The Public Policy Process

WEEK 5: HISTORICAL AND STRUCTURAL FEATURES OF PUBLIC POLICY
Comments on the Memos

- Most are good to very, very good!
- Following directions: a primer
- Remember you can rewrite
- You must be checking your NCSU email.
Objectives

- Understand the Constitutional structure and its relationship to policy making
- Understand the historical context of policy
The context of American policy making

- The Constitution
- Features of the System
- History
The Constitution—Background

- The American revolution
- The Articles of Confederation
- Shay’s rebellion
- The constitutional convention of 1787-89
- Ratification
The Constitution--Structure

- Three branches of government.
- Supposedly co-equal.
- Create what we know as “checks and balances” via a “separation of powers.”
# The Balance of Power (p. 47)

<table>
<thead>
<tr>
<th>Legislative</th>
<th>Congress</th>
<th>President</th>
<th>Courts</th>
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<tbody>
<tr>
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<td>Review laws to determine legislative intent; new interpretations=law making</td>
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<td>Executive</td>
<td>Override Vetoes; legislative vetoes of regulations</td>
<td>Enforce &amp; Implement Laws</td>
<td>Review executive acts; restrain executive actions (injunction)</td>
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<td>Judicial</td>
<td>Impeach judges and president</td>
<td>Pardon criminals Nominate Judges</td>
<td>Interpret laws</td>
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<td>Call witnesses in hearings</td>
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- **Congress**: Make laws, Recommend laws, Veto Laws, Make regulations that have the force of law (quasi-legislative powers).
- **President**: Override Vetoes, Enforce & Implement Laws, Pardon criminals Nominate Judges.
- **Courts**: Review laws to determine legislative intent; new interpretations=law making, Review executive acts; restrain executive actions (injunction).
The Constitution: Federalism

- One national government
- Fifty state governments
- Result: Shared power between the federal government and the states.
- Examples: what do the states do that the feds don’t? What do the feds do that the states don’t? What do both do?
Key to Public Policy

- Article 1, section 8
- Does this limit Congress’s power?
- Does government go beyond the Constitution’s mandate? What is the Constitution’s mandate?
Constant Features of the American System

- Difficult to change constitutional system
- The system is highly fragmented
  - Separation of powers
  - Federalism
- Rules and norms of the legislature and other bodies
- Public support for stability
Features of the American System

- Ideological and political stability
- Basic rules and norms
- Open government and policy restraint
- Fragmentation
- A rationale for stability
Features of American Political Stability

- Ideological stability
- Political stability
- Policy stability
- Stability in power
Norms of American political culture

- Individualism (is this overstated?)
- “Freedom”
- “Small Government” (is this also overstated?)
- Property rights
- Civil rights and liberties
- Do our Constitutional structure and our cultural norms inhibit efforts to promote sustainability, ecosystem function, and environmental protection?
- How do features of the system help to or inhibit getting things done?
Article 1, section 8, of the Constitution
Does this limit Congress’s power?
Does government go beyond the Constitution’s mandate? What is the Constitution’s mandate?
A very stable system

- Difficult to change the basic Constitutional structure
- The Constitution creates particular conditions
- The system is highly fragmented
- Rules, norms and values also matter
- Public support for stability
Historical Eras of Policy

- Divided Power 1789-1860
- State Activism 1860-1936
- National Activism 1936-1960
- National Standards 1960-1980?
- The End of Big Government – 1980-?
- The future? That’s why we’re studying this subject!
Divided Power: 1789-1860

- The nation was still very new
- The federal government was considered fairly unimportant
- Most important task: figuring out how to divide power.
- Two examples
  - Barron v. Baltimore – state vs. federal citizenship and rights
  - Gibbons v. Ogden – the meaning of the commerce clause (again, Art I, sec. 8).
State Activism: 1870-1933

- Big changes in America: the industrial revolution, immigration, urbanization, wealth disparity.
- States sought to regulate industry, monopolies
- Feds created the Interstate Commerce Commission, the Sherman Act.
- But state regulation of industry was severely constrained: *Lochner v. New York* (1905)
State Activism: 1870-1933

- Still, some major enactments:
  - States:
    - Child labor laws (some)
    - Wage and hour laws for women (*Miller v. Oregon*, 1912)
  - Federal
    - Federal Reserve System
    - Clayton Act
    - Pure Food and Drug Act
- The big constraint: the judiciary
  - *Lochner v. New York* (1905)– huge constraint on regulation
National Activism: 1933-1961

- Triggered by the Great Depression
  - The problem: how to get the economy and the nation on track.
  - FDR’s solutions: National Industrial Recovery Act, Civilian Conservation Corps
- Constrained by the courts
  - NIRA struck down
- But, new Supreme Court appointments after 1936
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National Activism: 1933-1961

**Result:**
- The Court relents in *West Coast Hotel v. Parrish*, on state labor laws—end of the Lochner standard
- Huge growth in New Deal activities after the 1936 elections
  - TVA
  - Social Security
  - FDIC
- Post war government remains huge, many federal programs—the New Deal coalition in power much of this time.
Many new government programs: The Great Society.
- Civil Rights
- Poverty
- Urban Renewal
- Highways and Transportation
- Education

Nixon (elected 1968) didn’t change that much
- Some block grants to states
- But, EPA, Trans Alaska Pipeline = big federal projects
The End of Big Government—1980-?

- About 1976: a belief that government was getting “too big.”
- The deregulation movement under Carter
  - Example: Airline deregulation
- The Reagan Administration
  - Attempts to cut social programs
  - But...
    - Congress restored much domestic spending
    - Huge defense spending growth
    - Tax cuts
    - Result: historically high budget deficits
The Clinton and GW Bush Years

- Clinton under pressure to limit government
  - Welfare reform
  - Deficit does shrink, due to growing economy
- Bush supports “smaller government”
  - But will invoke federal power when he finds it convenient.
    - Example: power lines in the West.
- Budget deficit grows even during economic growth
  - Costs of wars?
  - Other factors?
The Obama Administration: Return to “Big Government”? 

- More activist government? Examples?
  - But could the Bush administration also be called activist?

- Huge deficits and debt
  - “Whose fault?”
  - “How is huge defined?”

- Stimulus spending
  - Did it work?

- Freeze on discretionary spending in FY 2011
  - But this affects only 1/8 of the budget.
The Constitution is a framework
The system is somewhat democratic in design
Is the system truly democratic? Has it ever been?
  Do we want truly democratic government?
Government is big, but how big is “too big”?