left to the states and others shared or left to the federal government?

It seems likely that public debate over the proper distribution of authority between the states and the federal government will continue. The question at the heart of the controversy is which level of government is best suited to address different kinds of public policies. That question has no automatic answer, however, and each person's position is likely to be influenced by his or her beliefs about the role of government in society, particularly the national government. As public policy students become acquainted with evaluative criteria and how they apply to public policy questions, the appropriate level of government to address them may become apparent.

SEPARATION OF POWERS

One of the distinguishing characteristics of the U.S. Constitution is the separation of powers. Governing power is shared among the three branches of government: legislative, executive, and judicial. The Founding Fathers feared that unrestrained government authority could abuse citizens' rights, and they believed that the checks and balances built into a system of separated powers would ensure that no one branch of government would have enough power to threaten liberty. In fact, under this system, the legislative and executive branches must cooperate to accomplish almost anything, and this is not always easy to achieve (Jones 1999). Most people would agree that the goal of preventing tyranny is a worthy one, but the separation of powers has added to the complexity and difficulty of policymaking, and to policy gridlock.

The number and diversity of policy actors within the U.S. government and their over-lapping responsibilities contribute to the complexity, making it difficult to figure out who is responsible for any particular government action. Consider the recent debates sur-rounding immigration policy. Proposals vary widely both between the branches of gov-ernment and even within the political parties. President Trump and many Republicans favored the building of a southern border wall and stringent policies in regards to depor-tation of those residing in the nation illegally. They also took a tough stance on conditions for seeking political asylum in the nation and sought to limit legal immigration as well. In contrast, Democrats and others have favored a pathway to citizenship for at least some of those who have long resided in the country without documentation and a more gener-ous set of requirements for those seeking legal immigration or political asylum. Varying responses to these challenges of immigration policy illustrate well the continuing con-cerns of policy gridlock and the constant struggle for power between the executive and legislative branches of government.[12]

Other policy conflicts illustrate different approaches taken by the federal government and the states. Climate change, by its very nature a national and global problem, has been addressed more systematically by the states rather than the national government. Some twenty-nine states have adopted renewable energy portfolios to require use of non–fossil fuel energy sources while others have formed regional partnerships to reduce emissions of greenhouse gases (Rabe 2019). The federal government, however, has found it difficult to act on climate change, particularly in the U.S. Congress as the two major parties have adopted sharply conflicting views on the severity of the problem and acceptable solutions. Moreover, the Trump administration sought to pull the United States from the Paris Agreement on climate change, and attempted to reverse most of the Obama administra-tion's rules and regulations to reduce greenhouse gas emissions (discussed in chapter 11).

Difficulty in policymaking is a reflection of the government's capacity to respond to public problems in light of divided institutions and authority and the political conflicts that inevitably arise over how best to deal with those challenges. In other words, it is not easy to identify and define problems, develop suitable solutions, and approve the solutions in such a fragmented governing system. The following sections explore the branches of the national government, each branch's major characteristics, and the implications of these characteristics for policymaking. In general, all state governments have similar systems and must deal with comparable complexity and difficulty within their own policy processes.

Legislative Branch

The legislative branch of the United States is a **bicameral** (two-house) Congress, consist-ing of the House of Representatives and the Senate. The two chambers differ from each other in both their composition and operating style. The House, with members elected every two years from separate districts within each state, is the more representative or democratic chamber of the two. It has 435 voting members, each representing about 750,000 constituents.[13] Senators, of whom there are one hundred, serve six-year terms, giving them more independence than House members since they need not face voters as frequently. Moreover, with only one-third of its members up for reelection every two years, the Senate is also more insulated than the House from short-term political forces.

Each state, regardless of its size, elects two senators so that the one hundred members serve quite different constituencies. California's senators, for example, represent about forty million people, while the senators from Wyoming represent fewer than six hundred thousand. The District of Columbia, with a population of over 713,000, has no representation at all in the Senate because it is not a state, even though its population exceeds that of Wyoming and Vermont. The Senate also allows its members more freedom to debate issues than does the House. Senators have the right to **filibuster**, or to talk for an extended period of time in hope of delaying, modifying, or defeating a proposal. Threats of a filibuster can force policy compromises as members try to prevent having all other business grind to a halt. The box "Working with Sources: Congress" gives you the opportunity to see how the bicameral legislature often leads to different bills on the same general area and explore why this may be the case.

Article I of the Constitution spells out Congress's powers, but the most important today are its lawmaking and budgetary responsibilities. In addition to passing legislation, Congress each year must appropriate the funds necessary to run government programs. To accomplish these tasks, both chambers operate under a system that allows for division of labor and policy specialization. Policy development is concentrated within this elaborate system of committees and subcommittees, each of which is chaired by the party holding a majority of seats in Congress.

Each of the two hundred committees and subcommittees has specific jurisdiction over certain public policies and the executive agencies that administer them. Each has a substantial staff that can bring experience and expertise to bear on lawmaking and on oversight and investigations of the executive agencies. Bills introduced into either chamber are referred to a committee for consideration. If the committee chooses to move ahead on the legislation, it typically conducts public hearings to acquire information on the advantages and disadvantages of the proposed law. Executive branch officials and experts from academia, think tanks, and interest groups may be invited to Capitol Hill to testify. It is easy to find verbatim accounts of testimony through services available at most college libraries, such as the LexisNexis congressional database. Eventually, the committees accept, modify, or reject the legislation. For bills that are to move forward, the committees submit reports on their findings and recommendations to the full chamber for consideration. To become law, a bill must pass both chambers in identical form and be signed by the president. Presidents may **veto** or reject a bill approved by Congress, and Congress in turn may override the president's veto with a two-thirds vote in both houses. Normally, Congress has a difficult time overriding a presidential veto.

WORKING WITH SOURCES

CONGRESS

As stated in the chapter, policy gridlock sometimes occurs because of differences within our bicameral Congress. Members of the two houses, the Senate

and House of Representatives, may differ significantly in how they view policy proposals even when the same party controls both. To illustrate this, go to Congress.gov, where you can access a wide range of information on Congress. On the site, you will see a section titled "Most-Viewed Bills." Click on one of the bills listed. From this point, you can get a variety of information about the bill, including the full text, a summary, committee assignment, and so on. You can also see the related bills associated with the selected bill. If you selected a House bill (designated with the letter *H*), select a related Senate (designated with an *S*) bill. Compare the two versions.

- What is the issue or problem that these bills address?

- What are some of the differences between the versions you are examining? What about similarities?

- Why do you think there are such discrepancies in these two versions? What is it about the two legislative bodies that may lead to such divergence?

The fragmentation of authority among the committees in Congress can pose an obstacle to policymaking, but there is an upside as well. The large number of committees and subcommittees creates multiple venues for highlighting public problems and considering policy proposals. In this way, almost any issue, from energy conservation to child care, can gain attention on Capitol Hill, and possibly by the media as well.

Often the committees, or the full House and Senate, fail to agree on policy proposals, and policy gridlock results. It is tempting to fault members of Congress for inaction, but the causes of policy disagreement and stalemate are easy to understand. The parties are deeply divided ideologically, and on major issues—from health care policy to Social Security reform—members are lobbied intensely by organized interest groups as well as by political activists within their parties. Moreover, when Congress is divided on public policy, the nation often is as well. As a representative political institution, Congress reflects the larger society, for better or worse. In a sense, Congress struggles continuously with its dual roles of representation and lawmaking (Davidson et al. 2020).

This tension is evident in the policy behavior of members of Congress. Incumbent members usually seek reelection and are overwhelmingly successful in retaining their seats. As David Mayhew (1974) has argued, because of their electoral incentive, members are strongly motivated to stay in the spotlight; take positions on the issues, even if they do nothing about them; and claim credit for public policy actions, particularly those that materially benefit the district or state. These pressures mean that members often introduce bills, make speeches, and distribute press releases on many issues, even when the legislation has no chance of moving forward. In many ways, Congress is a loosely

connected assembly of 535 elected officials who, because of the electoral incentive, often go their own way. If they do not act as teammates, policy action that requires agreement may be stymied.

To rein in this natural tendency toward political individualism, Congress relies on the elected leadership within each house, which is organized by political parties. The majority party dominates the House and Senate agendas and decision-making processes to a substantial degree. Historically, the party leadership has been instrumental in overcoming ideological and regional divisions within Congress and forging consensus; it also negotiates with the president on potentially divisive policy issues (Jones 1999; Sinclair 2012). As parties have weakened and members have relied less on the support of their parties, however, the leadership role is somewhat less evident. There are numerous recent examples of the House and Senate leaders having a difficult time getting their rank and file to follow their lead. In addition, individual members of Congress rely on their substantial personal staffs to develop policy. Policy formulation of this kind is particularly likely in the Senate, where senators have larger staffs and attract greater media coverage than do House members.

In recent years, both the House and the Senate have been closely divided in party membership, which may force the two major parties to work together to fashion legislative compromises. Party control of each chamber remains highly important and is shown by the jockeying by the two parties as they attempt to capture the Senate, which has tended to be more subject to party control changes. As a result of the 2018 election, the Republicans held 53 seats in the Senate, and the Democrats 47 seats (there also were two Independents, both of whom caucused with the Democrats). The House of Representatives' distribution flipped in 2018 and saw the Democrats capture the House with a 235–198 majority (with Republicans gaining one net seat after a special election on September 10, 2019).

Executive Branch

The federal executive branch is responsible for carrying out the laws enacted by Congress. It is made up of the president, the vice president, the White House staff, and the federal bureaucracy. Although presidents do not make laws, they are actively involved in agenda setting, policy formulation and adoption, and implementation (J. Anderson 2015; Jones 1999). Other than the vice president, the president is the only federal official who is elected nationally. In effect, the president embodies the U.S. government, symbolizes U.S. culture and values, and speaks for the nation abroad. As such, he commands enormous public and media attention that gives him unequaled influence in agenda setting and policy leadership. Barack Obama used his position as president to persuade Congress to approve major health care reform legislation. Donald Trump used his presidency to try to forge new government positions on immigration and to challenge many long-standing U.S. positions on foreign policy.

In addition to the president, the entire White House staff and the **Executive Office of the President (EOP)** are intimately involved in policy development. The EOP consists of the White House offices and agencies that assist the president in the development and implementation of public policy. Among other offices, these include the Office of Management and Budget, the Council of Economic Advisers, the National Security

Council, the Council on Environmental Quality, and the Office of Science and Technology Policy. Together, these offices constitute a "mini-bureaucracy" that provides the president and his staff with vital information and policy ideas in their respective areas. The EOP keeps the president informed about the plethora of policies being considered in Congress or implemented in the federal bureaucracy, giving him opportunities to influence policy direction. In most policy areas, the president's agenda and his positions, particularly on domestic issues, reflect his party affiliation and political ideology, as well as the constellation of constituencies most important to his party and—if he is in his first term—his reelection. Democratic and Republican presidents tend to adopt distinctive policy positions on most issues because of their differing philosophies of governance and the particular array of interests the parties represent. The federal bureaucracy constitutes the bulk of the executive branch. It includes all the agencies and offices that fall under each of the cabinet departments and other offices and agencies whose mission is to develop and implement policy in specialized areas. The best known of these are the fifteen **cabinet-level departments**, each of which is managed by a secretary appointed by the president and confirmed by the Senate.

Each cabinet department includes subsidiary agencies, some of which may be better known than their home departments. For example, the Federal Aviation Administration (FAA), which has primary responsibility for aviation safety, is part of the Transportation Department; the FDA, responsible for ensuring the safety of food and medicine, is part of Health and Human Services; and the Federal Bureau of Investigation (FBI), charged with protecting and defending the United States from foreign and domestic threats, is the investigative arm of the Justice Department. The bureaucratic agencies issue reports and studies that enable the public to follow the agencies' activities in their special policy areas, much of which can be found on agency websites (see the box "Working with Sources: Executive Departments and Agencies").

WORKING WITH SOURCES

EXECUTIVE DEPARTMENTS AND AGENCIES

While often unknown by the general public, most public policy in the United States is actually made through various processes within government agencies. Environmental regulations to ensure clean drinking water, safety standards for various products, and crash standards for automobiles are all made within the federal government bureaucracy. You can get a sense of how agencies act on such problems by exploring their websites. Go to one of these sites by either typing its direct address or, if unknown, starting at USA.gov and selecting

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Government Agencies and Elected Officials, then A–Z Index of Government Agencies. From here, you can find any government agency. Agency sites differ quite a lot, so spend some time exploring your selection. Find a link that discusses policies, laws, regulations, or something similar and explore some of the issue areas in which the agency makes policy.

Consider the following questions:

- What is the main purpose of the agency (you may find something in a mission statement)?

- What policy did you select? What is its intent? What problem is it attempting to solve? How does it pursue these policies? In other words, what government tools, such as regulations and subsidies, does the agency use to meet its goals?

- Who or what group/business would be most interested in this policy? Why?

Each agency can be said to make policy within its specialized area through the interpretation of legislative language and development of regulations that are essential to policy implementation. Career federal officials in the agencies have considerable authority to shape public policy, even though ultimate responsibility for policymaking rests with the president's appointees at the top of each agency and department. The career officials work closely with the White House to ensure that agency and department policy decisions are consistent with the president's programs and priorities, at least where the decisions are not strictly limited by statutory specifications. As a result, the U.S. bureaucracy is more politicized than bureaucracies in many other developed nations, and its policies can change significantly from one administration to the next.

Presidential appointees tend to support the ideological perspective of the president, so the election of a new president often causes a shift in agency appointees as well. These appointments not only affect the managerial levels of an agency but also can shape advisory committee selections. Many agencies, such as the FDA, the Centers for Disease Control and Prevention (CDC), and the EPA, use advisory committees to help inform government decisions in public health and other policy areas. Because their interpretation of scientific evidence can push policy decisions one way or another, presidents and cabinet officials take a keen interest in who serves on these committees.[14]

Understandably, shifts in presidential ideology can affect the filling of agency positions. For example, conflicting ideological perspectives hindered the development

of the Consumer Financial Protection Bureau, established by the Dodd-Frank financial regulatory act of 2010. That act was approved in the 111th Congress in response to what Democrats in particular saw as weak regulation of Wall Street and financial markets, including mortgage lenders, credit reporting agencies, and payday loan businesses. One of the leaders in developing the consumer protection agency, former Harvard Law School professor and now senator and 2020 Democratic presidential candidate Elizabeth Warren, was passed over as the first director because Congress would not have approved of her nomination. Republicans in particular were fiercely opposed because of what they considered to be her antibusiness attitudes.

Outside of the cabinet departments are the numerous independent executive and regulatory agencies. One of the best known is the EPA, an **independent executive agency** with an appointed administrator who has major policymaking and implementation responsibilities for environmental policy. Independent agencies differ from cabinet-level departments chiefly because they are responsible for a more focused policy area. Other examples include the National Aeronautics and Space Administration (NASA); the Central Intelligence Agency (CIA); and the Nuclear Regulatory Commission (NRC), which oversees the civilian use of nuclear energy.

The **independent regulatory commission (IRC)** is yet another breed of executive agency. Like cabinet secretaries, the commissioners are appointed by the president and confirmed by the Senate, but for fixed and staggered terms. These fixed terms are intended to insulate IRC decision making from political pressure from the president or Congress. In addition, most IRCs are responsible for the economic regulation of certain industries. For example, the Federal Communications Commission (FCC) regulates the broadcasting industry, and the Securities and Exchange Commission (SEC) regulates the financial markets. An IRC focuses on one industry, and therefore its scope of authority tends to be narrow.

Although each agency operates within its own area of expertise, what it does can be in conflict with another agency. For example, the EPA, intent on its mission to reduce pollution, for years wanted automobiles to have onboard pollution controls to cut emissions coming from engines. The National Highway Traffic Safety Administration (part of the Transportation Department), concerned with its mission of safe automobile travel, believed that such a mechanism would make cars more susceptible to explosion. Table 2-1 lists the fifteen federal cabinet departments and a selection of executive agencies.

Judicial Branch

The federal judiciary is made up of the nine-member Supreme Court, thirteen **circuit courts of appeals**, and ninety-four **federal district courts**, as well as special courts such as bankruptcy courts, a court of appeals for the armed services, and a court of federal claims. Although many would not think of them as policymakers, the courts play a vital role in the process by interpreting the policy decisions made by others; indeed, the courts often have the last word on policy—thus the intense political debate that occurs, particularly when filling a vacancy on the Supreme Court. The major distinction between the judiciary and the other two branches is that the courts'

TABLE 2-1   Federal Cabinet Departments and Major Agencies

Executive Departments	Selected Major Federal Agencies
Department of Agriculture	Central Intelligence Agency
Department of Commerce	Consumer Product Safety Commission
Department of Defense	Environmental Protection Agency
Department of Education	Equal Employment Opportunity Commission
Department of Energy	Export-Import Bank of the United States
Department of Health and Human Services	Federal Communications Commission
Department of Homeland Security	Federal Deposit Insurance Corporation
Department of Housing and Urban Development	Federal Reserve System
Department of the Interior	Federal Trade Commission
Department of Justice	National Aeronautics and Space Administration
Department of Labor	National Science Foundation
Department of State	Nuclear Regulatory Commission
Department of Transportation	Peace Corps
Department of the Treasury	Securities and Exchange Commission
Department of Veterans Affairs	United States Postal Service

policymaking is *reactive* rather than *proactive.* Unlike Congress and the executive branch, which can initiate policy, the federal courts offer rulings and opinions only on cases brought before them. Yet these rulings may dictate policy far beyond the actual cases. Consider the Supreme Court's ruling in *Brown v. Board of Education of Topeka* (1954), which overruled the precedent of "separate but equal" public schools, thereby ending legally sanctioned segregation; or the Court's decision in *Roe v. Wade* (1973), which struck down state laws that made abortion a crime. Although each was an important case in its own right, the Court's ruling in each had greater policy implications than initially anticipated.

The federal courts' functions shape public policy in many ways. The courts serve as gatekeepers by deciding who has *standing to sue* (the legal term for the right to bring suit), who has the right to appeal to the federal courts, or whether a dispute is "ripe," or ready for review. The courts also set standards for review, including whether they will defer to the expert judgment of administrative agencies or review an agency's

decisions more critically. Courts interpret the Constitution, statutory language, administrative rules, regulations, executive orders, treaties, and prior court decisions regarded as **precedent**—using prior court decisions to help make a current decision. The policy language in these various documents may be ambiguous or vague, or new situations may arise that the architects of the language failed to anticipate. The courts have the final say on what the law means, unless Congress revises the law to make its purpose clearer. Finally, courts also have some discretion in choosing a judicial remedy, such as imposition of fines, probation, or incarceration (O'Leary 2019).

The federal courts, therefore, are more constrained in their policymaking roles than Congress and the executive branch. In addition to having to wait for a suitable case, judges must anchor their rulings in law or precedent, not personal beliefs or interest group politics as elected officials are free to do. The legitimacy of the courts depends on the public's willingness to abide by judicial rulings. If judges deviate too far from acceptable legal rationales for their decisions, they risk losing citizens' confidence. Still, judges clearly differ in their judicial philosophies, or the bases they use for decision making. Some are more conservative or liberal than others, and analysts tend to describe the federal courts, especially the Supreme Court, in terms of the justices' ideological or philosophical leanings.

Federal judges are nominated by the president and confirmed by the Senate, but their jobs are for life, if they choose to stay in them. For that reason, senators, along with interest groups and the public, scrutinize their views on public policy issues when they are nominated. Presidents usually get the judges they want appointed to office, but the Senate sometimes blocks nominees it finds unacceptable, often for ideological reasons. Given the typical lengthy service of a federal judge, a president's influence on public policy continues for decades after he leaves office. President Obama placed two justices on the Supreme Court (as discussed earlier, the Senate did not consider his third nominee, Merrick Garland), Sonia Sotomayor and Elena Kagan, and in both cases the confirmations were relatively easy. President Trump to date also has nominated and placed two justices on the Supreme Court (Neil Gorsuch and Brett Kavanaugh). A president's appointments to the federal courts have had a similar effect on the courts' shift to the right or left, depending on the ideological vision at the time, an effect that can last for years if the appointed justices are relatively young.[15] The box "Working with Sources: The Federal Judiciary" provides an opportunity to examine what types of Supreme Court decisions, and the justices who made them, have affected public policy.

Under the U.S. system of separated powers, it is essential that the three branches of government cooperate to ensure policy enactment and effective implementation. Indeed, policy results from the interaction of the branches rather than their separate actions. Constitutionally, the legislature may be the branch responsible for policymaking, but many other policy actors must also be involved. It is clear that each branch has a strong capacity to analyze public problems and devise solutions to them, but equally clear that building consensus among diverse policy actors with different political incentives and constituencies, although necessary, is rarely easy.

WORKING WITH SOURCES

THE FEDERAL JUDICIARY

As mentioned in the text, federal jurists serve life terms and can leave lasting legacies for the presidents who appointed them. This is especially true at the U.S. Supreme Court, whose decisions and opinions guide the entire federal judiciary. To learn more, go to www.oyez.org and click on the Justices link. You can click on any of the justices to get biographical information, such as how long they served, which president appointed them, and other information. Note the length of time that these justices served on the Court. Another way to examine the Court's influence on public policy is to look at a series of cases dealing with a particular public policy issue—for example, abortion or affirmative action in university admission. From the front page of the site, under Cases, select Issue from the View by: menu and then Privacy. You will see a few choices, one of which is abortion and contraceptives. Some of the cases you may want to examine are *Roe v. Wade*, *Webster v. Reproductive Health Services*, and *Planned Parenthood of Southeastern Pennsylvania v. Casey.*

- How has the Court's position on this issue changed since 1973?

- Note that former chief justice William H. Rehnquist was involved in all three of these cases over this twenty-year period. Was he ever in the majority? Did his views change?

- What have been the issues in more recent cases addressing abortion, and how did the Court rule? How do these rulings affect abortion rights?

INFORMAL POLICY ACTORS AND POLICY CAPACITY

So far, this chapter has dealt with the formal government institutions involved in making public policy. It is easy for citizens to understand these institutions and the people who work in them. This next section discusses other players in the policymaking process, including the public itself (indirectly and directly) and organized interest groups. In addition, we discuss a theory of how the formal and informal actors work together in the development of policy.

Public Opinion and Policymaking

As one would expect in a democracy, public opinion is a major force in policymaking, even if it constitutes an indirect or passive form of action on the public's part. Public opinion influences what elected officials try to do, especially on issues that are highly salient, or of great importance to voters, or on those that elicit strong opinions, such as abortion rights or gun control. Although public opinion is rarely the determinative influence on policymaking, it sets boundaries for public policy actions. Policymakers cross those boundaries at their own risk. The broad direction of public policies over time therefore tends to reflect the concerns, fears, and preferences of the U.S. public (Manza, Cook, and Page 2002; Page 1992).

The common definition of **public opinion** is what the public thinks about a particular issue or set of issues at any point in time (O'Connor and Sabato 2019), but what is meant by "the public" is not always clear. The attentive public can be distinguished from the general public. The attentive public, typically less than 10 percent of the public, includes those who are apt to take an interest in a particular problem or policy. They are more likely than other people to become informed about the issues and to get involved in some way. Actions and communication from either of these groups may influence policy development, but the general public's opinions tend to shape only the overall direction of policy, while the views of the attentive public, especially of organized interests, tend to have a greater impact. This influence can be especially pronounced for policies with low salience for the general public.

Public opinion is usually expressed as the aggregate or sum of the individual attitudes and opinions of the adult population. Polltakers measure it through interviews, typically conducted over the telephone, with a random sample of the adult population. (In a random sample, each person in the population has an equal chance of being selected.) If standard opinion research methods are followed, a typical survey or poll of about a thousand to twelve hundred adults will be accurate to within about three percentage points, meaning that the result is only three percentage points higher or lower than it would be if the entire U.S. population had been interviewed. Before accepting a poll's results as accurate, however, the public policy student needs to ascertain whether the survey followed proper methods. For example, were the questions objective, or did they lead those responding to a particular position? Was a random sample used (Asher 2017)? Internet polls and other self-selected surveys almost always fail to meet these standards, as do many polls commissioned by interest groups, where the use of leading questions is common. The box "Steps to Analysis: Public Opinion" highlights some sources of public opinion data and shows how one might critically examine the questions and other methods used in surveys. Figure 2-2 illustrates what a well-conducted poll can reveal about the public's changing views over time, in this case about climate change from 2001 to 2018. The poll shows where people fall on their belief regarding the climate change debate.

Americans have numerous ways and opportunities to voice their opinions, so policymakers at all levels of government need to be aware of the shifting beliefs of the population. Beyond answering polls or surveys, people can express their opinions through their political participation, which may include not just voting, but attending meetings, writing or speaking to government officials, joining interest groups, and backing referendums and initiatives placed on state or local ballots. These are forms of direct citizen involvement in policymaking, and many states permit their use. In 2016, for example, voters in California approved by a margin of 57–43 percent a statewide ballot referendum that would legalize

recreational marijuana for persons 21 years or older. Votes on initiatives and referendums may also reflect public anger or frustration about an issue and not necessarily constitute good public policy.

FIGURE 2-2   U.S. Global Warming Opinion Groups
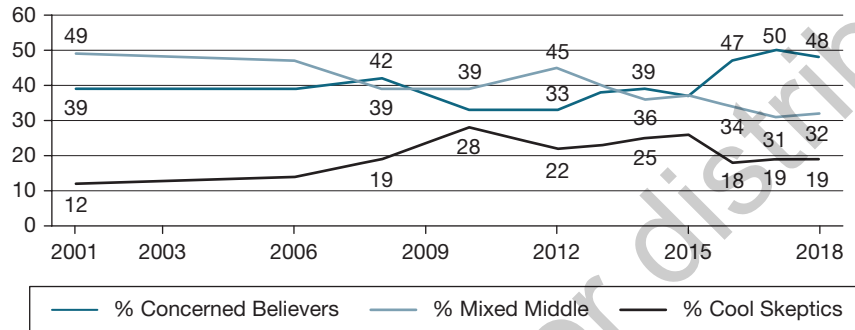
Source: Megan Brenan and Lydia Saad, "Global Warming Concern Steady Despite Partisan Shifts," *Gallup Poll*, March 28, 2018, available at https://news.gallup.com/poll/231530/global-warming-concern-steady-despite-partisan-shifts.aspx.

STEPS TO ANALYSIS

PUBLIC OPINION

An enormous amount of contemporary poll data can be found on the internet. Several specific examples illustrate the kind of material you can find and how you might evaluate it. If the particular poll data we discuss here are not available when you access the site, try to find comparable information in the newer polls that appear regularly.

One of the most popular public opinion polls is conducted by the Gallup organization. Go to its website at Gallup.com. Scroll down until you see the "More from Gallup" heading and click on the News link. Note along the top banner a series of drop-down menus on general issues. Select one of these issues that is of interest to you (e.g., politics), and review the information and data provided within this topic.

- What conclusions would you draw from these data about public opinion on the issue?

- Is information provided that might allow you to determine how opinion has changed on this issue during the time of the polls? If so, what is this change?

It makes sense intuitively that public opinion should be important in a democracy, even if in a less direct way than a ballot initiative. The truth is, however, that most citizens pay relatively little attention to government, politics, and public policy. They are preoccupied with their families, jobs, health, and other matters that are important to them on a day-to-day basis. As a result, they may not be well informed on policy issues, and they may have few strong opinions about them. Such opinions are often characterized as being low in both saliency and intensity. Saliency refers to how centrally important an issue is for an individual; intensity refers to the strength of the opinion, or how firmly it is held. Both qualities are important for predicting whether and how likely people are to act on their opinions.

Stability is another dimension of the opinions that people hold. It refers to the continuation of an opinion over time. Public opinion can be fleeting and change quickly, and it can be influenced by current events and the ways issues are presented in the media and by public officials. A good example is what public opinion analysts call the "rally 'round the flag" effect, which occurs among citizens when an international crisis stirs patriotic feelings and more than usual support for the president and other national leaders. President George W. Bush clearly benefited from the effect following the 9/11 attacks, as did President Obama after the finding and killing of Osama bin Laden; the evidence could be seen in their higher approval ratings. Mass shootings—such as the one at a Parkland, Florida, high school in February 2018; the one at a Walmart store in El Paso, Texas, in August 2019 in which twenty-two people were killed and dozens more injured; and another the same August weekend in Dayton, Ohio, that took the lives of nine people and injured another twenty-seven—can often change opinion regarding gun control policy or harden positions of those who strongly support or oppose more stringent gun regulations. As this discussion indicates, it is often difficult to figure out just what citizens want from government and what policy proposals they are prepared to endorse. Yet, the more stable public opinion is on an issue, the more likely policymakers are to pay attention and consider the public's views when making decisions.

Partly because so few Americans approach government and public policy with a clear, strong political ideology, they find it easy to hold inconsistent views on the role of government. Ideologically, a majority of Americans tend to be somewhat conservative; that is, they prefer limited government and, when offered the choice, less bureaucracy and regulation, at least in the abstract. This same majority, however, is likely to demand that government provide a great many services, from regulation of foods and drugs and environmental quality to provision of public education and police protection. The way people react to any given policy proposal depends greatly on *how* it is presented to them. When pollsters ask people about concrete policy programs, they generally find considerable public support for them. At the same time, politicians can elicit public sympathy if they attack government, bureaucracy, regulation, and taxation in a very general or abstract manner.

Despite the public's often weak grasp of many policy issues, there are reasons to believe that given the opportunity, citizens can take a keen interest in public affairs, inform themselves on the issues, voice their opinions, and influence public policies. Especially at the local level, citizens can and do get involved, and they can have a major voice in public policy (J. Berry, Portney, and Thomson 1993). Even in highly technical areas such as nuclear power and nuclear waste policy, studies suggest a substantial potential for citizen

involvement and influence (Dunlap, Kraft, and Rosa 1993; Hill 1992). Moreover, governments have ways to encourage citizens to become more involved if they wish (Ingram and Smith 1993). Local communities that are trying to become more sustainable, for example, have created numerous opportunities for citizens to play a central role in the process (K. Portney 2013).

Interest Groups, Nonprofits, and Public Policy

Organized interest groups are a major influence on public policy, and by most measures their numbers and activities have soared since the 1960s (J. Berry 1997; Cigler, Loomis, and Nownes 2016). The number of citizen groups, or so-called public interest groups, such as the Sierra Club, the National Rifle Association, the Christian Coalition of America, and Mothers Against Drunk Driving, has risen significantly during this period, but so has the number of what are usually termed *special interest groups*, those with a direct economic stake in public policy, such as organized labor, business groups, and professional associations. A good example is Google, a dominant internet presence. In 2002, it spent almost nothing on lobbying, but by 2017, it spent over $18 million,[16] and its activities in Washington, D.C., go well beyond traditional lobbying. It works with Washington think tanks, nonprofit organizations, and many others on some issues of obvious importance to its business, such as copyright laws and temporary visas for foreign technical workers, but also on broad concerns related to the future of the internet and new technologies.[17] Most groups are involved in direct lobbying of policymakers, indirect or grassroots lobbying aimed at mobilizing the public or the group's supporters, and public education campaigns. Some also engage in electioneering, such as endorsement and support for candidates for office, and in litigation, or challenging government action in the courts.

The term *nonprofit* typically refers to organizations that "provide goods or service but are neither private businesses nor government operated" (Vaughn and Arsneault 2013, 4). Many nonprofits can and do operate much like interest groups in that they attempt to influence or advocate for policy that is important to them. There are tax implications that affect the kinds of activities that these organizations can pursue. Many readers may have heard of 501(c)(3) tax-exempt organizations. To maintain this status, nonprofits need to be careful about their involvement in the policy process, but to be clear they are important players. According to Vaughn and Arsneault (2013), nonprofits and public policy interact in four primary ways: they make policy, they influence policy, they are affected by policy, and they are subject to policy governing operations.

Lobbying is probably the most visible group activity, but it is not what people often suspect—illegal pressure of some kind. Groups lobby legislators mainly by supplying information on their policy views or summaries of policy-related studies they or others have conducted. They may testify in legislative committee hearings, meet with individual members or their staffs, and urge their members and supporters to write or call legislators (Levine 2009). All this activity generally is intended to support policy proposals the group favors, oppose those it does not, or keep certain issues or policy alternatives on or off the legislative agenda. Groups also lobby executive branch agencies by submitting studies and recommendations during formal public comment periods on proposed regulations, as well as through frequent and informal communication with agency officials.

In both the legislative and executive arenas, a great deal of interest group activity consists of trying to block proposals (Kingdon 1995). A good example is the activity of health care and health insurance sectors during deliberations that ultimately led to the passing of the Affordable Care Act. Health insurance companies lobbied hard for the individual mandate under that act. The mandate helped to provide financial security to the industry as it faced changing practices and decision making on coverage. The box "Working with Sources: Interest Group Policy Strategies" explores the mission, activities, and achievements of two prominent organizations, one usually described as a public interest group and the other as a special interest group.

WORKING WITH SOURCES

INTEREST GROUP POLICY STRATEGIES

Organized interest groups are pervasive in the policy process. Public interest groups tend to lobby for activities they believe will benefit the entire population. In contrast, special interest groups, particularly economic but also sometimes ideological, support actions that tend to benefit only members of their organization. To examine some of these differences more fully, go to the website of the National Rifle Association (nra.org), and under the Menu tab, select Politics & Legislation and then NRA-ILA. From here, you can click on the Menu and then Legal & Legislation. Select one of the articles listed and read some of the information on this issue. Now go to any two of the gun control organizations, such as Coalition to Stop Gun Violence (csgv.org) and Giffords (giffords.org), and read their perspectives regarding gun control issues. Consider the following:

- Is it clear from the two organizations' mission statements whom the organizations represent?

- What do the groups state are their primary goals regarding the regulation of guns, the Second Amendment, or related issues? Do they mention recent accomplishments? If so, what are they, and how might such achievements affect their membership?

- What kinds of political tactics do these groups use to promote their ideals? Are there any differences between them?

Many groups issue studies, reports, and news releases. They sometimes produce commercials that air on television and radio or appear in newspapers, on web pages, and on social media and are intended to educate the public. That is, groups provide information and perspectives on public policy issues and try to win the public to their side. Many interest groups participate actively in the electoral process. They openly endorse candidates for office, contribute money and other resources to their campaigns, and sponsor issue advocacy advertisements that are intended to affect voters' opinions on the issues and, the groups hope, their votes. These efforts are aimed at getting people who are sympathetic to the particular group's positions elected or reelected and defeating those who oppose its positions. Groups also use litigation as a policy tool. They may file a suit against an agency because of a ruling or regulation and try to get the courts to change the policy.

The lobbying directed at executive agencies is often intense; after all, the businesses and other groups have a great deal at stake. When administrative agencies implement policy, they write rules and regulations, including specific standards that affect business operations. These rules can have a major impact on business and industry, as well as on ordinary citizens. The federal Administrative Procedure Act of 1946 (APA) requires that the rulemaking process follow due process of law and be open and fair. Because of the importance of these administrative decisions, interest groups often discuss the issues informally with agency officials (Kerwin and Furlong 2019; Kraft and Kamieniecki 2007). For example, during 2015–2016, many industry representatives (and others) were keenly interested in a new Department of Labor regulation that extended overtime eligibility to millions of additional people. The proposed rule generated comments from 270,000 individuals and organizations.[18] Business, labor, and other interests act more formally through the rulemaking process as well, particularly when a proposed rule or regulation is open to public comment. The APA requires that agencies considering the issuance of regulations propose them and allow for public comments before adopting and implementing them. The content of these comments varies widely, ranging from opinions on the rule's importance to extensive analysis of the rule's likely consequences, technical merits, costs, and benefits. Although anyone may provide comments to administrative agencies under these circumstances, the vast majority of comments come from interest groups that are directly affected by the agency's policy. Therefore, if the FAA proposes a rule to require that all children under the age of two be seated in a child safety seat on airplanes, one would expect the airlines, and perhaps groups representing consumers, to provide most of the public comments.

The role of interest groups in the U.S. system of government is important for understanding the policymaking process. It also raises questions that are fundamental to a democracy. For example, are ordinary citizens well represented in the activities of interest groups, or do certain groups and segments of the population, such as corporate interests and wealthy citizens, have privileged access at the expense of others? To what extent should the activities of interest groups be restricted in some way to promote policy developments that serve the public interest? There is little question that interest groups are omnipresent and highly influential in the policy process at all levels of government and within all branches. Yet analysts disagree on whether such restrictions would promote the public's interest or are consistent with constitutional guarantees of assembly and free speech (J. Berry 1997; Cigler, Loomis, and Nownes 2016).

Interested in policymaking. Organized interest groups play a major role in policymaking through lobbying of public officials. The photo shows Guy "Bud" Tribble, vice president of software technology at Apple Inc., testifying as Alan Davidson, then director of public policy at Google Inc., center, and Jonathan Zuck, then president of ACT | The App Association, listen during a 2011 hearing of the Senate Judiciary Committee's Subcommittee on Privacy, Technology, and the Law in Washington, D.C. The subject of the hearing was customer right to privacy as companies such as Apple and Google have made use of location data gathered from millions of smartphones.

Brendan Smialowski/Bloomberg via Getty Images

Media

The First Amendment to the Constitution states that "Congress shall make no law . . . abridging the freedom of speech, or of the press," among other elements. This issue has been particularly relevant in recent years as President Trump has suggested that attempts to limit such freedoms are appropriate, evident in his characterization of the press as biased against his administration and thus, as he saw it, "the enemy of the people." In the United States, we value not only our freedom of speech but also the assurance that freedom of the press is protected. Democratic theorists would argue both are necessary for a well-functioning democracy. The media today play an interesting and evolving role in the policy process. At the most basic level, the media report information that helps to inform the citizenry about the politics of the day and the policies being debated and passed. This information helps shape public opinion regarding these policies. The media also can influence the policy agenda by the way they cover news stories and politics, perhaps picking up on a story and bringing it to the public's attention in such a way that raises its importance and sparks activity on the issue.

A full history of the evolution of the news media and their role in public policymaking is beyond the purposes of this section. It is important to realize, though, the significant change in the amount of media coverage, how we as citizens access this information, and the different media forums that transmit this information to us. For most of our history, news coverage occurred at set times of the day—the morning paper and the nightly news broadcast, which to some extent still exist today. But the media now constitute a twenty-four-hour, seven-day-a-week business with each media network trying to outscoop the other. Many citizens now receive their news from the web on their own time, rather than waiting for the nightly newscast, and increasingly from social media sites,

such as Facebook and Twitter, rather than traditional new sources. The growth in the forms of media has also created outlets that tend to tailor their broadcasts to certain ideological audiences. For example, Fox News appeals to conservative viewers and MSNBC to liberals (Jamieson and Cappella 2008).
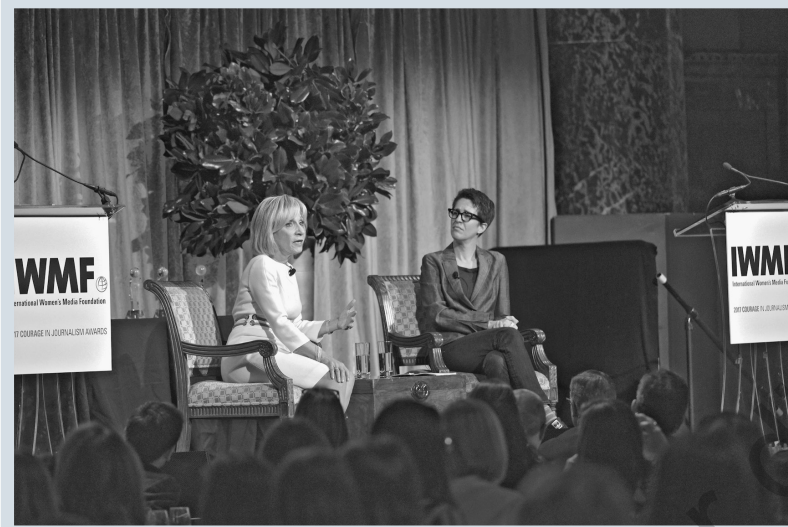
The changing nature of how we get our news showcases the importance of critically evaluating information and the sources from which it comes. Many organizations and businesses are funding their own "media" outlets to get certain kinds of information out as a way to sway public opinion. On the right, the Koch brothers have been one of the more active in this regard, and on the left, George Soros does the same. Of course, relying on just the one traditional source of news, as many did when they would watch Walter Cronkite present the evening news on CBS in the 1960s and 1970s, also can be problematic, as it might result in filtering or distortion of some news and a lack of informational depth. National newscasts only last about twenty-two minutes, and as a result, each story covered typically receives only a couple of minutes of coverage before the news anchors move on to the next story. For a different perspective and more in-depth coverage, readers may want to try watching *PBS NewsHour*.

One issue that came to the forefront during the 2016 election and continued in the Trump administration is the role of fake news. Stories from these sources often will "report" on some damaging characteristic or erroneous perspective. The hope by these sources is that it generates enough "buzz" and discussion so that many people believe the story is true. Even after being discredited by more legitimate sources, many people still believe the original, inaccurate or fake story. When these stories are picked up by social media sites such as Facebook, they potentially have a wide audience that may believe in the story because it appears to be from a legitimate source. This is why it is so important to know your sources and have a good understanding about the facts as you are evaluating policies and policymakers. Of course, the Trump administration picked up on the term *fake news* to label many stories coming out of traditionally respected news sources such as the *New York Times* and the *Washington Post*, among others, as such. The contrary view has been that the administration labels stories it does not like as "fake."[19]

Policy Subgovernments and Issue Networks

Much policymaking occurs in less formal settings or venues and involves policy actors within particular issue areas, such as national defense, communications, agriculture, forestry, or energy. Political scientists refer to these informal arrangements as **subgovernments** or **issue networks** (Heclo 1978; Lowi 1979; McConnell 1966; McCool 1990). *Iron triangles* was another term often used to describe these arrangements because of the supposed power and autonomy of their three components: congressional subcommittees, an executive agency, and an outside economic interest group, such as cotton farmers or oil companies. These subgovernments usually operate under the radar of most citizens and are less likely than the more formal institutions to be influenced by citizen values or policy preferences.

The reality is that decision making about many programs and policies tends to be highly specialized. Because of the complexity of public problems and policies, and the often detailed knowledge required to understand them, specialization will no doubt

Media influence. As different forms of media have grown, so too have outlets tailored to audiences of a particular ideology. The photo shows Andrea Mitchell and Rachel Maddow at the International Women's Media Foundation's twenty-eighth annual Courage in Journalism Awards. Maddow's news program on MSNBC attracts a loyal following of liberals, much as Fox News attracts a conservative audience. Mitchell has long been among the top female journalists in the nation, and she was recognized for her work at the foundation's meeting.

Bryan Bedder/Getty Images for IWMF

continue to be the norm. One group of policy actors specializes in health care policy; another quite different group acts in defense policy, financial regulation, or environmental protection. Each develops its own distinctive channels of communication, even terminology, to discuss policy issues. The areas of specialization, and the people and institutions active in them, are known as issue networks, subgovernments, or subsystems to reflect the fact that decision making takes place below the level of the full system of government (J. Anderson 2015; J. Freeman 1965; Thurber 1996a). For example, defense procurement decision making (how much to spend on weapons systems and which ones to buy) involves the congressional armed services committees, the Department of Defense, and the private defense contractors who build the weapons. All tend to favor increased spending for defense, and they work together toward provision of defense systems, usually without much involvement, oversight, or criticism by those who are not part of the subgovernment or network.

Historically, the subgovernments have been exceptionally powerful in setting U.S. policy, particularly in areas of limited interest to the general public, such as agricultural subsidies, mining and forestry, weapons procurement, and highway and dam construction. Today, however, the subgovernments are less autonomous and generally operate with more visibility and "outside" participation. More policy actors are involved, sometimes hundreds of different institutions and individuals. Use of the term *issue network* rather than *subgovernment* reflects this evolution in U.S. policymaking (Heclo 1978). Nevertheless, these networks or subsystems are still important. To varying degrees, their participants remain preoccupied with narrow economic interests; they may afford limited participation beyond the core members; and they may be able to resist external influences (J. Anderson 2015). If nothing else, it is clear that much U.S. policymaking involves informal networks of communication in which prevailing policy ideas and the evaluation

of new studies and information shape what is likely to be acceptable to the major policy actors (Kingdon 1995). Fortunately for students of public policy, it is much easier today to gain access to those networks and to see what the specialized policy communities are considering and where change may be possible.

IMPROVING POLICY CAPACITY

This chapter demonstrates that the design of U.S. government institutions and the conflicting demands of the nation's citizens make governing a difficult, though by no means impossible, task. The history of U.S. public policy development in many areas, as we will show in chapters 7 through 12, indicates a robust capacity for policy formulation, adoption, and implementation. The proof is in the extensive collection of public policies in operation today. Much the same can be said about the policy capacity of state and local governments. Although some are clearly more capable than others, considerable policy innovation and successful implementation are apparent at this level as well (Borins 1998; Hedge 1998).

Does policy capacity need to be improved? Almost certainly. By any measure, the challenges that governments at all levels will face in the future will require an even greater ability than they now possess to analyze complex problems and develop solutions. Whether the problems are worldwide terrorism, economic recessions, natural hazards such as hurricanes, or global climate change—or whether they are public needs for education, health care, and other social services—governments will have to do a better job of responding to these needs.

Consider one example. When a devastating hurricane struck New Orleans and other Gulf Coast areas in September 2005, critics described the responses by federal, state, and local governments as woefully inadequate. Hurricane Katrina killed over one thousand people and left a far larger number injured or homeless, many of them residents of poor and minority communities. The storm also destroyed countless businesses. Government agencies had to drain severely flooded neighborhoods, restore public services over a wide area, assist hundreds of thousands of residents displaced by the storm, and rebuild damaged levees and other structures across a wide stretch of the Gulf Coast. It was perhaps the worst natural disaster in U.S. history in terms of economic impact, costing between $100 billion and $150 billion, according to the Congressional Budget Office (CBO).[20] While governments cannot prevent hurricanes, they can do much to improve their capacities for emergency preparedness and disaster relief. One lesson from Katrina is that governments might have avoided the enormous human and economic toll had they made smarter decisions over the previous decade. The response to Hurricane Sandy in 2012 and later the 2016 floods in Louisiana suggests that at least some lessons were learned, and the governmental response was much better. But, as we saw with Hurricane Maria's impact on Puerto Rico and Hurricane Florence in the Carolinas in 2018, there is still much we need to improve.

What about the capacity of citizens to participate in public life? Here too there is much that can be done, and we will return to the subject in chapter 13. In brief, it is easy to argue that in a democracy, citizens should be given extensive opportunities to participate in

policymaking. Yet some analysts worry that citizens have too little time and too little interest to inform themselves on the issues so that they can participate effectively. Others focus on what measures might be taken to assist citizens in learning more about the issues and encourage their participation. From either perspective, questions arise. For example, is it a good idea to create more state and local referendums to allow direct citizen participation in lawmaking? Many cities and states do that, and as we stated earlier, some highly innovative policies have been enacted through such direct citizen participation. But there is also a risk that such direct democracy can fuel public prejudice and allow special interest groups to have undue influence on the results (Cronin 1989; Ellis 2002).

What is the best way to encourage citizen participation in government processes? It seems clear that additional citizen participation may enhance policy capacity at the state and local levels, but some programs designed to involve citizens are more effective than others. Most scholars today recognize the desirability of going beyond the conventional hearings and public meetings to offer more direct and meaningful citizen access to policymaking. Citizen advisory committees, citizen panels, and similar mechanisms foster more intense citizen engagement with the issues (Beierle and Cayford 2002). Governments at all levels continue to endorse collaborative decision making with local and regional stakeholders, especially on issues of urban planning and management, natural resource use, and the like.

Whatever the form of public involvement, its effectiveness needs to be considered. Increasing citizens' voices in policymaking can come at some cost in terms of the expediency of policy development and implementation. In other words, it can slow down the policy process and make it more difficult to resolve conflicts. Even with these qualifications, however, the successful involvement of the public in local and regional problem-solving processes, and in electoral processes, is encouraging for the future. Enhancing civic engagement in these ways might even help to reverse a long pattern of citizen withdrawal, not only from politics but also from communities (Bok 2001; Putnam 2000; Skocpol and Fiorina 1999). The enormous outpouring of support for Barack Obama in the 2008 presidential election, particularly by young voters, testifies to the potential of greater citizen involvement in the future, and also to the diversity of mechanisms for such involvement, from traditional organizational politics to web-based recruitment, fund-raising, and communication (Dalton 2009; McKenna and Han 2014).

CONCLUSIONS

This chapter covers a lot of ground, from the growth of government over time to the constitutional design for U.S. government to the way policy actors within the major institutions interact when dealing with public problems and policymaking. Government growth is a direct result of the increases in public policies that have been adopted in the United States throughout history. To fully understand the development of policy, we must pay attention to the various actors in our formal government systems and how they all have a role in making or obstructing policy. In addition, how people interact in this political and governmental process is a key factor in explaining if policy gets made at all and the policy choice that follows. In a democratic system of government, these actors outside the formal

government structure, such as interest groups, the media, and citizens themselves, also influence the policy process. Understanding how these actors get involved in the policy process is important in explaining how and why policy gets made. It is also through both the formal and informal actors that individuals can get involved and help to move policy in a particular direction.

All of these factors help to explain why governing is so difficult, and why policy gridlock occurs so often. But the same factors also highlight the many strengths of the U.S. political system, particularly the opportunities it provides for citizens and organized groups to participate in the policy process and shape the decisions that are made. These strengths are found at all levels of government, but especially in the states' growing policy capacity and their efforts at policy innovation in recent years. Knowing how government is organized and makes decisions is the foundation for the study of public policy, but equally important is understanding the political incentives that motivate and influence how policy actors, both governmental and nongovernmental, relate to one another in the policy process. Armed with these tools, students of public policy can see why government sometimes works and sometimes does not, and what needs to be done to improve government's capacity for analyzing public problems and developing solutions to them. In the same vein, the chapter suggests that few changes would do more to enhance democracy than finding ways for U.S. citizens to become better informed about public policy and more engaged with government and the policy process.

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DISCUSSION QUESTIONS

1. Do you think the U.S. government's system of checks and balances is a detriment to policymaking? Why or why not? Do the current partisan battles suggest that we may need to adjust our policymaking system? What might be done?

2. Under what conditions might states be better positioned to take the lead in making policy? Conversely, when should the federal government take the lead? Think about some current issues such as education standards, immigration, and gun control policy. Which level of government may be best positioned to address these issues?

3. Has the Trump administration been effective so far in policy development? Discuss some of the major successes and failures and what factors contributed to the successes or failures.

4. Is the American public capable of playing a more active role in the policymaking process than it currently does? Or would greater public involvement in policymaking pose risks to the quality of decision making? Why do you think so?

5. What role does interest group information play in policymaking? What do you see as the potential positives and negatives of

having groups provide this information to policymakers? What might policymakers want to take into account when receiving information and data from interest groups?

6. Excessive partisanship, gerrymandered congressional districts, policymakers beholden to special interests, and government stalemate tend to dominate the Washington, D.C., news. Might there be ways to reboot the system so that it could work more effectively, efficiently, or ethically?

7. Some state legislatures (North Carolina, Wisconsin, Michigan) have attempted to limit the powers of the governor upon losing party control of the executive branch during the lame-duck period after an election. Is this a legitimate use of policymaking authority? Why or why not? What are the potential concerns or benefits?

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Allan J. Cigler, Burdett A. Loomis, and **Anthony J. Nownes,** eds., *Interest Group Politics*, 9th ed. (Washington, D.C.: CQ Press, 2016). A leading volume on interest group activity in U.S. politics. Includes some of the best current work in the field.

Roger H. Davidson, Walter J. Oleszek, Frances E. Lee, and **Eric Schickler,** *Congress and Its Members*, 17th ed. (Washington, D.C.: CQ Press, 2020). The leading text on Congress and a treasure trove of information on the role of Congress in policymaking.

James A. Thurber, *Rivals for Power: Presidential-Congressional Relations*, 5th ed. (Lanham, Md.: Rowman and Littlefield, 2013).

SUGGESTED WEBSITES

www.congress.gov. Official source for federal legislative information.

www.csg.org. Council of State Governments, with links to a wide range of data and policy issues affecting the states.

www.publicagenda.org. A nonpartisan opinion research organization website that includes reports from national firms on public policy issues such as race, health care, privacy, drug abuse, crime, the economy, poverty, welfare, the environment, immigration, and others. Includes a good collection of colorful graphs, tables, and advice on how to read public opinion polls.

https://ropercenter.cornell.edu/. The Roper Center is located at Cornell University and is one of

the largest archives of social science data from public opinion surveys. Data sets and polls can be searched on a wide range of issues.

www.usa.gov. Federal government web portal, with links to online services for citizens, businesses, and governments, and links to federal, state, local, and tribal government agencies. Includes links to all fifty state government home pages and national associations dealing with state and local issues.

www.uscourts.gov. Portal to the U.S. judiciary system.

www.whitehouse.gov. White House home page, with links to the president's stand on various policy issues, news, appointments, speeches, and more.

NOTES

1. See Michael D. Shear, Julie Hirschfeld Davis, and Gardiner Harris, "Obama Chooses Merrick Garland for Supreme Court," *New York Times*, March 16, 2016.

2. See Sheryl Gay Stolberg and Adam Liptak, "Kavanaugh Portrayed as a Hopeless Partisan as Hearings on Supreme Court Nominee Open," *New York Times*, September 4, 2018.

3. For information regarding trust in government, see the Pew Research Center's ongoing efforts to track public disenchantment at www.people-press.org/2019/04/11/public-trust-in-government-1958-2019/. Another measure relates to public approval of how Congress is handling its job. Only 17 percent approved in July 2019. For this information, see the Gallup poll data at www.gallup.com/poll/1600/congress-public.aspx.

4. For information on federal employment statistics, see Congressional Research Service, "Federal Workforce Statistics Sources: OPM and OMB," March 25, 2019.

5. Measuring the size of government is not easy. Should it include only government employees or also count those in the private sector who produce

goods and services for the government under contract? For an assessment of government size, see Paul C. Light, *The True Size of Government* (Washington, D.C.: Brookings Institution, 1999); and Christopher Lee, "Big Government Gets Bigger: Study Counts More Employees, Cites Increase in Contractors," *Washington Post*, October 6, 2006. See also Scott Shane and Ron Nixon, "In Washington, Contractors Take on Biggest Role Ever," *New York Times*, February 4, 2007. The *Times* article provides detailed estimates of the rise in contractor activities in the 2000s; the amounts spent on their contracts; and other actions by contractors, such as money they spent on lobbying and on campaign contributions.

6. See Tamara Keith, "Trump Signed 96 Laws in 2017. Here Is What They Do and How They Measure Up," *All Things Considered*, December 27, 2017.

7. State supreme court decisions in Pennsylvania and North Carolina, for example, required a redrawing of congressional district lines. See Eric Bradner, "Court Orders New Pennsylvania Congressional District Map, Says It Favored GOP," *CNN Politics*, January 22, 2018; and Michael Wines and Richard

Fausset, "North Carolina Is Ordered to Redraw Its Gerrymandered Congressional Map. Again," *New York Times*, August 27, 2018.

8. See Chris Cillizza, "Did Republican Gerrymandering Cause the Government Shutdown?" *Washington Post*, October 9, 2013; Nate Silver, "As Swing Districts Dwindle, Can a Divided House Stand?" *New York Times*, December 27, 2012; Griff Palmer and Michael Cooper, "How Maps Helped Republicans Keep an Edge in the House," *New York Times*, December 12, 2012; and Sam Wang, "The Great Gerrymander of 2012," *New York Times*, February 3, 2013.

9. Redistricting decisions affect what happens with state legislative branches as well. In late 2016, a federal court ruled that the Wisconsin legislature's redrawing of state assembly districts to favor Republicans was an unconstitutional gerrymander. See Michael Wines, "Judges Find Wisconsin Redistricting Unfairly Favored Republicans," *New York Times*, November 21, 2016.

10. For many policy activities, Native American tribes constitute sovereign entities that deal directly with the federal government rather than with the states where tribal land is located.

11. In addition to state policies preventing smoking in restaurants and other public places, many localities have passed ordinances to do the same.

12. See "President Power," *CQ Researcher*, vol. 25, issue 10 (March 6, 2015).

13. In addition to the 435 members, the House of Representatives has four delegates and a resident commissioner, bringing the total to 440. These five positions were created by statute. Puerto Rico elects a commissioner, and Congress has approved nonvoting delegates for the District of Columbia, Guam, the Virgin Islands, and American Samoa. See Roger H. Davidson, Walter J. Oleszek, Frances E. Lee, and Eric Schickler, *Congress and Its Members*, 17th ed. (Washington, D.C.: CQ Press, 2020).

14. As an example, you can access the Health and Human Services advisory committees at www.hhs.gov/ash/advisory-committees/index.html.

15. See Charlie Savage, "Appeals Courts Pushed to Right by Bush Choices," *New York Times*, October 29, 2008.

16. For those interested in examining other information on lobbying data and campaign contributions, see the site sponsored by the Center for Responsive Politics at www.opensecrets.org.

17. See Julie Kosterlitz, "Google on the Potomac," *National Journal*, June 21, 2008, 54–55; and Edward Wyatt, "Google's Washington Insider," *New York Times*, June 2, 2013.

18. See 29 C.F.R. Part 541.

19. See Eugene Kiely, "Trump's Phony 'Fake News' Claims," *FactCheck.org*, January 16, 2018.

20. The CBO estimate combines costs for Hurricane Katrina and Hurricane Rita, a less damaging storm that struck several weeks later. See "Statement of Douglas Holtz-Eakin, Director, Macroeconomic and Budgetary Effects of Hurricanes Katrina and Rita," testimony before the Committee on the Budget, U.S. House of Representatives, Congressional Budget Office, October 6, 2005.