

# Public Policy Making

## Process and Principles



THIRD EDITION

Larry N. Gerston

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Larry N. Gerston

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For Elisa

The best policy maker in the business

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## Preface to the Third Edition

How does the political system really work, and why should we care? More than anything else, these two questions have provided much of the motivation for my teaching as well as the impetus for this book.

Too many times, institutional descriptions and flow charts of the political system bring about more confusion than clarity. They show diagrams and networks that are official and neatly organized, almost blueprint-like in appearance. Yet, more times than not, these illustrations fail to connect the polity's problems, possible outcomes, and actual results. This occurs because the "system" is much more than a bunch of elected and appointed officials and their respective offices; rather it is a loosely structured (and sometimes seemingly convoluted) environment of conflicting conditions, competing forces, and complex solutions, almost all of which are in a constant state of flux.

The dumbing down of our complex world has created both a false paradigm and understandable confusion. Inherently, people know that description does not mesh with reality, which in turn breeds discomfort, if not outright anger. Among the many sources of cynicism in the new millennium is the sense that what we see is not consistent with formal descriptions of how things work. People wonder what really keeps policy makers from doing some things that seem to enjoy wide support and why political actors ostensibly removed from the policy-making network manage to get their way. That's where this book may help. It is designed to explain how the system works; as such, it is a tool for analysis, prediction, and perhaps participation.

*Public Policy Making: Process and Principles* places the elements and dynamic circumstances of public policy in an analytical, yet manageable framework. Viewing the policy framework as one housed in a porous, ever-changing environment, this book is designed to give you the political know-how for making sense out of the maze we call the policy-making process. It takes us out of the world of orderly boxes and precise diagrams and into the universe of issues and policies that float in and out of the policy-making arena. In short, *Public Policy Making: Process and Principles* is intended as a hands-on description of what comes out of the somewhat chaotic political

process. It is not particularly neat, but it is an approach to explaining how political life really works.

Of significance is the extent to which the policy-making process can change, even as institutions remain almost stubbornly in place. The ebb and flow of government regulation, changing responsibilities among the various levels of governments, the financial crisis that erupted in 2008, and the challenge of international terrorism are only a few examples of ways the world has changed since the first edition of this book appeared in 1997. If nothing else, these forces underscore the sometimes disjointed relationships between policy issues and the institutions we call “government.” Happily, an understanding of the public policy-making process allows us to adapt to new events and conditions that may not otherwise fit into the institutional boxes.

No single volume can fill in all the gaps about something as cavernous as the policy-making process. Nevertheless, *Public Policy Making: Process and Principles* may serve as a modest starting point. Beyond everything else, I hope that the book clears up some of the mystery about how political decisions are made and carried out.

This book is the culmination of thirty-five years of learning and teaching about public policy. Even though it appears with my name, I am particularly grateful to several colleagues at San Jose State University who went through most of the manuscript and tendered invaluable advice. At M.E. Sharpe, I extend my gratitude to Patricia A. Kolb, editorial director; Makiko Parsons, editorial coordinator; and Angela Piliouras, managing editor.

At San Jose State University, two generations of students have played an integral role in the shaping and constant refinement of the book’s content and layout. What often began as innocent questions about this concept or that political relationship became the jumping-off points for discussion in the text. It is impossible to say how important these dialogues have been in my own growth as a teacher and author.

Finally, a word of gratitude to the participants in my own policy-making environment. As with the earlier editions, my thanks go to my children Adam, Lee, and Rachel for putting up with so many “not now, maybe later” responses when I was mired in endless thought. Along those lines, I am particularly grateful to Elisa, my wife, for enduring the way that I faded in and out of so many conversations as I struggled to make sense of my writing commitment. No one should have to put up with such rambling, but she does, and I am the beneficiary of her tolerance.

# Public Policy Making

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# 1

## The Context of Public Policy

Ever since 1956, Congress has periodically enacted legislation to provide the funding framework for interstate highway transportation. Few would argue with this commitment, given the necessity of roads to move massive amounts of commerce and people throughout the nation and points beyond. In 2005, after two years of contentious debate, Congress passed the Safe, Accountable, Flexible, Efficient Transportation Equity Act—A Legacy for Users (SAFETEA-LU). The bill authorized \$286.4 billion over six years, and was passed by lopsided margins of 412–8 in the House of Representatives and 91–4 in the Senate. President George W. Bush signed the bill into law on August 10, 2005.

The policy-making process leading up to this landmark legislation swirled in contradictions. To begin with, the nation was already drowning in red ink, thanks to the combination of recently passed mammoth tax cuts and expensive wars in Afghanistan and Iraq. With these commitments, the national debt soared from \$5.7 trillion to \$8 trillion during the first four years of the Bush administration.<sup>1</sup> Republicans, previously known for being proponents of smaller government, had led the way in expanding several domestic programs. Along with the general provisions, the highway bill contained more than 6,300 earmarks, or special projects, including the infamous “bridge to nowhere” in Alaska that became presidential campaign fodder in 2008.<sup>2</sup> During the “mark up,” the process of determining what would and what would not be included in the package, Republican President Bush promised to veto any transportation bill beyond \$258 billion, but in the end the president acquiesced to another \$28.4 billion. The Democrats also sent mixed messages. Despite their reputation as the political party dedicated to environmentalism, they were only too happy to enact a bill that would supply tens of thousands of highway construction jobs—even if that meant more air pollution from more automobiles on the road. Contradictory messages from both sides notwithstanding, in the end the bill emerged with near unanimous support.

Welcome to the world of public policy making, where more times than not the political environment is framed in confusion, contradictions, and con-

sternation. In order to make policy, decision makers often merge conflicting objectives into acceptable outcomes. It's not a pretty process; yet, whatever difficulties the student or practitioner may have in understanding the concept of policy making, it is a process that must be reckoned with.

Public policy is a relatively new subfield in political science. Its development as an area of study emerged out of the recognition that traditional analyses of government decisions were incomplete descriptions of political activities. As the relationships between society and its various public institutions have become more complex and more interdependent, the need has developed for more comprehensive assessments of what governments do, how they put their decisions into practice, and why they pursue some policy alternatives over others.

Focus on the public policy process has become increasingly important with the emergence of modern society, technological innovation, and burgeoning international transactions. Prior to the seventeenth and eighteenth centuries, most polities were consumed with self-survival and potential threats from foreign enemies. Political organization and infrastructure were largely irrelevant for obvious reasons: there were few decisions to make, and those who made them were dictators, monarchs, small bands of rulers, or unrepresentative legislative bodies. During the nineteenth century, representative government began to evolve in some parts of the world. With increased political participation by larger portions of the public, government decisions assumed greater importance and legitimacy. Clashing values with respect to social, economic, and political questions had profound implications for politics and government. With these changes, governments began to focus on the problems of their citizens.

These changes did not go unnoticed by those who studied political phenomena in the United States. As this young country matured, so did the approaches to the study of government and politics. For the first half of the twentieth century, American political scientists were content to analyze government in the context of its three major branches: the executive, the legislative, and the judicial.<sup>3</sup> While such studies were instructive about the powers of institutions, they were less than complete descriptions of the political process.

Fifty years later, political scientists expanded their perspectives of government activities. Some examinations centered on the informal relationship between interest groups and government, leading one scholar to conclude that political institutions "operate to order the relationships among various groups in society."<sup>4</sup> Other studies focused on the interdependence between government activities and diverse forces such as political parties or public opinion. Out of this evolution came the recognition of the symbiotic association between government and politics.<sup>5</sup>

Recent assessments in political science offer yet another slant on the powers and abilities of government bodies. Some contemporary scholars now argue that government is not designed to be merely responsive; nor, they assert, is government even neutral or benign. Instead, these writers contend that government institutions and officeholders possess powerful tools for altering traditional arrangements. Globalization—the explosion of economic, political, and technological relationships—has added yet another layer of interaction not only within but between nations.<sup>6</sup> In light of the effects that policy makers have on society, we have come to appreciate that what comes out of government is as important as what goes in.<sup>7</sup> This thinking brings us to the concept of public policy. Viewed as a multifaceted approach to the study of politics, public policy making shows the workings of modern government and the flow of political life.

### **In Search of a Framework**

As an approach to understanding political change, public policy has almost as many definitions as there are policy issues. *Institutionalists*, those who concern themselves with the formal, observable building blocks of government, view public policy as a benign component of identified rules and procedures. As Lawrence Friedman writes, “in societies like ours . . . there arises an enormous demand—a need—for formal controls which have to come from some sort of organized government.”<sup>8</sup> *Behaviorists*, scholars consumed with what people actually do, interpret public policy as the result of the interaction of powerful forces, some of which may be far removed from the halls of government. To that end, B. Guy Peters concludes that public policies emerge from a large number of programs, legislative intentions, and organizational interactions that affect the daily lives of citizens.<sup>9</sup>

The debate over parameters is more than an academic exercise or game, for it is the word *process* that differentiates public policy from other approaches to government and politics. A process is dynamic and ongoing and, as such, is constantly subject to reevaluation, cessation, expedition, or even erratic movement. Conceptually speaking, then, policy making exists in an open environment with neither a beginning nor an end, and with virtually no boundaries. What seems inconceivable as a policy issue one day may well be the focal point of heated debate the next. Within this nomadic context, our task is to examine public policy making as a concept, as a process, and as a mechanism of political change.

While there is little concurrence among scholars on the framework of the public policy-making arena, they tend to agree on a core of basic assumptions. Most obviously, government activities and commitments are crucial to

the meaning of public policy. At the national level, defense, transportation, and agriculture are but a few major areas of historical concern to government. Other areas of interest, such as space exploration, the environment, biotechnology, and homeland security, are relatively new government concerns. However, the history of government engagement with a policy area is not as important as the attention itself. Without government involvement and direction, there is no public policy. States and local governments have public policy concerns in areas such as public education, transportation, and public safety. Some issues, moreover, slice through several levels of government.

Another point upon which analysts agree is that society and its resources are extensively affected by public policies. Whether we speak of consumers, the disabled, automobile drivers, handgun owners, or acquired immune deficiency syndrome (AIDS) victims, each of these constituencies and countless others are likely to be affected by many public policies. Some policies, such as defense, taxation, or public education, affect almost everyone. In fact, most people's lives are directly influenced by many public policies simultaneously. However, only a few public policy commitments consciously concern people at any one time.

Finally, virtually all students and practitioners of public policy concur that policy making is a process. The search for, debate about, development of, application of, and evaluation of a given policy spring from a continuum of events, with a beginning that is almost impossible to pinpoint and an end that is rarely permanent. As Deborah Stone writes, "policy is more like an endless game of Monopoly than a bicycle repair."<sup>10</sup> Whatever the issue in question, scholars agree that public policy making has a perpetual, dynamic, and evolutionary quality.

### **A Working Definition of Public Policy**

Aside from these basic areas of consensus, policy analysts differ greatly on the basis and limits of the public policy field. Consider three contemporary definitions from leading political scientists: Thomas Dye characterizes public policy as the study of "what governments do, why they do it, and what difference it makes."<sup>11</sup> Operating in a wider context, Michael Kraft and Scott Furlong add, public policy "is a course of government action (or inaction) taken in response to social problems."<sup>12</sup> Conversely, David Robertson and Dennis Judd take a more restrained course by casting government as the independent variable—that is, the crucial intersection of change—not only in terms of crafting current policies but with respect to future demands for different policies.<sup>13</sup>

These approaches and others all have merit and individually address key components of the policy-making process. However, for our purposes, we seek a definition that responds to the actions and exchanges of both people and governments in a dynamic, interdependent manner. Thus, *public policy* is defined here as *the combination of basic decisions, commitments, and actions made by those who hold or influence government positions of authority*. In most instances, these arrangements result from interactions among those who demand change, those who make decisions, and those who are affected by the policy in question. The determinations made by those in positions of legitimate authority—most commonly, one or more public offices in government—are subject to possible redirection in response to pressures from those outside government as well as from others within government.

The linkage between policy makers and policy receivers is vital to understanding the meaning and power of public policy. In a very direct sense, society benefits or suffers because of government activity. Sometimes, both experiences may occur simultaneously. At a minimum, the more controversial a proposed policy or policy area, the more likely it is that one part of society will benefit at the expense of another segment. Furthermore, the variety of potential public policy questions is so great that some government decisions emerging from the political process have greater impacts on society than others. The simple fact is that each public policy question has its own unique impact on those who lie in its path.

Public policies result from the blend of politics and government. David Easton defines politics as “the authoritative allocation of values.”<sup>14</sup> Public policy, then, is as important in defining prevailing values (politics) as it is in defining solutions to prevailing problems (through government). In a very real sense, values predetermine public policies, although the values of some parts of society will often be more influential on a policy than the values of others.

### **Components of the Public Policy Process**

The methods of public policy analysis differ from those used in the “hard” sciences. Social science revolves around needs, emotions, unanticipated events, and a good deal of irrationality. These characteristics are extremely difficult to quantify or duplicate, and they rarely produce consensus regarding any order of importance or rank. Such is not the case in other disciplines.

Although the formulas themselves may be complicated or esoteric, the laws of physics, mathematics, and other sciences have a predictability that captures a certain respect from social scientists. In these fields, the hypothetical problem of  $2 + 2$  will always yield 4 regardless of inflation, war, unemployment-

ment, terrorism, disease, or any number of factors that may affect society. Such accuracy does not occur in the study of public policy. However, some components are constant in the public policy universe. They are:

- Issues that appear on the public agenda
- Actors who present, interpret, and respond to those issues
- Resources affected by those issues
- Institutions that deal with issues
- The levels of government that address issues.

Perhaps the most critical of these components is the determination of which policy issues will be resolved in the public sector, although the ability to respond to them may often be defined by the desire to do something and the resources available. In addition to describing public policy areas and their costs, it is necessary to identify the actors and the formal structures of government that may be the drivers of resolution.

Finally, it is important to determine which levels of government are best equipped to make policy. Public policy may be developed *horizontally*, with several agencies coordinating efforts at the national, state, or local level. Policy may also be developed *vertically*; in this approach, the decisions made at one level—commonly the national—are carried out on behalf of all parties or perhaps assigned to another level—often the states—for execution. As we will see below, these five ingredients highlight the complexities of making public policy.

### ***Policy Issues***

We can compare commonly discussed areas of public policy to a revolving ferris wheel at an amusement park. The wheel operates with a consistent pattern; it travels for a fixed period of time, stops, then proceeds again. While the wheel's movement is predictable, the entries, departures, and combinations of the passengers are not. Sometimes the wheel is almost full, but at other times it is nearly empty. A few passengers may opt to ride the wheel for several turns, while a single cycle will suffice for others. Public policy issues are the "passengers" that move off and on the "wheels" of government. Some, such as the debate over abortion, have incredible staying power; others, such as the proposal by President George W. Bush in 2003 to develop hydrogen fuel as a replacement for gasoline, disappear from serious consideration quickly after their emergence.

Although policy areas include a range of ever-changing public needs, the types of issues can be divided into two broad categories: *substantive* and

*symbolic*. Substantive issues are those areas of controversy that have a major impact on society. Regulation of the economy, health-care reform, civil rights legislation, environmental protection, and homeland security are examples of substantive public policy issues. Because of their comprehensive impact, substantive issues are usually quite difficult to resolve and may linger on the public agenda for long periods of time, and often without any resolution.

Symbolic issues center on irritating public problems and “quick fixes” to get them off the public agenda. Responses to these issue areas tend to provide more psychological relief than actual change in the political system. Outcomes are generally uncontroversial because the policy commitment does not threaten major shifts of social, economic, or political capital. For example, after a string of corporate corruption issues became public in 2002, then Securities and Exchange Commission chairman Harvey Pitt ordered the chief executive officers of the nation’s 1,000 largest companies to sign sworn statements as to the accuracy of their financial reports.<sup>15</sup> Their cooperation did little to change the situation.

Sometimes, substantive issues are addressed by symbolic responses, generating a good deal of resentment as a consequence. For example, throughout the 2008 presidential election campaign, then-candidate Barack Obama strongly advocated “extending fully equal rights and benefits to same sex couples under both state and federal law.”<sup>16</sup> One year later as president, Obama signed an executive order extending health-care benefits to same-sex partners of federal employees. The president described his effort as a “first step,” but many gay activists viewed the change as little more than tokenism that sidestepped major issues such as the policy of dismissing gays in the military.<sup>17</sup> Both substantive and symbolic policy agendas are discussed in chapter 3.

### *Actors*

How do policy issues get their “tickets” to the public policy “ride”? Unlike matters that remain solely private or as individual problems, public policy issues gain their status when they reach the eyes and ears of government actors. These individuals are catalysts for change; they are found at all levels of the policy-making process, from the national arena to a school board—in short, in any environment where someone in authority has the capability through the powers of their office to manage the issue under discussion. As we will see in chapter 2, *triggering mechanisms* catapult once-private matters into the public forum of discussion. From this point on, policy makers may seize various public issues and try to formulate appropriate responses.

Issues are generated from a variety of sources. Sometimes problems are presented by individuals who are outside government altogether; for example,

a celebrity who falls victim to a terrible disease or accident may, because of his or her notoriety, raise public consciousness. For example, actor Michael J. Fox, a victim of Parkinson's disease, has exhorted Congress to ease the rules for stem-cell research, which could help people with neurological disorders. At other times, an investigation or exposé by a prominent media representative may serve as the conduit to government leaders. In 2007, the *Washington Post* published a series of articles about the wretched conditions at Walter Reed Army Medical Center, a recovery facility for U.S. soldiers with traumatic injuries. Embarrassed, the George W. Bush administration developed new policies for management of the hospital. Sometimes, an outside voice is necessary to shake up the status quo.

Often, people who are in government and closest to the policy-making process may advance an issue and generate support for resolution. Because they function in a double role—advocates and policy makers—these people can be crucial to moving along a proposal as others languish on the sidelines for lack of follow-up.

### **Resources**

Recognizing problems is one part of the policy-making process; deciding how to pay the price to solve them is another. Sometimes, policy makers target those responsible for a problem to pay for it, at least initially. Consider the twin issues of energy dependence and air pollution, both of which are costly to the American people. In 2009 President Obama signed an executive order increasing the automobile fuel efficiency standard to 35.5 miles per gallon—a 40 percent increase—by 2016. The change was undertaken to reduce America's dependence on oil and lessen the pollutants produced by motor vehicles. Experts estimated that the advanced equipment would cost automakers approximately \$600 per car which, of course, would be passed on to consumers. Still, administration spokespersons estimated that the savings from reduced fuel purchases would exceed the costs in less than three years.<sup>18</sup> On other occasions, public policy makers elect to use national revenues to pay for a program. Nowhere is this more evident than in our foreign policy commitments. Thus, when presidents have committed troops and weapons to such places as Afghanistan or Iraq, the tab has been picked up by the taxpayers. Most of the time, the public is deferential on such issues. Nevertheless, the fact that such commitments are sometimes made without a thorough national airing may backfire on leaders, as was the case when President Lyndon Johnson's pursuit of the Vietnam War during the mid-1960s ultimately cost him his office.<sup>19</sup>

What makes policy makers commit resources for some policies and not

for others? Values, the extent of a crisis, awareness, and other factors enter into the equation that determines the answer. But the availability of resources plays a large part as well.

### ***Public Institutions***

Public institutions are the vehicles through which public policies are formulated and carried out. The word *institution* rings of formality and organization, but it also suggests the routes for traffic traveling through the policy process. Aside from occasional policies mandated by the electorate at the state and local levels, the basic policy-making institutions are the executive, legislative, and judicial branches of government. Bureaucracies and regulatory agencies are also prominent in the creation and implementation of public policies.

#### *The Executive Branch*

Numerous examples highlight the roles of institutions and their strategists in the development of public policy. More often than not, the “checks and balances” organization of government requires the various branches to act in complementary fashion. However, there are occasions when a single element of government can frame, if not dominate, the policy process. Presidents, governors, and mayors are among those who place issues on the public agenda by their positions of executive authority. Sometimes, they can even make policy. Presidents make public policy through the use of executive orders, such as when President George W. Bush in 2001 blocked funding to international family planning programs that offered abortions or abortion counseling, and when President Barack Obama promptly reversed that policy in 2009. When governors sign executive orders to speed up construction of power plants or furloughing state employees in times of budget crisis, they, too, wield their power to make policy. A very large portion of any executive’s leadership stems from his ability to establish priorities and define policy commitments.

#### *The Legislative Branch*

Legislative bodies, collective decision-making units of many individuals elected by voters in districts or states, have prominent roles in the public policy-making process. Nowhere is this more visible than with the workings of the U.S. Congress. As the nation’s chief legislative body, Congress makes policy with the dozens of statutes or laws it enacts each year. The ability to reach these decisions gives Congress a major role in guiding the nation, even if it means opposing the president. One recent example of legislative independence

occurred in 2003, when the Senate decided not to permit oil exploration in the Arctic National Wildlife Refuge. Against opposition by environmentalists, the idea of such exploration was a cornerstone of President Bush's energy agenda. Nevertheless, the Republican-controlled Senate decided to protect the wilderness area, demonstrating considerable independence from the president.

### *The Judiciary*

Although courts are not active in the legislative process, they play an important role in policy making. Courts establish policy through interpretation of the law as it pertains to guarantees in the Constitution, sometimes to the chagrin of Congress and the president. One such example occurred over the protection of voting rights. In 1965, in the heat of the civil rights movement, Congress enacted the much-heralded Voting Rights Act, which set up strict registration guidelines in states with low voter participation. Historically, low participation existed in Southern states due to intimidation of African Americans. More than four decades later, plaintiffs claimed that strict enforcement was no longer necessary because of increased African American turnout; opponents countered that without strong federal enforcement the turnout would go down. In 2009, the U.S. Supreme Court ruled 5–4 that application of the law should be narrowed to districts where minorities comprise at least half of the population.<sup>20</sup> With that decision, the Court narrowed Congress's intent.

### *The Bureaucracy*

The three branches mentioned above are recognized staples of American government. Yet, the policy-making process includes a number of other, less obvious governmental actors. The bureaucracy, a collection of agencies designed to carry out relatively specific tasks, has become so vital in modern society that it is commonly described as the “fourth branch” of government.

Officially, most bureaucratic agencies administer policies created by Congress and the White House; others operate at the state and local levels. Regardless of the level, it is often difficult to determine where the administration ends and policy making begins. For example, the Internal Revenue Service (IRS) is charged with making sure that people and corporations pay the appropriate amount of federal taxes; the agency's ability depends on the extent to which it is properly funded. Between 2007 and 2008, the IRS reduced audits of those who earned one million dollars or more by 36 percent. Agency representatives attributed the decline to a 19 percent drop in staff. In other words, the agency did not have enough people to do the job. Of course, its budget is funded by Congress.<sup>21</sup>

### *Regulatory Agencies*

Regulatory agencies are important actors in the policy-making process. For the better part of the twentieth century, the Federal Reserve Board, the Federal Trade Commission (FTC), the Securities and Exchange Commission (SEC), and dozens of other boards and commissions have been active partners in making the decisions of government. These bodies have been created in waves, first to deal with economic issues, trade, and commerce, and more recently on a wide array of problems.<sup>22</sup> Although there has been general consensus regarding the necessity, if not the performance, of most regulatory agencies, there has been considerably more criticism and controversy concerning the regulatory bodies dealing with issues such as environmental protection and worker safety.<sup>23</sup>

A different kind of controversy has surfaced about regulation of the financial sector. In 2008, the SEC, a federal agency tasked with overseeing the activities of investment banks, came under severe criticism. Beginning in 2005, the agency stepped back from close oversight and supported the path of industry self-regulation. That policy shift helped usher the way to the disaster that hit the financial services industry when risky investments by major financial institutions plummeted in value and the sector fell under its own weight.<sup>24</sup> The crisis precipitated chaos throughout the global economy and international criticism of the United States.

We have noted how policy-making institutions and their authorities execute several valuable functions. They organize issues for the public agenda and, under the right circumstances, convert them into public commitments. But once a policy has been created, its success or failure depends upon the extent to which it is carried out. This is implementation, an activity that turns official policy commitments into reality. Many of the policy actors cited above share responsibility for this function, as discussed more fully in chapter 5.

### *Federalism—The Sharing of Power among Governments*

The fifth component of the public policy-making process centers on the participant levels of government. Just as the roles of government have grown throughout the twentieth century, the numbers of governments responding to issues have also increased. More than ever, governments share policy-making functions and responsibilities. This evolution suggests major changes in *federalism*, defined here as the political and legal framework within which different levels of governments interact.

The extent to which intergovernmental relations have changed is the subject of some debate. Viewing the 1930s as a watershed in American governance, Michael Reagan and John Sanzone find substantial differences in the ways

governments now make policies. The chief change has been in the shift of policy-making responsibility primarily to the national level: “If we compare the reach of the federal government today with that which existed prior to World War II, . . . the range of public sector decisions subject to national government influence is immeasurably greater now.”<sup>25</sup> This movement has taken on a bipartisan twist in recent years, with both Congressional Democrats and Republicans asserting a greater role for the national government. From the No Child Left Behind education legislation to tort reform, Congress has established one national standard after the other, leaving the states and local governments scrambling for influence.<sup>26</sup>

Until now, we have focused on the levels of *formal* governments that take part in the public policy process. Yet, some citizens may also initiate policy from outside traditional government structures. About half of the state governments—mostly in the West—and virtually all local governments have referenda and/or initiatives as policy-making tools. In most cases, a referendum allows the electorate to vote on a policy proposal drafted by a legislature or a local government body; an initiative permits voters to propose modifications in the constitution, charter, or ordinance, which are then approved or rejected at the next election.<sup>27</sup> Many initiative and referendum questions cover extremely complex issues. Nevertheless, in recent years voters in various states have decided on policy questions on topics such as euthanasia, legalized gambling, immigration, and capital punishment. This method of participation not only brings citizens directly into the public policy-making process, but also awakens national leaders to emergent issues.

Sometimes, state or national public officials make policy decisions that conflict with another level of government. When such clashes occur, they are usually settled by the federal courts. Thus, in 1996 when California voters passed a first-of-its-kind initiative to allow seriously ill people to obtain marijuana for “medical purposes,” opponents took the question to the federal courts. In 2001, the U.S. Supreme Court ruled by an 8–0 vote that existing federal laws clearly prohibit the distribution of marijuana even for medical purposes. Although medical marijuana facilities have flourished in California, technically they remain in violation of federal law. Such are the uncertainties of the policy-making process because of federalism.

Federalism has emerged as a crucial policy-making element. Although the pressure points of the political process extend in both vertical directions (among levels) and horizontal directions (among branches) of government, most of the discussion in the following chapters will focus on the national government’s responses to policy issues. It is at this level that questions with the widest application are presented, debated, and resolved, often with profound implications for policy makers and citizens at lower levels of government.

## Contemporary Trends in Public Policy

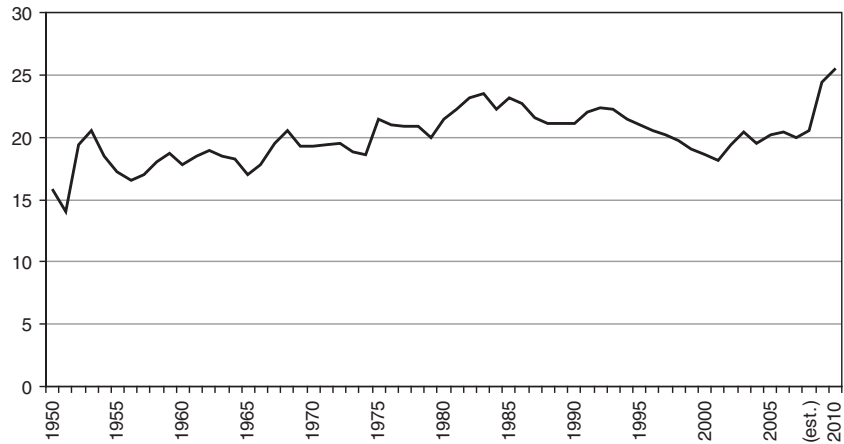
Beginning in the 1930s, American government expanded its role in society. During this period, the proportion of public expenditures to the nation's income increased dramatically. From 3.4 percent of the gross domestic product (GDP) in 1930, federal outlays rose to 10 percent in 1940, spiked during World War II to 42 percent in 1945, then ranged from 15 to 20 percent until 1980. Thereafter the level stayed above 20 percent until 1997, when the numbers began to suggest a possible long-term retrenchment, or at least a slowdown of the government's public spending. Then came a marked change and a dramatic upward movement (see Figure 1.1).<sup>28</sup>

The terrorist attacks on September 11, 2001, and the U.S. invasion of Iraq in 2003 sparked an explosion of federal spending. Yet this upward move paled in comparison to the spike that took place in the wake of the recession of 2008–2009, considered by many to be the worst downturn since the Great Depression. Federal money poured in all directions as GDP slumped. In the waning days of the George W. Bush administration, Congress agreed to a \$700 billion fund to help stabilize banks and financial institutions. Months later, the Obama administration and Congress cooperated on a \$787 billion package to stimulate the economy.

Meanwhile, outlays for “entitlement” programs such as Social Security, Medicare, Medicaid, and federal civil service pensions have soared with the aging of America. Most economists endorsed the emergency infusions to shore up the country's financial institutions and state and local budgets during the recession, but how long the economy can sustain entitlement spending is another, more problematic question on which there is little agreement.<sup>29</sup>

Much of the current debate over policy objectives centers on the ability of the national government to meet society's needs at a time when resources are no longer as endless as they once seemed. During the 1990s, for example, the economy grew at a robust rate, allowing for both new programs and the accumulation of modest budget surpluses toward the end of the decade. All that changed with a stubborn recession in 2001 and 2002, coupled with new spending commitments and a series of tax cuts promoted by the Bush administration, resulting in a rising sea of budget deficits during the first decade of the new century. The recession of 2008–2009 dispelled any thought of economic growth coming to the rescue. Conventional wisdom once suggested that American ingenuity and technology would enhance our lives on a regular basis. Indeed, the mere possibility of slowed growth has been heretical to a society where, for most, fulfillment of the “American dream” has been a routine expectation and accomplishment. Do we face a future of built-in scarcities

Figure 1.1 **Federal Budget Outlays, 1950–2010** (as a percent of GDP)



and broken dreams? Or will we adapt to changing circumstances in creative and unforeseen ways?<sup>30</sup> Either way, the prospect of belt-tightening and the possible allocation of fewer public benefits for society only underscores the importance of understanding the public policy process.

As the nation begins the second decade of a new century, the most controversial elements of American public policy fall into three broad areas: social issues, economic issues, and technological issues. Each of these has a decidedly domestic tone, although none is completely without influence from foreign factors. Nevertheless, these issues share a common bond: They draw attention to defining the “proper” extent of government commitments. In this regard, they reflect the contemporary concerns of American politics.

### ***Social Issues***

While social issues are hardly new to the American political mosaic, government response to them is largely a recent phenomenon. For most of this country’s history, governments tended to minimize their roles in any activities that involved social change or assistance. Even in such areas as welfare relief and care for the elderly, compelling questions by today’s standards, public policies were conspicuously absent. The lack of government attention was not based on economics so much as on a political tradition steeped in the virtues of individualism.

Attitudes toward welfare and other social questions underwent reassessment

during the Great Depression of the 1930s. Until that time, a few states and local governments dealt with relief on a minimal basis. But after President Franklin Roosevelt urged, and the Congress passed, the Social Security Act of 1935, governments became immersed in social issues that had previously been viewed as private matters. Aid to the poor, support for home ownership, medical research, and health care are but a few of the issues that have received government attention as a result of the seeds sown during Roosevelt's "New Deal." During the 1960s the social policy agenda included urban renewal, federal aid for education, and the new Medicare and Medicaid programs championed by President Lyndon Johnson's "Great Society."

Despite the debate over government involvement in social issues, some responses have garnered more consensus than others. Social Security, for example, has generally been considered untouchable, although concerns remain about funding the huge program. By contrast, Medicaid, a program providing medical assistance for the poor, has been susceptible to some debate. Still other issues, such as capital punishment, gun control, and federal funding for private schools, have found so little agreement that the national government has steered away from any significant policy commitments.

Health care reemerged on the nation's agenda after the election of Barack Obama to the presidency in 2008. A sour combination of out-of-control costs, questionable insurance company practices, and growing numbers of uninsured Americans led the president to call for national health-care reform. Detractors claimed that funding such a program would cost trillions of dollars and lead to a government takeover of the private sector. Proponents pointed to already exorbitant costs, large and rising numbers of uninsured Americans, and health-care statistics that compared unfavorably with those for other industrialized nations.<sup>31</sup> Philosophically and politically, the debate ultimately comes down to the question of whether people believe universal health care should be a national goal.<sup>32</sup>

### *Economic Issues*

Governments respond to economic problems because of the widely held sentiment that society needs to function with some sense of security. However, whether the benefits accrue in the form of income supports, subsidies, or safety, the costs for providing such protection are ultimately passed on to the public. Debates over the necessity of a given economic policy, weighing both costs and benefits, may be divisive. Nevertheless, government leaders are responsible for developing policies and services to meet public needs.

Economic policies tend to be controversial because they have uneven im-

pacts on society's members. The most serious economic issue areas involve two major themes: the appropriate extent of government involvement in the economy and income redistribution through taxation. Both areas have received a "walking-on-eggshells" treatment in American politics. As the economy has become more complex and more interdependent, some critics have called for government to more vigorously regulate reckless or predatory behavior by private businesses; others have been equally adamant in demanding that the private sector should be as free of government intervention as possible. Income redistribution issues have been controversial because of the tension between the "haves" and the "have-nots," and because of the debate over what, if anything, government should do to alter such disparities through progressive taxation.

Several government bodies have economic policy responsibilities. They are particularly powerful at the national level. The Federal Reserve Board and the president's Council of Economic Advisers are just two of several bodies concerned with economic issues. The Federal Reserve Board has substantial control over interest rates, a critical facet of the economy. The Fed acted decisively in 2008 and 2009 by using its authority to cut interest rates for banks to zero percent, thereby enabling these institutions to regain their footing during the financial crisis. The Council of Economic Advisers guides the president on domestic and international economic issues such as inflation, recessions, employment cycles, and balance-of-payments difficulties. Although these institutions contribute much to the formulation of economic policy, their work is not widely followed or understood.

Economic public policy issues are predicated to a large extent upon the political values held by individuals, society, and government. Moreover, often the resolution of an economic issue is tied closely to the resolution of a social issue. If, for example, the national government commits to a balanced budget, reduced expenditures for low-income families might foster social disruption. Conversely, if the national government commits to a spending format that ignores the balanced budget imperative, deepening deficits may cause inflation, leaving unhappy citizens with less purchasing power. Thus, the management of economic questions can have broad implications for all sectors of American society.

### ***Technological Issues***

From a philosophical perspective, technology has always represented a challenge to society. Ever since the Industrial Revolution, scholars have written about the drawbacks and improvements that technology seems to provide for the political order.<sup>33</sup> In their research on comparative politics, Gabriel Almond

and G. Bingham Powell note the direct impact of technological change on urbanization, education, communication, and countless other forms of political, economic, and social activity. Several consequences of technological change—notably, weakened family structures, psychological alienation, and uncertain economic conditions—present formidable problems for the political system.<sup>34</sup> Given our long history of technological evolution, American society is particularly susceptible to these difficulties.

With the emergence of the postindustrial age, the tendency has been to let technology take its own course, independent of government oversight although often boosted by government investments and subsidies. Yet developments have moved faster than society's ability to cope with them. With respect to life issues, artificial respirators and other mechanical life-support systems have led to new problems in defining life and death. Automation has eliminated millions of low-tech jobs, while creating millions of high-tech opportunities. The global reliance upon fossil fuels has increased global prosperity as well as "global warming." Cloning has created opportunities for efficient food reproduction, while causing great concerns in the area of human reproduction. The ironies are almost daunting.

It now appears that reliance on technology cannot continue without adequate safeguards for society. As technologist Rudi Volti notes, the proliferation of knowledge has produced a dizzying pace of change. "But for technology to be truly beneficial, . . . [o]ur challenge will be to develop and apply many different kinds of knowledge—ethical, philosophical, sociological, political and economic, so that we can do a better job of defining our real needs and creating the technologies that serve them."<sup>35</sup> To this, Theodore Lowi responds, "The increased pace of technological change in our epoch seems only to make the need for administration more intense" in the name of sound, well-thought-out public policies.<sup>36</sup> Indeed, the debate now centers on which issues require government oversight and how such policy interventions should take place—tough questions for a society that regularly debates the role of government.

In summary, public policy authorities deal with many social, economic, and technological issues. The public agenda—the list of questions awaiting governmental disposition—is carved from these areas of concern. Given the multitude of issues and the large number of policy-making agencies, the agenda is perpetually full and ripe for action.

## **A Look Ahead**

The creation of public policy is a dynamic process. Events, actors, and political institutions combine and conflict in a wide array of unpredictable

ways. Yet there is a general method through which basic questions are raised, considered, and perhaps decided. The rest of this book addresses that process as well as those junctures where the process may break down. The following chapters address the elements of the policy-making process as well as specific issue areas.

Chapter 2, the first of a series of linked chapters, describes triggering mechanisms and how they generate public policy issues. Chapter 3 discusses the problems of agenda building. In chapter 4, major policy actors are defined and catalogued. Chapter 5 traces the policy process to the point of implementation and considers the factors that impede or encourage effective application of public policies emerging from the political arena. Chapter 6 covers evaluation, the means for assessing the extent to which public policies have been carried out vis-à-vis their original design. In chapter 7, we review the basic elements of the policy-making process as they relate to the larger contexts of values and politics.

The concepts and tools provided in this book should help with the analysis of virtually any policy issue, whether national or local in significance.

### Questions for Further Thought

1. It has been written that public policy making is process-driven. Explain the significance of this concept.
2. Discuss the stages of the public policy-making process. How do these components frame what goes into or comes out of the policy-making machinery?
3. The stakes in the policy-making process are higher today than in the past. What factors account for this change?

### Suggested Reading

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## 2

# Triggering Mechanisms

## Catalysts for Public Policies

Public policies spring from issues that trouble a segment or segments of society to the point of taking action. Issues preceding those policies develop when individuals with similar problems are forced to cope, without solution, for an unacceptable period of time. The word *problem* could be an invitation to semantic confusion. Commonly speaking, everyone has problems in the course of daily life. Getting through the hectic workday, coping with miserable traffic congestion, and even cramming for too many exams at the same time are problems with which we are all too familiar. However, the challenges that sow the seeds of public policy decisions fall into a unique category. The individuals or groups who suffer these circumstances rely on government action to change their unfavorable condition into an acceptable situation.

Of course, one person's problem could be another's pleasure. That a domestic autoworker is laid off due to a slumping demand for American cars may be a positive development for a salesperson who works at an import dealership. Under such circumstances, agreement on the nature of the problem (e.g., the perception of poorly built, expensive American cars versus unfair foreign competition produced by inexpensive labor) may not occur, thus leaving potential policy questions unformulated and certainly unresolved. The lack of consensus leaves individuals unable to agree on a common framework for many public issues. As Robert Eyestone explains, in the stages prior to government action, "there is no official agency for sanctioning a single definition of a social problem."<sup>1</sup> When there is a lack of widespread public consensus about an issue, there is little likelihood of generating interest in the policy-making arena. So, where is the tipping point and how does it emerge?

A *public* problem requiring government response is more pervasive than a personal difficulty. The concern of large numbers of individuals with the same problem may transform that question into a public policy issue, especially if public resources are required to solve it. Nevertheless, all problems begin as individual issues, and it is the evolution of personal topics into widely shared aggravation that makes such dilemmas suddenly political and, therefore, candidates for public policy activity. What phenomenon promotes this

transfer? What is it that changes an everyday difficulty into a public debate? The answer is a concept known as the *triggering mechanism*.

In the context of the political process, a *triggering mechanism* is a critical event (or set of events) that converts a routine problem into a widely shared, negative public experience. The public response from that experience, in turn, is the foundation of the policy issue that ensues in the wake of the triggering event. When an occurrence crystallizes a nagging negative condition into a pressing political demand for change, the metamorphosis happens because of the staying power of the triggering mechanism.

Triggering mechanisms are important in reordering the consciousness levels of both the public and the public policy makers. However, their predictability is another matter altogether. John Kingdon describes the conditions for triggering mechanisms as “policy windows” that open and shut in unexpected intervals: “Once the window opens, it does not stay open long. An idea’s time comes, but it also passes. . . . [And] if the window passes without action, it may not open again for a long time.”<sup>2</sup>

Aside from obvious disruptions such as economic depression, military aggression, and natural disaster, the effects of most triggering mechanisms on the public policy process are ascertained post hoc by observing reactions to an event itself. If a development or an action attracts considerable public attention and widespread demand for change, then it is considered to be a triggering mechanism.

Inasmuch as society’s priorities change with social, economic, and political conditions, events that might generate strong reactions at one point in history may have a negligible impact at another point in time. Consider our changing attitudes toward national health care. For nearly one hundred years, advocates have led the fight for universal health care in the United States.<sup>3</sup> After the passing of the Social Security Act in 1935, reformers hoped to use the legislation as a platform for universal government-supported health care. They achieved limited success in 1965 with the passage of Medicare and Medicaid, two programs that provided nearly universal health-care services for the aged and for many of the nation’s poor. President Richard Nixon proposed a comprehensive health insurance program in 1974, but it was defeated. After failing to pass the Clinton comprehensive health care plan in 1993–94, Congress in 1997 added health-care coverage for children through the State Children’s Health Insurance Program (SCHIP). At the end of 2003, Congress passed George W. Bush’s proposal to add a prescription drug benefit to Medicare. Yet the nation is still far short of universal coverage.

Typically, working-age Americans and their families rely on employment-related health plans. Most large employers but only about half of small

businesses offer health-insurance coverage as a job benefit, with the employee contributing some share of the cost. Employees who work part-time or cannot afford or choose not to participate in an employer's plan, other workers who do not have health-care benefits, along with the unemployed, either take their chances or turn to the private insurance market. About 15 percent of the population remains uncovered, sometimes because they have a pre-existing health issue that leads private insurers to decline to enroll them, and sometimes because they are simply priced out of the market—but not poor enough to qualify for government assistance. Such families are very susceptible to being bankrupted by medical expenses.

Since 1990 the cost of health care has risen, leaving increasing numbers of families in a financial bind. Between 2002 and 2006 alone, health-care costs went up by more than 60 percent.<sup>4</sup> A recent study shows that one out of five adults with health insurance suffers financially because of high deductible amounts or missing categories of coverage.<sup>5</sup> This is another group at risk of bankruptcy. The problem has ballooned, in part, because high costs are forcing more and more companies to eliminate health insurance as a benefit.<sup>6</sup> Because of burgeoning costs and falling coverage, President Barack Obama made health care a priority on his policy agenda. In 2009, both the House and the Senate passed health-care bills that would mandate access to insurance for almost all Americans. Although the new program would not cover everyone, it would bring millions of uninsured Americans under the health-care umbrella. It also included measures intended to stem rising costs. The reform plan nearly ran aground when the two houses did not agree on a compromise bill before Congress recessed for the holidays in December 2009. Finally, in March 2010, the House passed the Senate version by a vote of 219–212 and the Patient Protection and Affordable Care Act was signed into law by President Obama.

### **Triggering Mechanism Elements**

Triggering mechanisms perform a vital function at an early juncture in the public policy-making process: they identify and clarify emerging issues. Unfortunately, these activities are difficult to anticipate because they tend to remain “hidden” from view, as their momentum builds behind more observable daily events. Nevertheless, triggering mechanisms become important to the political process when their ramifications present adverse effects for a large sector of the public under a specific set of conditions at a particular point in time. Their interference with routine tells the impacted segment of society that something is “wrong” and in need of attention.

Unexpected as they are, triggering mechanisms are significant because

of their potential for altering the conditions and boundaries of the political system. What is not necessarily part of the political process prior to a triggering mechanism may become the subject of political decisions after a triggering event has taken place. As events from the environment penetrate the boundaries of the political system, they rearrange that system. Thus, although their significance is often unforeseen or underestimated at the time of their occurrence, triggering mechanisms help define new problems and subsequent policy response options.

The value of a triggering mechanism as a catalyst for public policy stems from the interaction of four elements: scope, intensity, time, and resources. Together, these elements constitute the core ingredients of the demands for political change. The presence of each element in combination with the others establishes the potential impact of the triggering mechanism on the public policy process, as well as the likelihood for change.

The sections below elaborate on the triggering mechanism elements and their relationships to the public policy process. It is important to note that while these four components comprise the triggering mechanism framework, not all four need to be present for an issue to be catapulted onto the public agenda. However, the more that these factors exist simultaneously, the greater likelihood that the public policy issue will emerge.

### *Scope*

Scope refers to the number of people within a geographical boundary affected by the triggering mechanism. If an event has widespread implications for a sizable sector of society, the demand for action will have a broad base. However, if the triggering mechanism has altered the lives of relatively few people, it may be difficult for them to “make their case” and, hence, gain acknowledgment from political actors who have the capability to effect change.

Physical parameters and policy jurisdictions interact with scope. If, for example, a toxic spill occurs in a small town, the scope of the issue may be considerable for that area, yet rather insignificant elsewhere. Local leaders may leap into action, while national public policy makers may remain unaware of or uninterested in the problem. However, if similar toxic spills take place in other areas or toxicity is found throughout the nation’s water systems, then the scope of the events will change. Similarly, when a hurricane pounds a populated area like the Gulf Coast or the Eastern seaboard, the scope of its damage is far greater than if the storm wreaked havoc on a small island. Does this mean that isolated disasters are less important than widespread disasters? Certainly not in terms of those people who are affected. Nevertheless, the sheer numbers affected by a disaster may determine much about the stakes.

### *Intensity*

A second factor in determining the impact of triggering mechanisms is the intensity of the event perceived by the public. If an unanticipated incident receives a mild reception, then the subsequent attitudes toward the event will not dictate the need for any policy change. However, if the event captures concern, particularly in the form of fear or anger, then public policy makers are likely to pay attention to the clamor before them. One such example occurred with the terrorist attacks on the United States on September 11, 2001. In addition to the loss of lives and physical damage to New York City, Washington, D.C., and western Pennsylvania, the event evoked tremendous sorrow and anger from the American public, with huge majorities demanding that the nation's leaders find and punish the terrorists.<sup>7</sup>

In contrast to the reaction to the terrorist attacks is the public's response to the heating of the Earth's atmosphere, described as "global warming."<sup>8</sup> For over 100 years, scientists have warned of the damaging effects to the atmosphere from carbon dioxide emissions. The problem was addressed on a global scale in 1997 at an international conference held in Kyoto, Japan. Despite the warning of dire consequences in the form of acid rain, deforestation, and melting ice caps, U.S. public policy makers declined to join 178 other nations that agreed on emission rules.<sup>9</sup> Simply put, the issue failed to generate intensity, despite public awareness. Over the next decade, public concern intensified and the issue became a mainstay of Barack Obama's presidential campaign.<sup>10</sup> In December 2009, as world leaders met in Copenhagen to consider the next round of policy measures to reduce carbon emissions, President Obama pledged that the United States would participate as a full partner.<sup>11</sup> But by then the recession had dulled public interest in the issue.

### *Time*

The length of time during which a critical event unfolds is the third factor fundamental to the determination of a triggering mechanism as a catalyst for policy activity. Whereas some events seem to transpire almost immediately, others go through a lengthy gestation process. There is no necessary correlation between the duration of a triggering mechanism's development and the potency of the event; that which transpires instantly can be just as powerful as something that comes to pass over a germination cycle.

One virtually instantaneous triggering mechanism occurred with the release of nuclear waste into river water and the subsequent nuclear plant shutdown at Three Mile Island, Pennsylvania, in 1979. Within days of the incident, the public and the public policy makers alike began to engage in

widespread discussions of the risks of nuclear power and the potential for radiation disaster at the more than 100 nuclear power plant facilities across the United States.

Other events require long lead times before the public becomes sufficiently aroused to demand change. One such instance has been the basis for public dialogue about human immunodeficiency virus (HIV) and the deadly disease AIDS. When this disease was first discovered in the early 1980s, most people remained either unaware of it or unconcerned about its lethal nature. Even people who were familiar with AIDS were minimally interested because of the disease's reputation as a plague associated with homosexuals or drug users, but as more and more individuals in "mainstream" America contracted AIDS, concern about the disease and its potential for painful suffering and death grew. By the 1990s, AIDS was among the nation's leading killers, and large segments of the public were anxious to find a cure.<sup>12</sup>

### *Resources*

The fourth component that determines a triggering mechanism is the matter of resources, or precisely the costs of a problematic development. Simply put, the matter here centers on the risks we face in coming to terms with an undesirable situation. It may be dollars, lives, or even quality of life. Either way, the more the sizable elements of life as we know them are threatened, the more the possible loss of those elements contributes to the triggering mechanism.

Consider the issue of terrorism. The terrorist attacks of 9/11 extracted huge costs from the nation. The loss of 3,000 lives alone was an unprecedented blow to the United States. Beyond that loss, major industries such as the airlines and insurance suffered. Much of the nation went into a near-panic over the issue of national security. Responding to these challenges became yet another costly endeavor. Early estimates suggested that the nation would spend as much as \$100 billion dealing with terrorism, plus the new Department of Homeland Security proposed by President Bush would add another \$37 billion to the national budget.<sup>13</sup> But this was only the beginning. Projections were that the nation would need to spend \$443 billion over the next decade in response to the international terrorist threat.<sup>14</sup> Despite these staggering costs, public opinion was one-sided in support of responding aggressively to the terrorist threat.

Sometimes, the costs of solving a problem are daunting, such as the price associated with cleaning up toxic waste sites in the United States. In 1980, Congress responded to a series of hazardous waste disasters at Love Canal in New York, Times Beach in Missouri, and the "Valley of the Drums" outside Louisville, Kentucky, by creating the "Superfund" program under the Envi-

ronmental Protection Agency (EPA). The negative effects on life caused by hazardous waste are numerous, including nervous system damage, cancer, and genetic mutations, not to mention the negative effects on animals and plants. The intent of the new legislation was to require polluters to pay for the cleanup of the sites, and to draw on a trust fund for that purpose when necessary. By 2007, however, the Superfund was all but depleted, partly because the government had stopped collecting polluter fees and partly because the EPA diverted some of the money to other uses.<sup>15</sup> To this day, more than a thousand identified sites of contamination have yet to be restored to their original conditions.<sup>16</sup>

### *Triggering Mechanism Factors in Tandem—and Not*

For the most part, triggering events fail to reach or exceed the threshold for action required by the combination of scope, intensity, timing, and resources. More times than not, the heterogeneous quality of American society dissipates the intensity of most claims on government. Likewise, rarely do sufficient quantities of individuals mobilize for change over a time span sufficiently long enough to generate enough momentum to change the boundaries of the public policy arena. In their study of the American public, Sidney Verba and Norman Nie note the possible reasons for the basically passive responses to most triggering mechanisms. They find that the individual agendas of citizens are fantastically varied: “Each citizen has his own particular set of problems and concerns [which] are close to his own life space, involving job, family, house. Or, if what concerns him is more general—war, high prices, the quality of schools, traffic problems, property taxes—there remains an almost infinite variety of personal sets of public issues.”<sup>17</sup> Given changing combinations of attitudes and issues, it is the exception rather than the rule for public opinion to coalesce around a triggering mechanism for any length of time.

Voter turnout in the United States was on the decline from the late 1960s through the 1990s. Did that signify voter contentment or apathy or even alienation? Political scientist Robert Putnam found that citizen involvement in everyday activities, such as local meetings, clubs, and volunteer service groups, had dwindled at the same rate as voter participation, suggesting a deeper societal conundrum.<sup>18</sup>

It is always difficult to know whether small changes in a pattern of behavior are anomalies or signs of a developing new trend. That may be the case with U.S. voting statistics, which began to rise in 2000, 2004, and 2008 in an apparent reversal of trend.<sup>19</sup> The turnout of young voters rose significantly in 2008, with nearly two-thirds giving their vote to candidate Obama. Still, trust

in the federal government, particularly the Congress, remains stubbornly low overall. Americans place more confidence in their local governments than in Washington or even their state capitals.

Scope, intensity, timing, and resources explain the impact of triggering mechanisms on the public policy-making process. To the extent that these four elements become more pronounced, the influence of the triggering event becomes more important in formulation of issues for the public agenda. These four factors may interact in various strengths; their sum total of entanglement will produce a more or less powerful inducement for political action. Table 2.1 presents several events and the extent of their triggering mechanism capabilities.

Triggering mechanisms constitute a powerful linkage between the perception of a problem and the demand for political action. They occur at a point when the psychological elasticity between what is and what should be is stretched out of its usual shape. Robert Lineberry refers to this juncture as the moment when sufficient numbers of people become cognizant of a performance gap and realize that "something is wrong with present policy, . . . that ongoing institutions are not resolving or ameliorating problems they are supposed to deal with."<sup>20</sup> Combined, scope, intensity, timing, and resources provide the necessary ingredients for the triggering mechanism component.

### **Categories of Triggering Mechanisms**

As potential forerunners to public policies, triggering mechanisms emerge from two different environments: internal (domestic) and external (foreign). Internal events are discussed in the next section, while external triggering mechanisms are addressed in the section that follows.

For the most part, Americans do not involve themselves in the machinations of foreign policy. The issues, events, and consequences of activities abroad are rarely perceived as important enough to be incorporated into daily routines. Even policy questions regarding national security are generally viewed by most American citizens in the context of economic rather than military battles.<sup>21</sup> This is not to say that Americans ignore foreign policy if they perceive a serious threat to the status quo, as demonstrated by the extent of anxiety over the Vietnam War and, more recently, public concern about global terrorism and the war in Iraq. Nevertheless, these experiences rarely tend to overshadow traditional domestic issues for long periods of time. Given our inward issue orientation and budgetary commitments, it stands to reason that most triggering mechanisms impact the domestic arena.

Table 2.1

**Triggering Mechanism Components and Selected Events**

| Event                                 | Scope    | Intensity | Timing  | Resources | TM Likelihood   |
|---------------------------------------|----------|-----------|---------|-----------|-----------------|
| Pearl Harbor attack, 1941             | Broad    | High      | Quick   | Extensive | Immediate       |
| Global warming, 1960–present          | Broad    | Low       | Gradual | Extensive | Not very likely |
| Illegal immigration, 1990–present     | Moderate | Uneven    | Gradual | Modest    | Not very likely |
| Social Security funding, 1981–present | Broad    | Uneven    | Gradual | Extensive | Likely          |
| Al-Qaeda terrorist attack, 2001       | Broad    | High      | Quick   | Extensive | Immediate       |
| Financial industry breakdown, 2008    | Broad    | High      | Quick   | Extensive | Immediate       |

**Internal Triggering Mechanisms**

Critical events are not always neatly packaged for political analysis. For example, an economic disaster may occur simultaneously with social change, or social change may accompany a technological transformation, sometimes making it difficult to place a single event or a series of events into a particular category. That caveat aside, there are five critical points of origin for internal triggering mechanisms: natural catastrophes, economic calamities, technological breakthroughs, ecological shifts, and social evolution. These sources serve as the wellsprings of triggering mechanisms and the public policies that may follow as a result of their occurrences.

*Natural Catastrophes*

Natural catastrophes occur independently of activities undertaken by individuals or governments. Although not political in nature, these events and their consequences may alter political values and priorities. Thus, when natural catastrophes take place, their suddenness and the subsequent chains of events can have major disruptive impacts on populations, social structures, and economies.

It has been difficult to imagine that a natural catastrophe could serve as a triggering mechanism in a nation such as the United States, where 97 percent of the population lives in urban or suburban communities spread across a continent. Many disastrous incidents—hurricanes, floods, and earthquakes, to name a few—occur with great frequency. Yet, in light of their generally localized impacts, most of the time, the scopes of these triggering events

tend to be rather narrow, and the lengths of their disruptions to everyday life are fairly brief.

Hurricane Katrina, which struck Louisiana and other nearby Gulf States in 2005, became the costliest and one of the deadliest natural disasters in American history. Within hours, the deluge from torrents of rain and winds in excess of 125 miles-per-hour buckled levees and turned huge areas into fast-moving rivers. At its worst moments, 80 percent of the city of New Orleans was under water. Beyond the Crescent City, more than 90,000 square miles were devastated—an area equivalent to the size of Great Britain. More than 2,000 people perished and 267,000 homes were destroyed, leaving a homeless population in excess of 500,000 people. Televised images of the physical and human devastation that the storm left in its wake horrified people across the country. Overall, the economic toll from the hurricane was in excess of \$200 billion.<sup>22</sup> Suddenly, the question of emergency preparedness was back on the public agenda. Questions about the condition of the country's infrastructure were raised as well.

The initial response by the federal government to Hurricane Katrina was tepid at best. The president promised \$15 billion in immediate aid for victims, an amount that Congress increased to \$50 billion within two weeks. After demonstrating an apparent inability to grasp all the issues related to the devastation, the administrator for the Federal Emergency Management Agency (FEMA)—the government authority assigned to handle emergencies as part of the Department of Homeland Security—was forced to resign.

Within a year of Katrina, the federal government had committed \$110 billion to the ravaged Gulf, yet less than half the money had actually been distributed.<sup>23</sup> Ultimately, more than \$220 billion were dedicated to the Katrina relief effort, but the effort constantly seemed to lag well behind the need. Clearly, the massive storm was a triggering event of enormous proportions, and the government response did not inspire confidence. As for President Bush, management of Katrina seemed to be a turning point in his relationship with the voters. In September 2005, a Pew Research Center survey found that 67 percent of the respondents believed that the president could have done more to speed up hurricane relief. Worse yet for the president, his job approval rating slipped to 40 percent, down 10 points from the previous January.<sup>24</sup> The scope, intensity, and lost resources presented a powerful case, yet the government did not act in like fashion.

### *Economic Calamities*

Economic events interface with the social and political arenas of life. Changes in employment or productivity, for example, lead to shifts in earning and

purchasing power of individuals and businesses alike; these, in turn, may generate new conditions in the political environment. This is not to suggest that economic events are solely “independent” variables, or only the factors that cause change. Sometimes, new public policies promote alterations in the economy, rearranging the status quo in their aftermath. When new policies are formulated, interested parties often have the opportunity to shape such policies in advance. Regardless, when economic calamities occur, their suddenness often gives affected parties little advance notice.

The crisis in the U.S. financial sector in 2008 not only sent this country into an economic tailspin but set the stage for similar meltdowns throughout the world in a dominoes-like fashion. For several years, American banks and other financial institutions had issued and then packaged and resold mortgages and related loans without giving careful enough consideration to the ability of borrowers to repay those loans. Often, loans were made in amounts well beyond the worth of the property in the belief that rising values would enable the borrowers to repay without difficulty. When mortgage defaults began to rise at the end of 2006, the value of the mortgage securities was thrown into doubt. First the lending institutions began going bankrupt, and then the contagion spread to the investment banks and their insurers. Financial markets both in the United States and abroad went into a steep dive.

Suddenly, the U.S. government found it necessary to provide hundreds of billions of dollars to prop up financial institutions and halt the spiraling decline. Saying that “confidence in our financial system and our institutions is essential to the smooth operation of our economy,”<sup>25</sup> President Bush asked Congress to provide the necessary funds for the United States to temporarily buy failing securities and loans. Within weeks, Congress provided \$700 billion for what became known as the Troubled Asset Relief Program (TARP), also disparagingly called the “bailout.”

Meanwhile, the crisis in the financial system impacted not only the domestic economy but the global system. The rapid decline of oil revenues hit the Russian economy, prompting Russian leaders to accuse the United States of “dangerous” policies.<sup>26</sup> Chinese premier Wen Jiabao accused the U.S. crash of precipitating a global recession.<sup>27</sup> Argentine president Cristina Fernandez de Kirchner observed, “we are seeing how the First World collapses.”<sup>28</sup> The United States was at the epicenter of an international financial earthquake.

### ***Technological Breakthroughs***

Technology provides a continuous stream of change for society, often with profound repercussions. The consequences from technological developments can literally alter relationships between individuals, corporations, and even nations.

Consider the automobile. When Henry Ford assembled a staff of 125 men at his factory in 1903, he created a series of other conditions as well. Ford needed a large pool of available labor; he also required sizable quantities of steel, rubber, electricity, and resources from other support industries. As a result of the technological breakthroughs related to mass production of automobiles, the political system was bombarded with new challenges regarding highway development, petroleum acquisition, air pollution, proper working conditions, and numerous other issues.

The inventions of television and the computer are two technical breakthroughs that have had immense impacts on individual lives and public policies. With the development of television in the 1940s, mass communication in the United States was elevated to an entirely new level of exchange. Individuals in the most remote regions of the country could witness happenings in Washington, across the world, or in outer space. Televised presidential debates, wars in distant lands, and even such events as the Olympics are now brought into our homes with the flick of a switch.

The proliferation of computers represents another juncture in history where technology has changed the way we live. From computer-aided design techniques to the personal computer, this technology has introduced new levels of efficiency, knowledge, and information transfer into virtually every level of society. Because of its capacity to process information quickly and accurately, the computer and the technological revolution have redefined the limits of what society can do.<sup>29</sup> Surgeries, missile designs, and artificial life are but a few of the areas that have undergone fundamental evolution because of the computer. The workplace has become “virtual,” with collaboration on projects often occurring over the span of thousands of miles. Social networking has also changed the way we communicate, with the introduction of communications outlets such as Facebook, MySpace, and Twitter as well as blogs and chat rooms on a variety of issues.

Technological breakthroughs affect much more than the creation of products. Since economic, social, and political environments are intertwined, technological breakthroughs are likely to trigger adjustments throughout society. As one authority notes, “advances in technology just increase our ability to do things, which may be either for the better or for the worse. All of our current problems are unintended negative consequences of our existing technology.”<sup>30</sup> The challenges that result from the creation of new products and services quickly transfer to the political environment.

### *Ecological Shifts*

Many of the resources most necessary to human survival exist only in finite quantities and are vulnerable to depletion. In some countries, land has

been tilled and retilled to the point of poor productivity. In other countries, water has not always been available in required quantities for agricultural functions. Worldwide, the consumption of oil has increased faster than the ability to find new petroleum or to operationalize new, alternative energy sources. Some of the most pressing contemporary ecological problems stem from the unsafe disposal of wastes of all kinds. Other concerns are associated with the effects of technology on the biological, physical, and chemical environments.

Shifts in the ecological balance have potentially widespread impacts as triggering mechanisms. Whether the problem is local or transnational in scope, the loss or depletion of resources can become critical to the future distribution of goods and values. With respect to land, for example, Zachary Smith writes that soil erosion and desertification have contributed to the loss of valuable farmland and increased risk of famine. As a result, our changing ecosystem leads to huge political problems.<sup>31</sup> In the course of managing our environments, we run the risk of both ecological change and potential redistribution of critical resources. Thus, the balance of nature and political life is a closely intertwined system.

Ecological changes may have many causes, both natural and manmade. Often, there is an observable sequence of prior events, whether the cutting down of forests or the damming of waterways. Sometimes, however, ecological shifts happen slowly in response to human activity which, at least at the time, is not perceived as problematic. The discovery of an unforeseen negative impact may be shocking enough to trigger public reactions and, hence, to raise previously unconsidered public policy issues.

The ecological changes resulting from water pollution have led to concern and political change. Water, of course, is basic to human survival; it is a means of travel as well as a foundation for the food chain. With increases in industrialization and population during the twentieth century, many critical functions of water have been threatened. As a source of food, Lake Erie was declared “dead” during the 1960s because of pollution. Even more dramatic has been the havoc wreaked by “acid rain” on large Canadian and American population centers and their water supplies, also jeopardizing hundreds of plant and animal species.<sup>32</sup>

We have already mentioned the phenomenon known as global warming.<sup>33</sup> Gases from motor vehicle emissions, factories, and mining operations are released into the atmosphere in excessive amounts, where they form a powerful barrier that keeps heat from dissipating. The higher temperatures trigger a raft of problems, including melting of the polar ice caps, rising ocean levels that flood low-lying lands and populations, and extremes of lengthy droughts and intense precipitation. That’s only the beginning of what could be a radically

restructured environment. Additional consequences range from disappearing species to increased onset of skin cancers. Many of these changes were first detected years ago, leading scientists to offer dire early warnings about health and the environment.<sup>34</sup>

Ecological shifts demonstrate the extent to which unusually powerful forces can disrupt what were thought to be life's certainties. They also show the difficulties that nations face when, in order to respond to global problems, they must alter their priorities for the good of future generations around the world.

### *Social Evolution*

Social evolution takes place as large sectors of society alter attitudes toward values, behavior, and government obligations. Such changes are hard to detect because of the many factors that promote stability among the public and thereby discourage change. American citizens are socialized at an early age, and are taught that compromise is preferable to conflict, and cooperation is more desirable than rebellion. Indeed, our political culture is framed in large part by a series of attitudes that encourage compliance with authority over excessive dissent.<sup>35</sup> People are therefore likely to tolerate unsatisfactory conditions for a long time. Robert Eyestone observes that "many social problems in the United States are endemic, or at least remarkably resistant to solution. Problems under the general headings of war, poverty, and ethnic group relations fall into this category."<sup>36</sup> Some dilemmas, then, are not passing in nature; rather, they seem fixtures in the American constellation of issues and challenges.

Despite inertia that resists fundamental change, however, there are turning points in history at which values and events converge to push society in new directions and, hence, to rearrange the social fabric. As a result of these changes, the boundaries of acceptable political action assume new dimensions.

Few examples of social evolution have been as sweeping as the women's rights movement. Similar to other changes of great impact, this concept gradually has gained support over its lengthy, stormy history. While in 1920 the Nineteenth Amendment gave women constitutional equality "on paper," critics charged that the new guarantees were blunted by a series of barriers constructed in the private sector as well as by government institutions. Yet, demands for equal treatment with men fell on deaf ears until a series of other long-term changes transpired. Declining birthrates, fewer and later marriages, larger numbers of female college graduates, and greater participation in the workforce by women were all factors propelling the movement to rethink women's status in social, economic, and political sys-

tems.<sup>37</sup> These changed attitudes crystallized in the 1960s and 1970s; more importantly, they set the stage for policy changes and increased female clout in the political process.<sup>38</sup>

The expansion of their roles in American society triggered women's demands for a larger share of society's benefits. But, much as other discriminated groups did, women continued to suffer profound economic deprivation.<sup>39</sup> Armed with evidence of inequity, advocates pursued legislation designed to overcome income disparities. Their quest met with some success. In 1974, Congress passed the Equal Credit Opportunity Act, banning credit discrimination on the basis of gender. The momentum of the women's movement slowed somewhat when fewer than the required three-fourths majority of the states approved a proposed equal rights amendment during the 1970s. Nevertheless, the "equal pay for comparable work" question was partially resolved in 1981, when the U.S. Supreme Court ruled that women with comparable job skills who receive lower salaries than men may file suit against their employers for sex discrimination, even if their work assignments are not identical. In 1988, the Court ruled that the exclusion of women from private social clubs denied them the opportunity to "network" in ways similar to males.<sup>40</sup> In 1996 the Court declared that university military academies must admit women into their programs. In 2004, women were finally permitted to play active infantry roles.

This progress notwithstanding, today, women still earn only about three-fourths as much as their male counterparts. Although this figure is much higher than thirty years ago when they averaged only half, women have been stuck at the 75 percent threshold since 1990.<sup>41</sup> As for positions at the top, twelve women served as CEOs in the Fortune 500 companies, a scant 2.4 percent of the total. Their pay: 85 percent of the amount earned by their male counterparts.<sup>42</sup>

In the electoral arena, women have achieved near parity in several state legislatures, and many have been elected to governorships. At the national level, their numbers have tripled over the past twenty-five years, and yet even the record number of women serving in the U.S. Senate (17) and House of Representatives (74) in 2009 falls far short of the 52 percent they represent in the general population. All factors considered, the rising consciousness of women as equals has triggered debate on numerous political issues and has influenced subsequent policy changes. Nowhere has this leadership been more evident than with the passage of the Family Leave Act of 1993, a law that grants unpaid twelve-week leaves for workers in cases of family illness or after childbirth, and with increased congressional support for research on women's health issues.

## External Triggering Mechanisms

Foreign policy making is the determination of how one country will act toward another. Exchanges of commerce, ideas, technologies, and violence are some of the more important aspects of foreign policy. Whereas oceans, mountains, and other natural barriers once limited exchanges between nations, modern technologies have condensed the world to dimensions so small that a satellite can circle it in less than ninety minutes. Mobile phones, computers, and the Internet permit people to communicate in “real time,” thereby increasing the frequency of interaction. It is this sense of shrinkage that magnifies the power of external events to act as triggering mechanisms for some of the most explosive issues and weightiest policy decisions that confront public officials.

Like their internal counterparts, external events create issues that appear on the public agenda. Although the scope may be such that only two or three of the world’s nations are involved initially, the intensity of these triggering mechanisms can be very high. Meanwhile, the time horizon may be incredibly brief, if volatile. Moreover, the “spillover” possibilities are endless even for those countries not directly involved in a conflict. Inasmuch as the United States is a nation of extensive global involvement, it is commonly affected by external triggering mechanisms regardless of the country for which they are intended.

Four major categories of external events trigger new policy issues for domestic consideration: acts of war, indirect conflicts, economic confrontation, and the growth of weaponry. These are examined individually in the sections below.

### *Acts of War*

The military violation of one nation by another represents the most blatant example of an external triggering mechanism. Even when nations are not engaged in conflict, they are most likely to be pursuing in activities related to conflict. Hans Morgenthau once wrote that virtually all “nations active in international politics are continuously preparing for, actively involved in, or recovering from organized violence in the form of war.”<sup>43</sup> If the nuclear age has divided the world into military “haves” and “have-nots,” it has not reduced the opportunity for any one nation to engage another in war. Even the end of the Cold War has not eliminated the possibility of one nation pursuing another.

Unlike many other nations, the United States has been affected by relatively few acts of war. However, the events leading to World War II represent

a vivid account of war as a triggering mechanism for public reaction. As a result of the Japanese surprise attack on Pearl Harbor in 1941, American attitudes toward participation in the international conflict reversed from reluctant involvement to immediate participation. The attack triggered an entire series of questions that brought immediate responses. The event was broad in scope and high in intensity. Although the attack lasted but a few hours, the changes in American approach were massive. This event stands as a clear-cut example of how an external event can mobilize demand for domestic response.

Few triggering events have the clarity of an attack or invasion. More commonly, the intentions behind foreign policy moves are difficult to discover, making interpretation a difficult task for the policy analyst. Particularly when military action is a possibility, the lack of clear-cut alternatives can be a liability for a nation responding to a threat. Under these circumstances, external triggering events are open to conflicting assessments at home due to “second guessing” about motives; more times than not, this lack of clarity contributes to an atmosphere of domestic confusion, if not rancor.

The Persian Gulf conflicts of 1991 and 2003 were precipitated by unusual situations. In the first instance the United States reacted to Iraq’s invasion of its neighbor. In the second instance, the United States invaded Iraq preemptively in the name of self-defense.

On August 2, 1990, Iraq invaded Kuwait, its neighbor to the south, after which Iraqi president Saddam Hussein announced annexation of the area. Although the United States was not an immediate party to the military struggle, President George H.W. Bush contended that the Iraqi invasion of Kuwait was illegal, immoral, and unacceptable. In addition, because 70 percent of the world’s petroleum reserves are found in the Middle East, many observers feared that Iraq’s actions would bring about instability in the always precarious oil industry.

In concert with other governments, the United States took the issue of the Iraqi invasion to the fifteen-member United Nations Security Council, which ordered Iraq to leave Kuwait by January 15, 1991, or face international reprisals. When Iraqi forces failed to withdraw, the Security Council authorized a consortium of nations led by the United States to take the military action necessary to force Iraqi withdrawal.<sup>44</sup> Between January 15 and March 1991, American air power and 500,000 U.S. troops led twenty-eight nations in an intensive assault on Iraqi troops and military facilities. Hussein accepted United Nations (UN) terms for peace on April 4, 1991, including ongoing inspections to ensure no future military action.<sup>45</sup>

Over the next decade, the United Nations maintained surveillance of Iraq, including aerial observations and on-site inspections. Relations between the

UN forces and Hussein became contentious over time, however, with Iraqi officials making it virtually impossible for the UN to carry out its work. In September 2002, President George W. Bush went before the United Nations, claiming that Saddam Hussein had violated the terms of the peace by stockpiling chemical and biological weapons, and collaborating with international terrorists. After the attacks of September 11, 2001, the United States viewed any further tolerance of Saddam Hussein's regime as an unacceptable risk. In October 2002, the Congress passed a resolution authorizing the president to take whatever action necessary in Iraq. In March 2003, after six months of Security Council debate over the best approach to deal with Hussein, Bush decided to go ahead with a largely U.S.-led invasion of Iraq without the Security Council's endorsement.<sup>46</sup> The war was over in a matter of weeks, with Hussein and his regime removed from power.

Although the two conflicts were directed at the same enemy, their outcomes were very different. In the first case, the United States and its coalition partners joined together with the limited objective of pushing Iraq out of Kuwait. Arab nations paid about 90 percent of the cost. In the second instance, the United States embarked on regime change—that is, the ouster of Iraq's leader Saddam Hussein—without international support other than token assistance from a few nations. This aggressive, unilateral approach cost the United States dearly in the international community.<sup>47</sup> It cost Bush at home, too, given that over time the public learned that the reasons given for going to war were unfounded.<sup>48</sup> Further, though the invasion was over in a matter of weeks, the resistance of Iraqis to U.S. presence coupled with internal disarray required the presence of 150,000 American troops for the better part of a decade and resulted in heavy casualties.

The end of the Cold War may have limited the number of superpowers, but the ability of one nation to harm another remains undiminished. With increased access of many nations to nuclear capabilities, the risks of conflict have become more deadly. India, Pakistan, and North Korea have acquired nuclear arsenals and Iran is striving to develop that capability. The selling of nuclear technology has made the world a much more dangerous place than it was when the superpowers kept most of the technology within their control. Such conditions increase not only the possibility of war but also the probability of accidents.

### *Indirect Conflicts*

In addition to the overt struggles between nations, the precipitation of conflict may affect the policy patterns of other parties. When this development occurs, the area of conflict grows and stakes increase. Furthermore, the involvement

of additional nations in a military conflict invites additional opportunities for unexpected events to take place.

The civil war in Bosnia exemplifies not only a tragedy that ensued when that republic declared its independence, but also a struggle for dominance among neighboring countries. Bosnia, one of the constituent republics of the former Yugoslavia, was populated by Orthodox Serbs, Bosnian Muslims, and Roman Catholic Croats. Thus, aside from its obvious religious overtones, the armed conflict was fueled by nationalist feelings and ambitions that reignited as Yugoslavia broke up. The Serbs' bombardment of Bosnia's beautiful capital city of Sarajevo and evidence of brutal atrocities were widely reported, but seemingly to no avail. Finally, in 1995, NATO bombing of Bosnian Serb positions tipped the balance and brought regional leaders to a peace conference in Dayton, Ohio. The Clinton administration deployed 20,000 American troops for peacekeeping purposes related to the separation of the parties and organization of a presidential election in the war-torn nation. Clinton's move sparked criticism that he had brought the United States perilously close to participation in the conflict. Nevertheless, the peace held in Bosnia. Four years later, when a similar scenario seemed to be unfolding in Kosovo, NATO intervention was swift and decisive.

In the opening decade of the new millennium, several areas of the world remain as trouble spots. Among them:

- *India and Pakistan.* Both countries have nuclear weapons as components of their military arsenals. Within the past decade, the two have clashed over borders and terrorist incidents, and their disputes remain unresolved. In 2003, India publicly considered a "pre-emptive" strike on Pakistan.
- *North Korea.* After suspending research in 1994, North Korea resumed work on its nuclear capabilities in 2002 and conducted tests in 2006 and 2009. The erratic and aggressive behavior of the country's dictator made this development even greater cause for alarm. "Six-party talks" held with the United States, China, South Korea, Japan, and Russian have so far failed to resolve the problem.<sup>49</sup>
- *Iran.* Domestic turmoil in Iran coupled with the regime's pursuit of nuclear capabilities raises numerous causes for concern.

Along with the prominent examples cited above, conflicts—some active, others not—persist throughout the globe. Africa has witnessed the Congo wars and strife in Sudan and Somalia; Russia's brief war with Georgia in 2008 signals the risk of further tensions on Russia's borders or within Rus-

sia itself; and the Middle East remains a hotbed of instability. Each of these centers of strife has the potential of blowing up beyond the boundaries of the combatants. In addition, loosely organized yet potentially powerful terrorist networks such as al-Qaeda present the possibility of warlike attacks by non-state actors.

The end of the Cold War may have led to a more unstable world simply because nations are less dependent upon the superpowers that, among other functions, once served to police their political satellites. With less discipline to check them, dissatisfied nations and their governments have the ability to turn on others and bring bystanders into unwanted confrontations. As Phil Williams writes, "in a world lacking the imperatives of bipolarity, alignments are likely to be much more fluid and more volatile than during the Cold War." As a result, what Williams describes as "rogue" states operate seemingly with reduced fears of repercussions.<sup>50</sup>

### *Economic Confrontations*

On an abstract level, nations are defined by their sovereignty. They are independent units that assume responsibility for their own politics, military affairs, and economic organization. Practically speaking, however, nations exhibit a good deal of interdependence. For example, sovereign governments work together politically through the United Nations. From a military perspective, members of the North Atlantic Treaty Organization exemplify the willingness of nations to commit to defend each other in order to protect themselves. In the economic realm, too, nations often find that, when they lower the barriers between their economies, the collective benefits outweigh the costs. The European Union grew out of decades of political, military, and economic cooperation by the nations of Western Europe after World War II.

Sometimes, economic relations are not so harmonious. If, as some suggest, the "economic pie" of the world operates to the extent that one nation's gain is another nation's loss, then the sovereign economic policies that benefit some nations may bring harm to others. Certainly, a number of oil-importing countries have expressed these sentiments about their oil-exporting counterparts. Similar sentiments have been expressed by Third World, or "developing," nations that criticize industrialized countries for buying raw materials at low prices, only to sell them back as processed products for exorbitant profits.<sup>51</sup> And all are vulnerable to the contagion effect, when a crisis in one economy or region impacts the globalized economic system.

Periodically, nations attempt to solve shared problems or settle their differences through international bodies or at international conferences. Some-

times, efforts to reach agreement fail when a key party finds the terms unduly intrusive on its own interests. The 1997 Kyoto Protocol on greenhouse gas emissions constitutes a case in point. At this meeting, 178 nations signed an agreement to reduce emissions by 2012, with financial penalties for nations out of compliance. The United States initially agreed to terms during the Clinton administration. However, his successor, George W. Bush declined participation because of the plan's cost and potential harm to the American economy—this at a time when the United States with 4 percent of the world's population contributed 25 percent of all greenhouse gas emissions.<sup>52</sup> In the early months of his presidency, Barack Obama promised that the United States would take action to curb carbon emissions.<sup>53</sup> He proposed a system of “cap and trade” permits and expanded clean energy research to be funded by the proceeds.

When one nation manages its economic policies in a manner harmful to another, economic confrontations often result. The second nation may suffer to the extent that its externally caused economic woes inspire economic or political retaliation.

The United States has a long record as a leader in commerce and trade. It is not surprising, therefore, that when other countries challenge U.S. dominance, economic and political tensions result. Consider the uneven trade relationship between China and the United States. Since 1985, the United States has experienced a steadily growing trade deficit with China. In 2008, the deficit grew to a record \$268 billion (it reversed direction in 2009 mainly because recession led U.S. businesses to cut back on imports). Some economists have blamed the disparity in the level of American exports on the high value of the dollar and the lack of government incentives for U.S. companies, while others cast a wary eye at barriers put up by the Chinese government to U.S. imports. Determining where to place the blame is a difficult task, especially since in this era of globalization large numbers of American companies operate in China, where they are able to produce goods for a small fraction of what it would cost to make them in the United States.<sup>54</sup> To the extent that their economies are linked, both countries have reason not to rock the boat too much.

In recent decades, nations everywhere have reassessed the benefits of protectionism versus the costs of lost exports. In 1994, 124 nations ended seven years of talks as signatories to a treaty known as the General Agreement on Tariffs and Trade (GATT), a pact designed to slash tariffs by 40 percent, to cut subsidies, and to create new international export rules. The agreement gave rise to the World Trade Organization (WTO), an international body that is supposed to settle trade, patent, and other disputes between nations. Yet, the confrontation between wealthy and poor nations over the rules continues to plague the WTO.<sup>55</sup>

### *New Weapons and the Balance of Power*

Most analysts agree that if there is another world war, it will have a nuclear ring of finality, if not from direct assault, then from the massive radiation that will surely encircle the globe. Aside from the two atomic bombs dropped by the United States on Japan at the end of World War II, the community of nations has not experienced purposive nuclear disaster. However, whereas the United States enjoyed a virtual monopoly on nuclear technology fifty years ago, more than a dozen nations share this knowledge today. In addition, many nations now possess the means to develop and deploy arsenals of chemical and biological weapons, which can also wipe out large numbers of people.

The development of weapons has profound effects on the way that two or more nations respond to each other as well as on the entire international political system. As with most matters related to foreign affairs, weapons developments trigger reactions from relatively small sectors of society. Generally, only military and political elites are affected by military questions, although they may serve as opinion leaders for wider response on those rare occasions when segments of the public show interest.

If the scope of the public's knowledge concerning international weapons developments is rather narrow, the intensity of the issues can be substantial for those invested in the issue. An invention in one nation will automatically precipitate a reaction from an adversary. International relations authority Hans Morgenthau once wrote that "the principal means . . . by which a nation endeavors with the power at its disposal to maintain or reestablish the balance of power are armaments. . . . The necessary corollary of the armaments race is a constantly increasing burden of military preparations . . . making for ever deepening fears, suspicions, and insecurity."<sup>56</sup> Far from being a policy decision with solely internal repercussions, a nation's commitment to new weapons may develop out of a "reactive linkage orientation" to the military policies of other nations.<sup>57</sup> Changes in weapons deployments and strategies have sweeping ramifications.

Two seemingly incompatible developments have occurred in the international weapons arena since the end of the Cold War. The first of these developments centers on the new role of the United States after the Soviet Union collapsed. In an attempt to assure unrivaled primacy, the Department of Defense in 1992 drafted a strategy to "prevent the re-emergence of a new rival." The core element of the plan rested on the United States operating independently of the United Nations or other arrangements to preserve world order, and doing whatever is necessary to protect U.S. interests and to keep other nations from acquiring weapons of mass destruction.<sup>58</sup> It was

these principles that led President George W. Bush to launch a preemptive invasion against Iraq in 2003.<sup>59</sup>

The second development concerns the ever-widening availability of powerful weapons to new, eager consumers. A network set up by a Pakistani scientist channeled nuclear technology and equipment to Iran, North Korea, and Libya.<sup>60</sup> Conventional weapons, too, are sold widely, legally, and profitably. In 2008, for example, the United States sold \$32 billion worth of arms, up from \$18.6 billion in 2000;<sup>61</sup> U.S. sales represented about 40 percent of the amount sold worldwide. Regardless of the distributor, each sale of arms increases the opportunity for one nation to ravage another, not to mention the possibility of accidental use.

More than fifty years ago, then-professor (later secretary of state) Henry Kissinger observed that “in addition to the psychological and political problems, the technological race makes it difficult to negotiate a control plan [for international peace safeguards]. For the rate of technology has outstripped the pace of diplomatic negotiations.”<sup>62</sup> The perfection of germ warfare and sophisticated military space satellites—all accomplished in the name of defense—has left the world’s population in a precarious state of vulnerability.

### **External Triggering Events and Domestic Repercussions**

The discussion thus far has treated external and internal triggering mechanisms as separate phenomena. Internal triggering events commonly stir the public conscience on issues relative to the domestic sphere. With respect to foreign-inspired triggering events, the results are equally predictable: External events stimulate domestic responses for the primary purpose of coping with foreign policy issues. In either situation, the focus of public reply is determined by the origin of the triggering mechanism.

Sometimes, under unique conditions, external triggering mechanisms may bring about responses for a nation’s domestic agenda only. In these particular cases, new domestic issues are raised by international events that the affected nation has little ability to control or change, and political reaction tends to center on domestic objectives.

The persistence of international terrorism and the development of the French birth control drug RU-486 are two examples of external events that have impacted U.S. domestic policies. International terrorism was long considered a foreign “problem” rather than a domestic issue. Skyjackings over international waters and bombings abroad, while despised by U.S. leaders, were viewed as issues that were largely the responsibility of other nations. U.S. attitudes changed in 1993, after Muslim fundamentalists bombed the World Trade Center in New York City, causing dozens of deaths and injuries.

The concern for international terrorism became a mainstay on the American public agenda after the attacks of September 11, 2001. The reaction in the United States led not only to heightened concern about national security but also to new attitudes toward civil liberties. The Protect America Act passed in 2007, for example, eased the rules for warrantless surveillance, making it easier for government agencies to intercept electronic communications involving parties located outside the United States.<sup>63</sup>

In the case of RU-486, the development of a pair of “morning-after” pills in France enabled women to end the possibility of a pregnancy immediately after intercourse. Though popular in Europe and Asia, availability of RU-486 precipitated a huge public policy debate in the United States on the grounds that the drug was dangerous and interfered with the “right to life.” The first Bush administration prevented use of RU-486 in the United States, but in 1993 the Clinton administration gave the Food and Drug Administration (FDA) permission to test the pill. The FDA approved distribution for public use in 2000, leading to a new round of protests from the Right to Life movement.

The linkage between external events and domestic impacts points to the extent to which sovereign nations are dependent on international affairs. While countries may attempt to isolate themselves from distasteful or controversial developments abroad, the fact remains that external-internal linkages can result in the transformation of external developments into domestic issues.

### **Triggering Mechanisms—Wellsprings of Public Policy**

Triggering mechanisms are only as important as the responses they generate. Given a variety of pressures—both domestic and international—at any point in time, it is difficult to project which occurrences are likely to assume the importance of triggering events. Those phenomena relating to change alone do not necessarily fall into the triggering mechanism category. If events gently nudge society into a new direction without a sense of disorientation or anxiety, then such developments will evolve without the triggering event as a public policy stimulus. Moreover, if society accepts upheavals as natural or routine, then their impact as triggering mechanisms will be minimal as well. These disclaimers notwithstanding, it is important to remember that triggering mechanisms are the catalysts for pressures that, in turn, lead to demands for new or changed public policies.

Scope, intensity, timing, and the resources associated with triggering mechanisms help to determine the impact of a given event on public values. But, in many instances, an event will not shake out as predicted. For example,

despite the deaths of nearly 100,000 people in Bosnia, Americans were almost indifferent to the horrors unfolding in Central Europe during the 1990s as Yugoslavia broke up. Americans have been even more detached from the tragedy in the Darfur region of Sudan, where between 2004 and 2009 more than 400,000 people lost their lives to government-sponsored militias. Then again, there are times when the triggering mechanism components collide in such a manner as to spark almost instant public policy. The bombing of the Murrah Federal Building in Oklahoma City in 1995, for example, triggered a nearly instantaneous response from President Clinton and Congress in the form of strengthened antiterrorism legislation. Similarly, after the terrorist attacks of September 11, 2001, Congress passed the USA Patriot Act, providing vast new powers for the U.S. government.

Although triggering mechanisms may not result in a policy change, occasionally such events generate a momentum of their own over a prolonged period of time. In these cases, the triggering mechanism becomes the stimulus for subsequent events, almost as an earthquake provokes aftershocks. When the Watergate affair was first reported in 1972, President Richard Nixon referred to it as a “third-rate burglary.” The nation, caught between the dazzle of a presidential election campaign and the tragedy of Vietnam, seemed all too anxious to agree. Yet, subsequent events in the forms of investigations, trials, and public confessions gave new weight to the Watergate scandal as a defining moment in American politics. President Nixon resigned in the face of certain impeachment and near-certain conviction over his management of the incident. Thus, the seemingly unimportant triggering event ultimately led to a much more important political response.

Triggering mechanisms are the starting points for public policy questions. Their occurrences are difficult to anticipate, while their impacts on the public are equally unpredictable. Aside from the uncertainties discussed above, triggering mechanisms should be appreciated for their role in organizing public policy issues that emerge on the public agenda. They are the crucial forerunners of the public policy-making process.

### Questions for Further Thought

1. Triggering mechanisms have been described as the wellsprings of public policy. Explain the linkages in this relationship.
2. What do scope, intensity, timing, and resources tell us about triggering mechanisms? How do they combine to create issues for the public agenda?
3. Distinguish internal triggering mechanisms from external triggering mechanisms. In what ways do they impact on each other? How do they differ in their impacts on society and public policy makers?

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# 3

## The Public Agenda

### Focal Point for Policy Decisions

Just as the newspaper headlines change from day to day, so too do the issues challenging government leaders. But, for a variety of reasons, certain issues seem to stick around longer and weigh more heavily than others. These problems become part of the public agenda—the most demanding problems that have reached the attention of policy makers for management and disposition.

Like a barometer that reacts to different climatological conditions, the public agenda changes with shifting public priorities and values. As such, the public agenda assumes a dynamic presence. As Robert Eyestone observes, the combination of problems confronting modern society is hardly static in quantity or quality.<sup>1</sup> Some problems are a “one-time” phenomenon: they reach the public agenda, are solved by policy makers, and never reappear. Other problems are open-ended in nature: they are not aggravating enough to capture support, yet sufficiently annoying to garner attention. Sometimes, an issue may be so complicated or so divisive that little other than temporary patchwork solutions can be applied, leaving the distinct impression among participants that the issue will reemerge at another time. In summary, the public agenda is a changing collection of issues, often unpredictable and volatile, awaiting action by policy makers.

The relationship between triggering mechanisms and the public agenda yields powerful linkage for the policy-making process. After triggering mechanisms catapult once private or unnoticed matters into public view, these questions join others that are already ongoing public agenda items. Grouped together, the issues awaiting response by public policy makers generally are in various stages of resolution, stalemate, or decomposition. Whether such questions are placed before a local school board or the U.S. Congress, virtually all government entities deal with an agenda full of unresolved matters.

In this chapter, we will address the public agenda from several perspec-

tives. First, as public policy analysts, we must identify the sources of agenda building, that is, the people who bring the messages to policy makers. Some messengers—elected officials, for example—are fairly visible to the public. Other agenda-building agents are considerably less noticeable to the public eye, but effective nonetheless. In addition, some agenda builders are more successful than others because of their public exposure, political clout, or official responsibilities in the public policy-making arena. It is one thing for an obscure bureaucrat to write a technical report about the addictive potential of tobacco; it is quite another for the director of the Food and Drug Administration to articulate the same claim before the House of Representatives Subcommittee on Health while flanked by a dozen television cameras. Awareness of those responsible for organization of the public agenda allows us a more comprehensive understanding of the myriad sources of pressure and policy change.

Second, we will explore the various symbolic and substantive issues that constitute the public agenda. Symbolic issues evoke decisions on political values, while substantive issues deal with the allocation of government resources. Such categorizations help clarify the claims on government; they also give insight into the possibilities for resolving controversial issues through new public policies. If the issue is symbolic, it may be satisfied with a proclamation or statement of intent. However, the more substantive an issue becomes, the more imperative it is for policy makers to satisfy competing interests and goals. Given a particularly complex issue, policy makers' abilities to decide outcomes may be sorely tested and subjected to pressures from many directions.

Third, we will examine the difficulties of organizing and reorganizing the public agenda. As the values of the public and policy makers change, so do their definitions of the troublesome problems facing them. Of course, some issues have a perennial quality. At the same time, new questions may be triggered unexpectedly at a moment's notice. Under some conditions, such as a troubled economy, the surge of new issues over a short time span may not only be dramatic, but test the limits of the political system. Thus, the public agenda shifts like a series of snapshots taken in rapidly changing scenery: The sights at one moment may be considerably different from those observed at another.

The difficulty of separating issues from nonissues compounds the public agenda puzzle. When examining agenda components, the question is often asked, to what extent are the publicly expressed problems the real problems of society? Are there nonissues that have been suppressed from public exposure by private interests seeking to prevent open discussion? To fully

assess the meaning of the public agenda, it is wise to determine whether the concerns of society actually have been expressed, heard, and accepted by policy makers as agenda items. Thus, we will discuss the concept of a “hidden agenda.”

American society in the past quarter century has witnessed an explosion of issues, leading to a crowded and disjointed public agenda. Representatives of countless interests believe that *their* problem is the one most in need of government attention. The list only seems to grow longer with each crisis. New demands for a range of social services, the shift from an industrial economic base to a service orientation, environmental concerns, equality issues, trade imbalances, and international stability are among the many problems that have surfaced and remained on the public agenda without resolution. As Thomas Dye notes, “deciding what will be the problem is even more important than deciding what will be the solution. . . . Creating an issue, dramatizing it, calling attention to it, and pressuring government to do something about it are important political tactics.”<sup>2</sup> Given the constant bombardment of issues, U.S. public policy makers have both challenges and opportunities today as they have rarely had in the past.

### **Agenda Builders**

Aside from unpredictable issues that spring up from such events as natural catastrophes or terrorist attacks, agenda building is a carefully orchestrated task. In general, the actors who bring potential policy issues into the public arena do so because they perceive the need to expose a political problem with the hope of altering an existing policy arrangement. In most cases, the public agenda develops out of the publicity and/or information that emanates from four basic sources: public officials, the mass media, interest groups, and the bureaucracy. These actors may work alone or in combination to place issues on the public agenda.

#### ***Public Officials***

Elected public officials are perhaps the most obvious agents of the agenda building process because they have two roles to play. As political leaders, these officials may dramatize the importance of issues in an effort to mobilize public support and the cooperation of their colleagues in positions of authority. Also, by virtue of their ability to actually make policy, public officials are in the unique position of placing issues on the public agenda and dealing with them. They are sought for their ability not only to express issues but to direct them through the policy-making maze.

*The President*

No national leader reaches the American public in as many ways as the president. With the availability of modern communication techniques, presidents increasingly take their cases and issues to the people, through televised addresses, press conferences, and strategic meetings with carefully selected audiences. Jeffrey Cohen and David Nice point out that in the modern, communications-oriented era, presidents rely upon television during “prime time” to promote their objectives directly to the public. As a result, they can control the agenda before sizable audiences.<sup>3</sup> With his ability to command attention, the president tries to use the public as leverage against reluctant policy makers.

Setting the agenda can be both rewarding and frustrating for the chief executive, for his involvement in the process raises the stakes considerably. After Barack Obama won the presidency in 2008, he scored a quick legislative victory with the American Recovery and Reinvestment Act, a massive \$787 billion economic stimulus package intended to mitigate the effects of the nation’s worst recession in decades. He then plunged into the difficult areas of energy policy and health-care reform. In both cases, the president seemed to leave it up to Congress to thrash out the details. Both initiatives lost momentum as 2009 wore on and the legislation took on the appearance of a patchwork of deals. But after the president met personally with wavering Congress members and won their support for the Senate version of the health care reform package, the bill finally passed with votes to spare.

The simple fact is that the resources at the president’s disposal extend beyond those of any other elected official when proposing the public agenda. His ability to command public attention is unparalleled, particularly in challenging situations. At the same time, the president is held to the highest standards of accountability before the nation and, in some cases, the world.

*The Congress*

More than ever, the presidency seems to be the main source of initiative in public policy making. However, members of Congress are another set of well-known agents who help frame the public agenda. Legislative investigations, congressional committee hearings, and even individual members’ efforts to bring an issue to light are all ways in which these individuals mold the public agenda. A committee may hold hearings on a given subject ostensibly so that it can uncover new information for public consumption. The congressional inquisitors may also use publicity from the hearings to generate support for new public policies.

The issue of torture offers a recent example. During the early years of the “war on terror,” rumors began to circulate about the use of torture methods against detainees. The White House and the CIA repeatedly denied the claims, but in 2004, revelations of abuses at Abu Ghraib prison in Iraq added fuel to the fire. In 2005, on the initiative of Senator John McCain, the Senate added an amendment to the Defense Appropriations bill that banned U.S. military personnel (but not the CIA) from using “cruel, inhuman, or degrading treatment or punishment” against any prisoners.<sup>4</sup> President Bush reluctantly signed the bill into law, but appended a so-called “signing statement” asserting that he had the authority to interpret its application.<sup>5</sup> Thus the rumors persisted and so did congressional efforts to investigate, especially after Democrats seated House and Senate majorities in 2007 and took over the executive branch in January 2009.<sup>6</sup> Both the Senate Judiciary Committee and the Senate Intelligence Committee would hold hearings on the issue of torture.

Most congressional hearings are about more mundane matters, but they can serve important purposes. Primarily, hearings allow Congress to place issues on the public agenda. In addition, they help to keep other branches of government—in this case the executive branch—in line. Finally, hearings help to mobilize an uninformed public.

### *The Courts*

While the executive and the legislative branches are the most observable—and the most directly accountable—government agents responsible for shaping the public agenda, institutions with nonelected government agents have been equally involved as agenda builders. In recent years, the courts have had active roles in placing issues before the public by virtue of what judges do or do not decide. Some of the more prominent and controversial areas include racial equality, the rights of criminal defendants, religious freedom, business regulation, issues relating to privacy, legislative reapportionment, and the distribution of power between the national and state governments.

Judges affect the public agenda as a result of their decisions to examine, or not to examine, cases brought to their attention. Recent rulings by the U.S. Supreme Court on affirmative action, immigration, civil liberties, and political campaign spending speak to the ability of the judiciary to place issues on the public agenda by the very decisions they make. This ability, moreover, extends from the highest centers of judicial activity in Washington to jurists at the state and local levels.

Many times, the Court’s action will spur Congress or the states to enact new legislation. That was the case with *Kelo v. City of New London* when, in the absence of any clear public policy, the U.S. Supreme Court ruled that cities could seize private property to enable private economic development.<sup>7</sup>

Within one year of the outcome, more than two dozen state legislatures enacted new legislation to limit the eminent domain capabilities of local governments.

### *Regulatory Agencies*

Although generally not as visible as other policy-making institutions, regulatory agencies may initiate the discussion of issues which, in turn, become part of the public agenda. The problems addressed by these government bodies can have a substantial impact on our economy and on our society. Moreover, simply deciding to discuss such issues as endangered species, erratic commodities prices, or banking industry operations can capture the attention of policy makers and the public alike in policy areas that previously may not have had much visibility.

Some critics contend that while regulatory agencies are able to place critical issues before the public, they often lack the muscle to make policy changes.<sup>8</sup> The accuracy of this claim is likely to vary with the agency, its specific mandate, and its powers. Nevertheless, many regulatory agencies can make waves. David Kessler demonstrated this clout as Food and Drug Administration commissioner from 1990 to 1997 through his campaigns to standardize the nutritional labeling of food products and ban the sale of cigarettes to minors.<sup>9</sup> Similarly, after the discovery of several securities fraud schemes undeterred by lax regulation during the George W. Bush era, newly appointed Securities and Exchange commissioner Mary Schapiro implored Congress for stronger powers to prevent further abuses.<sup>10</sup> Not surprisingly such efforts encounter vigorous resistance from those whose activities would be regulated.

Because regulatory agencies do not have as direct a relationship with the public as other policy-making units, their efforts to raise and act on policy questions sometimes are not as influential as other entities. Nevertheless, these organizations do have the ability to draw attention to key issues within their areas of jurisdiction.

### *Public Bureaucracy*

The bureaucracy's function was once viewed as the neutral administration of law.<sup>11</sup> But these days, although bureaucracies tend to have less policy-making authority than traditionally recognized change agents, they nevertheless have the ability to affect the organization of the public agenda. Often, other policy makers give bureaucrats discretion to make specific regulations, based on a general framework of a law, executive order, or court ruling. This develop-

ment has been a consequence, in part, of the fragmented nature of authority in American politics and in American government. In the absence of centralized control, bureaucrats are often asked to step into the power vacuum to “make things work.”

During the past half-century, bureaucracies have enhanced their political positions by growth and function. With respect to size, in 2005 the federal government employed 14.6 million people, divided among executive branch departments, independent regulatory agencies and bureaus, and government corporations. This number reflects an increase of 3.5 million over 1999. Only 1.9 million of the 2005 total were civil servants (or bureaucrats), however. Another 770,000 were postal workers, 1.44 million military personnel, 7.6 million contractors, and 2.9 million grantees. The fastest growing category was contract employees for the Department of Defense. The civil service category was nearly flat while postal employment declined.<sup>12</sup> The functional responsibilities of bureaucracies have also been transformed, with the increased complexity of government.

Policy initiation capabilities give bureaucracies a vested interest in the agenda-setting process. Because of their longevity relative to other policy makers as well as their acquired expertise, bureaucrats can wield considerable influence. Elected officials hold power only as long as they retain their offices; as civil servants, government bureaucrats tend to have lengthy periods of employment. Thus, the long-term influence of bureaucrats on the public agenda can be substantial.

### *The Media*

The media, both print and electronic, have a long-standing reputation for placing issues on the public agenda. News reports raise the awareness of both policy makers and their constituents. Roger Cobb and Charles Elder refer to this activity as arousal: “When the media takes an interest in a situation, they usually follow up on it, generating greater and greater attention and concern.”<sup>13</sup> The media are useful not only as discovery mechanisms of public matters, but also as catalysts for what E.E. Schattschneider once described as the “socialization of conflict.”<sup>14</sup> By transforming a once-private question into a public issue, media agents expand the size of the audience and thus alter the dynamics of the policy-making process.

Many media-highlighted events have been incorporated into the public agenda. Press reports on scandals such as the Watergate affair (1972–74), the Iran-Contra arms sales cover-up (1986), and the dramatic collapse of the high-flying Enron Corporation (2001) not only heightened public awareness but led to congressional hearings, trials, and, in some cases, convictions, as well as new laws. The media have drawn attention to genocide in Darfur; to

human rights problems in Myanmar, China, and Iran; to lavish management payouts as U.S. financial sector companies were going bankrupt; and to deceptive advertising claims made by drug producers, tobacco companies, and chemical manufacturers. Broadcast and cable news programs as well as talk show personalities have become critical players amplifying the media's impact on public opinion and the public agenda.<sup>15</sup>

In recent years, the Internet has emerged as a powerful source of information, and as such, an agenda-building agent. Studies show that increasingly, people are getting larger shares of information from the Internet.<sup>16</sup> Curiously, a good deal of the information presented online is regurgitated from the mainstream press but selectively, cherry picked for its value in reinforcing a particular point of view. In many cases, however, the "information" put online is little more than opinion or stories without basis in fact.<sup>17</sup> Such Internet-driven agendas may be little more than misinformation campaigns. One such effort occurred during the 2008 presidential election when, despite a mountain of evidence stating otherwise, a number of activists went online claiming that Barack Obama was not born in the United States, and therefore was ineligible to be elected president. Even when supposed documentation proved to be clumsily forged, the story was kept alive in the "blogosphere." Frustrated, Press Secretary Robert Gibbs later lamented, "for 15 dollars you get an Internet address and say anything you want."<sup>18</sup>

Not all media revelations become part of the public agenda. Consider genetic engineering. Once viewed as curious for its ability to make tomatoes turn red or to grow strawberries in the dead of winter, genetic engineering has advanced to the point where scientists can patent and sell new forms of life. Whether designing new animal breeds or altering the DNA composition of existing life, genetic engineers have created a new world with staggering implications for life as we know it. While biotechnology experts tout their findings as the keys to ending disease and lengthening life, critics have expressed concerns regarding ethics and morality.<sup>19</sup> The implications of these changes are almost incalculable, and the media have raised the issues appropriately. Yet, other than esoteric professional science organization meetings, this phenomenon has generated little reaction either from the public or from public policy makers.

A recent study shows, in fact, that the media are far from complete in their effort to capture public attention. As Shanto Iyengar and Donald Kinder point out in their examination of the role of media in American politics, "people do not pay attention to everything. To do so would breed paralysis."<sup>20</sup> In fact, particularly in this era of "information overload," people are quite selective about what they want to know. Compelling issues may not garner public attention because of their timing, difficulty, manner of presentation,

or intrinsic interest. Nevertheless, if the triggering mechanism is serious, if enough people are sensitive to the issue, and if the event receives sufficient media exposure, chances are that a once-private matter will find its way to the public agenda.

### *Interest Groups*

In contemporary American society, the line between private power and public policy is so faint that these two components of politics almost appear as one. Volumes of literature have addressed the effects of private interests on public decisions. Some scholars suggest that organized interests play necessary and even pivotal roles in establishing the public agenda. In their work *Lobbying Congress*, Bruce Wolpe and Bertram Levine write that the essential task of groups and their lobbyists is to marshal enough support to attract the attention of public policy makers.<sup>21</sup> Darrell West and Burdett Loomis contend that the relationship between organized interests and government is very much a two-way street. In their daily interaction, the representatives of interest groups and policy makers exchange information, opinions, and understandings of the rules. Out of these complex webs, interest groups use their clout “to shape the debate.”<sup>22</sup> With respect to regulatory policies, Cornelius Kerwin adds that there is a steady two-way flow of information between interest groups and agencies.<sup>23</sup>

That interest groups place issues on the public agenda seems to be indisputable. What remains debatable is the extent to which their private objectives are compatible with public needs. Noted political scientist Theodore Lowi, for one, laments the ability of interest groups to define the agenda on their terms, leaving to government the task of ratifying such private determinations through “public” policy commitments.<sup>24</sup> Yet other examinations suggest that interest groups are not particularly unified, and generally are not very successful in organizing the public agenda. Thus, in his study of interest group efforts to gain policy advantages, William Browne concludes, “there exists no particularly good reason to believe that organized groups are indeed real and cohesive interests rather than organizations of individuals with potentially conflicting views.”<sup>25</sup>

Although the desirability of group representation in the official decision making—process arena remains a question of debate, it is clear that groups do have a role in framing the public agenda. Programs developed by the Federal Communications Commission and the Department of the Interior, for example, have been designed in response to the demands of the cable industry and ranchers respectively. The successes of such groups depend, in

part, upon the responsiveness of those in positions of power. Consider a few recent examples of interest group activity:

- The American Medical Association, the Pharmaceutical Research and Manufacturers Association, the National Federation of Independent Businesses, and the Health Insurance Association of America, among many other interests, have dueled over control of the health care reform issue.
- The National Organization of Women and the Christian Coalition have taken opposite stands on the abortion rights issue, each attempting to capture the support of public policy makers for its own position.
- The Environmental Defense Fund has lobbied hard to dissuade Congress from opening up oil exploration in the Arctic National Wildlife Refuge, located in a remote part of Alaska; major energy interests have argued otherwise.

These are but a few of the myriad groups that endeavor to mold the public agenda to reflect their values and needs. Such influence battles occur every day at the state and local levels of public policy making as well.

### *Turf Wars*

With so many actors attempting to influence public policy, it becomes paramount to gain control of the “spin,” or the official diagnosis of a problem. When disputes occur, the wheels of agenda building slow down because of conflicting signals on the agenda-building track.

The shaping of energy policy constitutes a case in point. Conservationists have viewed U.S. reliance upon oil as the basis of a series of problems ranging from economic inefficiency to global warming to foreign policy troubles in the Middle East.<sup>26</sup> Conversely, energy producers have maintained that aggressive drilling at home and stabilization of access to petroleum supplies abroad provide the necessary ingredients for long-term energy security.<sup>27</sup> During the Clinton administration, the conservationists got a receptive hearing. In the Bush administration, the issues were framed in ways much friendlier to corporate interests. But neither approach to energy independence has been able to gain any sustained traction in the energy policy arena.

Environmentalism, a third theme, entered the energy debate on a widespread basis as concern grew about the role played by fossil fuels in global warming. With 4 percent of the world’s population, the United States uses

about 25 percent of all oil and contributes about 20 percent of all greenhouse gases.<sup>28</sup> In 2009 the Obama administration backed the American Clean Energy and Security Act, which included the establishment of a cap-and-trade system to incentivize reductions in carbon emissions. It was this environmentally focused aspect of the bill that caused the most controversy. It was attacked on the grounds that it would hurt the economy during a recession, while provisions for new energy investments had better prospects for passage.

### **Coping with the Public Agenda**

As discussed in chapter 1, virtually any issue can become the foundation for public policy. But resolution of troubling questions can take place only after such matters as pressing elements of the policy process have met the test. Even then, some issues on the public agenda are relatively immediate and concrete, while others are poorly defined and almost abstract.

After a triggering mechanism (or a series of triggering mechanisms) has converted an event into a public policy issue, the new agenda item awaits disposition by decision-making authorities. Yet, just as issues are born out of unique circumstances and promoted by various combinations of agents, they are likewise resolved in different fashions. Here we are reminded of scope, intensity, timing, and resources, the critical elements of triggering mechanisms. The more that an issue embodies these properties, the more likely it is that the issue will receive serious attention and response by policy makers. If either scope or intensity remains without audiences or reactions, and if such conditions do not deepen over time, it is not as likely that policy makers will deal with the issue in a thorough, deliberative fashion.

Needless to say, some subjectivity creeps into the classification of policy issues as components of the public agenda, especially to the extent that they are complex or that they affect different sectors of society unevenly. Subjectivity aside, certain kinds of issues seem to generate far more comprehensive attention and replies than others. For our purposes, we may divide the issues awaiting resolution into two types: the substantive agenda and the symbolic agenda.

### ***The Substantive Agenda***

Substantive agenda management incorporates the most far-reaching and potentially explosive issues of public policy. So critical and divisive are

the issues on the substantive policy agenda that they usually spark serious debate and precipitate great conflict among the public and among public policy makers.

Three elements are necessary for a policy question to be on the substantive agenda. First, the allocation of considerable public resources must be at stake. Second, the issue must generate massive amounts of attention from the citizenry and from public policy makers alike. Third, the issue must contain the potential for great change. Substantive questions are sufficiently broad in scope and of such high intensity that public debates can occur at length and, occasionally, at a feverish pitch. More important, their urgency demands response from those in position to make change.

Commonly, though not always, economic issues provide a number of substantive questions for the public agenda. Few economic issues affect people as directly and broadly as tax policy. Joel Slemrod and Jon Bakija describe tax policy as “the aspect of government that directly affects more people than any other.”<sup>29</sup> Governments not only use tax policy to extract more from some people and less from others, but they also use tax monies to fund programs that have uneven impacts. The tension associated with this process can undo the popularity of elected officials and their favored programs in a hurry.

When the government exercises its authority to extract taxes, its policy makers determine how these monies will be allocated. When policy makers decide to change the rules under which taxes are collected by taxing some people more or others less, they raise questions not only on the tax policy question per se, but also on the merits of the myriad programs and groups that benefit from those monies. Under such conditions, the presentation of one issue may be the spawning grounds for many others.

Given the powerful antitax sentiment and the large tax cuts enacted under the leadership of George W. Bush, one wonders whether the country will have the will or the resources to address long-run economic questions such as health care costs or Social Security funding.<sup>30</sup> That very question became a theme of the 2008 presidential election, with Democrat Barack Obama arguing that pressing needs required an end to the Bush tax cuts when they expired in 2011 and Republican John McCain, who had opposed the tax cuts in the Senate, now arguing that they should be made permanent.

The answer may come with new public policy commitments that simultaneously address social and economic policy issues as a single intertwined theme. For example, when President Obama pursued health-care reform as his number one issue in 2009, he presented as his goal not only a solution for the uninsured, but a remedy for runaway health-care

costs.<sup>31</sup> Likewise, when the president proposed a new energy program to reduce American dependence on foreign oil, he pointed to environmental benefits as well as the “green” jobs that would be created from the quest for energy independence.<sup>32</sup>

### *The Symbolic Agenda*

In addition to the substantive questions that dominate the public agenda, symbolic issues also share the political spotlight. These questions focus more on values than on resources. While large expenditures or transfers of power are usually not at stake with symbolic issues, nevertheless they may rivet the attention of the public and of decision makers alike.

Much of the fuss about flag burning, for example, during the administration of George H.W. Bush, coalesced not around any actual incident but rather around the issue of American patriotism as symbolized by reverence for the flag. Hannah Pitkin writes that “when we speak of something as symbolizing . . . we are emphasizing the symbol’s power to evoke feelings or attitudes.”<sup>33</sup> The ambiguity of symbolism gives the concept an elusive but potentially powerful role in the framing of the public agenda. Thus, when President George W. Bush called on Congress to pass the USA Patriot Act shortly after the terrorist attacks in 2001, the symbolic name was spelled out as the “Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism” Act of 2001.

The stated purpose of the act was to give law enforcement the tools to hunt down terrorists in the United States.<sup>34</sup> Although traditionally Americans have been reluctant to enhance the powers of the federal government, the emotion of the time, and the symbolism of the name, made the difference. But within months of the new measure’s implementation, critics argued that authorities were using the antiterrorism law to investigate everything from libraries to scuba shops, violating ordinary citizens’ civil liberties in the process.<sup>35</sup>

### *Substantive Issues, Symbolic Responses*

Symbolic policies are adopted by government decision makers for several reasons. There are times, for example, when narrowly based groups demand attention from government leaders about a concern that is not widely shared throughout society. Although the intensity among those affected may be considerable, the scope is likely to be quite narrow. On other occasions, there may be widespread agreement upon the importance of an issue, but little support to provide the resources for its resolution. Under these condi-

tions, public policy makers may reply with a token or symbolic response that acknowledges the importance of the issue but that simultaneously does little to solve the problem.

The issue of public education serves as a case in point. In recent years, public education in the United States has yielded unimpressive and uneven results. Nationally, more than 30 percent of all high school students drop out.<sup>36</sup> In 2000, National Institute for Literacy reported that 37 percent of the nation's fourth graders were below "basic" reading capabilities; at the other end of the spectrum, only 32 percent were considered proficient.<sup>37</sup> Compared to other industrialized nations, American students are far from the top in math and science, according to several international studies.<sup>38</sup> In response to such worrying statistics, President George W. Bush asked for and Congress passed the No Child Left Behind Act in 2002. The new policy required periodic testing of elementary school students, mandated schools to meet national proficiency standards by 2014, and provided guaranteed opportunities for students in failing schools to move to successful schools. But the program was woefully underfunded by tens of billions of dollars. And as for results, six years after the new law went into effect, only about one-third of all eighth-grade students and one-fourth of all high-school seniors were considered proficient writers.<sup>39</sup> Arguably, the No Child Left Behind Act carried more symbolism than substance.

On other occasions, public agenda issues may be so multifaceted in nature that policy makers are unable to resolve them in meaningful ways because of political, economic, or powerful group pressures. At such moments, policy makers find themselves in a bind: on the one hand, the demands for change are great; on the other hand, despite the cry that something should be done, there is virtually no consensus over what should be done. This contradiction surrounds the issue of immigration reform.

Immigration affects the American political landscape in profound and conflicting ways. U.S. Census Bureau data show there are 38 million immigrants in the United States—more than in any other country. How many of these are illegal or undocumented is hard to say, although the Center of Immigration Studies places the number at 11.2 million in 2008.<sup>40</sup> That said, immigrants have been part of the American collage since nationhood. On some occasions, Congress has severely limited entry of certain groups, such as restrictions against Chinese and Japanese during the late 1800s and early 1900s. At other times, immigrants have been welcomed, such as when more than 800,000 Vietnamese refugees came to the United States after the Vietnam War. Periodically, public policy makers have focused on undocumented immigrants, most of whom have come from Mexico. Some believe that these people cause a variety of problems ranging from crime to

a disrupted labor market.<sup>41</sup> Others contend that immigrants bring an endless flow of new energy and ideas that keep the United States moving economically.<sup>42</sup> The cross-pressure has paralyzed Congress, which has not enacted comprehensive immigration reform legislation since 1986. George W. Bush advocated creation of a temporary worker status but the proposal went nowhere. In the end, he used his executive authority to order a crackdown on companies that failed to check the immigration status of their employees.<sup>43</sup> Whatever the merits of Bush's action, the new "policy" hardly addressed the immigration issue one way or the other.

In addition to domestic problems, substantive issues in the international arena often receive symbolic attention. Nowhere is this more delicate than with the issue of human rights. For the most part, the U.S. government's response to human rights violations has been minimal, sometimes because of the disagreement over the meaning of the term, at other times because some U.S. companies doing business abroad would be adversely affected by sanctions, or because the countries with undesirable conditions are U.S. allies. Even when the United States has acted in opposition to repressive policies, our government has carved out exceptions to the rule. For example, although the George W. Bush administration announced that it would block imports from the Myanmar government when it brutally cracked down on thousands of peaceful protesters, the same administration made an exception for the Chevron corporation, which brought more than \$500 million in oil revenues profits to the Myanmar government annually and much needed petroleum for the United States.<sup>44</sup> Likewise, there are times when the United States can do little more than offer symbolic attention to substantive issues elsewhere because the political consequences of U.S. intervention in the situation might actually be counterproductive.

Complicated policy problems discourage comprehensive changes or substantive policy commitments. As Donald Wells and Chris Hamilton write, resolution of sticky issues can be thwarted by several factors, including a lack of consensus on basic goals, divided party control of major institutions, conflicts between the national and state governments, and the competition from powerful interest groups.<sup>45</sup> With so many potential obstacles, it is little wonder that public policy makers look for an easy way out. In such cases, symbolic attention may be given to substantive issue areas because minimum response is the only feasible response.

The "safety-valve" nature of symbolic public policy allows the perception of many more changes than actually take place. Stated in other words, symbolic public policies offer the illusion of redress. Robert Eyestone explains this phenomenon by stressing that "symbolic responses are effective in producing

quiescence among target groups. Symbolic reassurance is satisfying, especially if there is no realistic prospect of anything concrete."<sup>46</sup> Thus, symbolic acknowledgment of a problem can soothe alienated elements of society yet produce minimal change.

### **The Hidden Agenda Allegation**

Thus far, our discussion has centered on agenda builders and methods of categorizing issues deliberated by public policy makers. While such considerations are vital to the public policy process, we do not mean to imply that all issues are decided automatically at appropriate policy-making junctions. Whether they are substantive or symbolic, issues gain access to the public agenda only after fulfilling certain basic requirements. Roger Cobb and his associates suggest that three criteria must be met before an issue can be considered by policy makers: (1) the specific issue must be the subject of widespread attention; (2) a sizable proportion of the public must demand action; (3) the issue must be the concern of an appropriate governmental unit.<sup>47</sup> These three ingredients apply to a wide variety of circumstances and are necessary preconditions to the policy-making process.

The implied assumption here is that the agenda-building process is open, at least in a democracy such as the United States. Accordingly, in such an environment, virtually all issues, symbolic or substantive, will appear and will be available for resolution if they trigger sufficient scope, intensity, and controversy over resources within the appropriate time frame. Of course, agenda building depends upon the ability of agents to increase awareness of triggering mechanisms. Should this connection not be made, chances are good that a consensus for change will not develop.

But is the political system open to change? Is there sufficient linkage between those *with* an agenda and those who have the ability to resolve issues *on* the agenda? A large body of literature confirms that the public is generally comfortable with the political system, the decision-making process, and the distribution of public policies.<sup>48</sup> Nevertheless, there are those who argue that issues critical to society are being suppressed by key leaders in and outside of government. This "hidden agenda" involves matters that are of great import for the public, yet they are rarely addressed by public policy authorities.

More times than not, debates about hidden issues take place along esoteric lines of academic discourse.<sup>49</sup> However, sometimes frustration lurking just beneath the surface of ho-hum, everyday politics combined with extreme anger and suspicion erupts in an unpredictable, violent manner. A small minority

of the most alienated people even believe that public officials are conspiring with other nations or groups to betray the American people and deprive us of our basic freedoms.<sup>50</sup> Perhaps the darkest side of the bombing of the Murrah Federal Building in Oklahoma City in 1995 emerged when it was learned that the act was carried out by Timothy McVeigh, an American who basically dismissed the political process as bogus. That attack took 168 lives, including 19 young children, and injured nearly 700. Similar shudders were felt when some Americans were arrested for being part of the al-Qaeda terrorist network that sponsored the attacks of September 11, 2001, which killed nearly 3,000.<sup>51</sup> In each case, these are people so removed from traditional American political values and loyalty to their fellow countrymen that they are willing to destroy innocent people in the name of their causes. Why? Because in their minds, the most important issues are swept aside by those in power.

The hidden-agenda concept is an important ingredient in the study of public policy because of its potential impact upon the political process. The degree to which people believe in the existence of a hidden agenda may have a proportionally negative effect on the legitimacy of public institutions and actors. If decisions made outside government are widely interpreted as circumventing or neutralizing the actions of government, then the public policy-making machinery loses substantial credibility.

Those who argue the existence of a hidden agenda usually claim that power flows outside of—and around—government. Under these circumstances, major policies are either orchestrated or blocked by powerful private interests in order to manipulate the distribution of resources or political clout. Such intentional, persistent activities keep a select few in their influential positions, enabling them to design the agenda as they wish.<sup>52</sup>

That policy makers simply decide not to act on a question does not necessarily support the existence of a hidden agenda. Only if public authorities contrived to ignore an issue for inexplicable reasons or if they were somehow prevented from addressing an issue against their will might there be cause to look for a hidden agenda. Yet a dizzying array of conspiracists believe that such behavior is common by those connected with the public policy process.<sup>53</sup> What makes all this so intriguing is the lack of systematic proof necessary to determine the existence of the nonobservable, or what we cannot see. Nevertheless, there is always enough anecdotal evidence to feed the appetites of those who view politics as a closed process. The corporate scandals in 2001–2002 and the events surrounding the financial meltdown in 2008–2009 represent a case in point, not only because of the way that the issues seemed to hold policy makers hostage, but also because it appeared, to some, that financial industry regulators were too close to those whose unchecked activities would have such damaging consequences for the public.<sup>54</sup>

Conspiracy implies the collaboration of a small group of power brokers who are able to carefully control what appears on the public agenda. Yet, with so many information sources, it is difficult to keep momentous events from appearing in public view, as happened in the examples cited. Moreover, the fragmented nature of the American political system makes it difficult for privately orchestrated policies to go unchallenged. As Clifton McCleskey notes, "the breadth of the interpersonal network necessary for power helps to ensure that it cannot be exercised in absolute or capricious fashion; there are too many opportunities for those with opposing viewpoints to withhold assistance in implementation, to mobilize counterpower, to appeal to lateral or higher authorities."<sup>55</sup>

The allegation of policy manipulation by the few has generated considerable debate in American politics. When the bulk of society has seemed relatively content, the hidden-agenda argument has attracted few supporters. During times of political unrest, economic instability, or alienation, such theories tend to revive across the political spectrum, and there are always demagogues who will seek to augment their own power by fueling popular suspicions of others.

Perhaps the single most important staple of the hidden-agenda concept is the allegation that vital political questions are excluded from the public policy process by those who privately control such matters. We need, then, to determine the degree to which the public agenda represents public or private interests. E.E. Schattschneider addresses this question in his discussion of the power struggles within a conflict-laden society: "All forms of political organization have a bias in favor of the exploitation of some kinds of conflict and the suppression of others because organization is the mobilization of bias. Some issues are organized into politics while others are organized out."<sup>56</sup> Simply stated, Schattschneider's view is that some will have the power to propel events and policies, while others will not.

Peter Bachrach and Morton Baratz take the question of diminished public power one step closer to the hidden-agenda theme in their criticism of the public decision-making approach advocated by Robert Dahl.<sup>57</sup> Although they refer to political influence, their words also apply to the effectiveness of private sway over matters of public interest. Thus, Bachrach and Baratz write, "to measure relative influence solely in terms of the ability of public policy makers to initiate and veto proposals [through official government channels], is to ignore the possible exercise of influence or power in limiting the scope of initiation."<sup>58</sup> With respect to the two previous claims, we are still compelled to ask, is such control over the policy agenda the result of cunning or force, or is it due to varying amounts or intensity of interest and commitment?

The hidden-agenda argument presumes both that there are externally

imposed limits on what government will do and, worse, that this may allow harm to be done to the public good by the private few. If valid, this is a major flaw in the ability of public policy makers to address the pressing issues of the day. In fact, the extent to which the hidden-agenda claim is true could be considered an indictment of representative democracy. After all, how can the policies of a political system reflect public responses to public issues when the claims made upon that system are one-sided or misrepresented?

The hidden-agenda claim has never been quantified or proved, despite hypothetical explanations for disappointments in the outcomes of various political activities. It is therefore difficult to separate myth from reality. Nevertheless, the fear of manipulation affects students of power theories as well as those concerned that the problems placed on the public agenda should be truly representative.

There is, however, some evidence to suggest that political leaders and the public at large do not perceive issues in the same light or with a similar degree of concern. A participation study conducted by Sidney Verba and Norman Nie, for example, shows that leaders and followers do not necessarily view issues (or nonissues) from similar perspectives. Yet, their conclusions hardly support the claim that the public agenda is privatized and manipulated with a malicious intent to deny the public its due: "It may not be that the preferences of the inactive on the issues of the day are replaced by the preferences of those who are active if political leaders pay attention to the activist population. It may be, rather, that the issues of the day are selected in a way that ignores whatever matters most to the inarticulate members of the population."<sup>59</sup> Similarly, Steven Rosenstone and John Mark Hansen explain the unevenness between leaders and followers in terms of resources rather than power: With values formed by education, wealth, and social networks, they note, "people with more abundant resources participate more in governmental politics than people with less abundant resources."<sup>60</sup> Carried to a logical conclusion, these studies imply that the public policy-making process is governed less by sinister objectives than by different perceptions and levels of participation.

### **The Constellation of Issues—Fitting into the Political Environment**

The combination of substantive and symbolic issues that come and go, the existence of champions who are willing to promote them, and the political actors needed to turn ideas into policy are all necessary to birth public policy. Even with these prerequisites, policy decisions do not come out of thin air;

rather, they emerge as the result of the information directed toward and pressures that have been placed upon policy makers. As John Kingdon summarizes, the sequence and outcomes are anything but automatic. Through sometimes changing criteria, conflicting pressures, and even patterns of randomness, ideas begin as individual policy streams which, through the efforts of politicians and policy specialists, sometimes join to become powerful forces for change.<sup>61</sup> Conversely, should political leaders sense growing conflict over an issue, then in all likelihood they will use the powers of their offices to air the issue in a wider context such as a public forum. Such are the realities of agenda building.

Some observers suggest that the public agenda has become hopelessly complex. As various factions define problems and approach government for solutions, the public agenda becomes so crowded that it results in political impotence. David Robertson and Dennis Judd refer to this as a “capacity” issue and note that the overloading of policy makers with too many issues can yield results ranging from incoherence to gridlock.<sup>62</sup> The resulting public agenda map may therefore leave decision makers at all levels of government frustrated in attempting to follow it, while the public grows ever more weary of inaction.

Considerable debate continues as to the advisability of an extensive public agenda, with its complement of fractured decision-making institutions and authorities. Some experts argue that an expanded public agenda not only signifies representation for different publics, but offers the opportunity for more resolution.<sup>63</sup> The presentation of such issues, in turn, leads to wider debate because of the incorporation of ever-widening numbers of groups into the policy-making process.

Others are quick to point out that an expanded agenda does not automatically result in the adoption of policies designed to promote the public good. Thus, Darrell West and Burdett Loomis suggest that with the proliferation of issues, success is realized, in fact, by a select few: “[T]he dominant forces are large, usually corporate interests. The power to convey convincing narratives requires money and favors those who are already well organized politically.”<sup>64</sup>

### **Agenda Building—A Precondition for Policy Response**

The proliferation of items on the public agenda has led to questions about the substantive and symbolic issues from which policies are made. Some scholars assert that “only a small fraction of all potential issues ever gets debated” because stable democracies can cope with only so many substantive ques-

tions at a time.<sup>65</sup> Dissenting observers are not as kind in their assessments of a limited public agenda. Instead, they argue, it is the intention of those in power to relegate substantive matters to the realm of things that get only symbolic responses. As Michael Parenti writes, “the laws of our polity are written principally to advance the interests of the haves at the expense of the rest of us.” The political agenda is designed by the few for the few.<sup>66</sup> However, some grounds for hope are offered by Malcolm Gladwell in his book *The Tipping Point*: there sometimes comes a moment in time when sufficient critical mass develops around an idea to propel it onto the public agenda. When that happens, the political calculus managed by public policy makers moves in a new direction.<sup>67</sup>

It is not enough to explain public policy by looking at the decisions that emerge from government. Without an understanding of agenda development as well as the combination of issues available for resolution, policy analysis is a one-dimensional exercise.

### Questions for Further Thought

1. What is the relationship between triggering mechanisms and the public agenda?
2. Several actors are responsible for the development of the public agenda. Who are they and what are their characteristics?
3. How do we differentiate between the substantive and the symbolic agendas? Are the distinctions important with respect to policy development?
4. Analyze the “hidden-agenda” concept versus other explanations of what does or does not get a place on the public agenda.

### Suggested Reading

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# 4

## The Policy Makers

### Roles and Realities

Up to this point, we have traced the public policy process as a series of events that build toward confusion, crisis, and change. The activities that lead up to policies are almost cacophonous in nature—some dramatic, others insignificant; some random, others patterned; some horrific, others humorous. What they have in common is a negative impact on the ebb and flow of everyday life for a sizable segment of the population. When adverse conditions and unexpected problems develop, we struggle to adapt to the circumstances and try to rearrange matters for the better.

The policy-making process, we have noted, begins with triggering mechanisms, unexpected occurrences that disturb our routine environment. The more people who are negatively affected in a similar manner, the more likely they will express their concerns to those who can do something about an unpleasant or harmful situation. But who receives and responds to these messages? In what arenas are solutions considered and developed? And under what circumstances can we expect that those capable of effecting change will actually carry out such tasks? We find these answers by identifying and examining the roles of public policy makers, the actors in various levels of government who have the authority to convert prominent questions on the public agenda into appropriate policy commitments.

Particularly in a democracy, policy makers are in pivotal positions of power. These individuals must deal with a variety of competing interests and pressures so that, in the end, an improved condition results from their efforts. Their task is particularly difficult in a society such as the United States, where conflict is open and opinions are publicly expressed. Sometimes, the “improved” situation, or new policy, generates more flak than the condition that led to change; when that occurs, policy makers may scurry back to an earlier position, or at least a place in the policy-making process that gives them a greater sense of security.

Far more than simply an advocate of change, the policy maker has respon-

sibilities to the public for society's political, social, and economic courses. So important is the policy maker's function in the political process that Charles Jones refers to this authority as "legitimation," an activity that establishes widely recognized ground rules for decision making and the means through which such actions can take place.<sup>1</sup> If the policy maker fails to heed the cries calling for change, he or she may become part of the large group stating needs instead of the select few who resolve them.

To be sure, not all agree that the real policy makers are found in the marble halls of government, where they eagerly wait to analyze and cope with every important public problem. As discussed toward the end of chapter 3, some would even argue that the most important issues are suppressed from the public agenda, that private interests—powerful in their own right—go outside of government for solutions to their concerns.

Suspensions about shady dealings notwithstanding, we do know that every year a huge national budget is passed, along with similar measures on varying schedules in state and local government jurisdictions. These documents are accompanied by thousands of laws defining how governments will collect and spend monies. We also know that, on a regular basis, government authorities decide what is good for us, what is dangerous to us, and what is harmed by us. Decisions like these are reached regularly (if not easily) at all levels of society, from national to local, where units of people require rules and governance on a continuing basis.

All of which takes us back to the concern of this chapter—a description of policy-making actors, of their responsibilities, and of the rules under which they operate. Just who—or what—are these entities? The expanse of the answer to this question has grown with the evolution of society and modern government. Not so many years ago, the relevant actors were described as an intertwined iron triangle consisting of the bureaucracy, interest groups, and legislative committees.<sup>2</sup> In recent years, scholars have described key participants as members of policy networks, collections of individuals inside as well as outside the official boundaries of government.<sup>3</sup> Whether these definitions are narrow or broad, the key point in describing policy makers is that such individuals are in the position of getting something done in an authoritative manner. That placement distinguishes these individuals from everyone else in society.

In assessing the relationship between politics and policies, Robert Lineberry writes that "at the core of the political system are the institutions and personnel of decision making."<sup>4</sup> For our purposes, policy makers are the personnel who, as the core of the political system, continually make it work by virtue of their commitments, their objectives, and their response patterns. While they

are not necessarily responsible for formulating issues or even placing them on the public agenda, “the buck stops” at the policy makers’ doors; they are accountable for the ways in which they manage (or refuse to manage) the issues placed before them.

The irony of the relationship is that the expectations of policy makers often exceed their abilities to perform. Much of the problem is determined by the limitations of power as prescribed in our constitutional arrangements.<sup>5</sup> For example, the push and pull of the federal arrangement often places local or state issues in national government hands, such as when national policy makers attend to public education or an issue typically viewed as within state responsibility. Conversely, sometimes local or state authorities respond to national issues in dramatically different ways, leaving an issue with a patch-work quilt-like response.

A related element regarding the expectations and management of policy centers on the disputes over the levels of government best suited to address a given issue. Indeed, each policy question will draw advocates from various sources of authority. Deborah Stone cautions that arguments for control are likely to be couched in lofty concerns such as efficiency, justice, or the public interest. In fact, however, the struggle may be over something as simple as power. Such struggles can paralyze the policy-making process.<sup>6</sup> As David Robertson and Dennis Judd state, “[the] fragmentation of decision making authority that characterizes the American political system has, over the long run, become a vehicle for frustrating policy reforms.”<sup>7</sup> As a result, political actors in authoritative capacities sometimes seem to shoot off the mark, if not to shoot blanks.

The remaining sections of this chapter describe and analyze major policy-making authorities in American politics. It should be understood that, while our attention will center on actors at the national level of government, equivalent roles and institutions exist at other levels of policy-making authority as well. With such information, we will be in a better position to comprehend the role of these power brokers who provide policy responses for agenda matters.

## **Congress**

Few political institutions in American life have the historical significance of the U.S. Congress. While the constitutional framers clashed over countless issues, including the ways in which members of Congress would be selected, they agreed on the necessity for an independent legislature with extensive policy-making authority. Throughout the debates in Philadelphia during the summer

of 1787, delegates agreed that the organization and powers of Congress would be the foundation of the Constitutional Convention's deliberations.<sup>8</sup> As if to underscore Congress's role as the premier policy-making branch, Article I, Section 8, of the Constitution awarded a variety of specific powers to the national legislature, as well as the ability to "make all laws which shall be necessary and proper" to execute its enumerated powers. Accordingly, the functions of the modern Congress have expanded with and adapted to the needs of modern society, many of which were never imagined at the time of the Constitution's design.

More than 200 years have passed since the adoption of the U.S. Constitution in its basic form. While Congress remains a pillar of the policy-making process, not all agree that the legislative branch carries the same primacy as it enjoyed in the earliest days of the republic. For many congressional observers, the demands of modern times—ranging from clamoring constituencies to a powerful executive branch—have proved the need for and wisdom of a strong Congress. Edward Schneier and Bertram Gross contend that "whatever Congress's failings or strengths, its responsibilities and concerns have grown at a staggering rate. Whatever its slice of power in comparison to the other branches of the federal government, its share is taken from a much larger pie."<sup>9</sup> Likewise, whatever evolution has occurred in American society, the policy-making preeminence of Congress remains central to the political process.

That Congress has the capability to evolve as a policy-making entity was demonstrated with the election of a Republican majority in 1994 and the emergence of Newt Gingrich as Speaker of the House of Representatives. While most of the nation focused on the much-touted Republican "Contract with America," Gingrich and his allies made organizational changes in the House, the outcome of which rejuvenated the prominence of the House as well as the power of its Speaker.<sup>10</sup> Less dramatic changes occurred with the emergence of a Republican majority in the U.S. Senate. Nevertheless, the transformation resulting from the election results and changes in the rules yielded a national legislature with an enhanced capability and an increased desire to confront the executive branch and, thus, to play a larger role in the policy-making process. Given that the executive branch was under the leadership of Democratic president Bill Clinton at the time, the emergence of a reinvigorated Republican-led Congress had a definite impact.

Other assessments label Congress a "has-been" institution, a relic of the past that is now either unable or unwilling to manage pressing issues of the day. Theodore Lowi writes that as the functions of government have become more complicated and more demanding, Congress has either ignored issues or

chosen to delegate rather than legislate. Lowi traces this transformation to the New Deal era of the 1930s. Responding to the national emergency brought on by the Great Depression, an overwhelmed Congress began adopting general policy objectives instead of specific policy commitments. While Congress retained its reputation as the country's "chief legislature," it turned over the most important decisions to the president or to one of the many executive branch departments. Today, Lowi writes, the situation is much the same, whether the issue before Congress lies in the foreign or the domestic arena. Contemporary congressional activities may be described as lawmaking, but in reality they are general policy orientations framed in ambiguous intent.<sup>11</sup> A classic example of congressional paralysis occurred after the presidential election of 2000, which was not resolved until five full weeks after the event. Despite the hue and cry about faulty machines and procedures in several states, Congress sat on legislation designed to help the states modernize their voting equipment.<sup>12</sup> Even after Congress passed the much-touted Help America Vote Act in 2002, the new law failed to produce uniform rules for voting systems throughout the country.<sup>13</sup> Whether because of complacency or delegation or paralysis, some critics believe that Congress has lost much of its proactive policy-making capability.

A third interpretation of congressional behavior in the policy-making process emphasizes the shift of power within Congress. Whereas scholars once focused on the "front-end power" associated with traditional committees,<sup>14</sup> reassessments of the legislative branch have turned increasingly to the power at the end of the congressional policy-making cycle. Stephen Van Beek, for one, notes that the fragmentation of power within Congress resulting from post-Watergate reforms has led to reliance upon post-passage politics, the politics of policy resolution that takes place in conference committees after the observable legislative ritual.<sup>15</sup> As such, the prowess of Congress has merely shifted to a less visible part of the institution consisting of a handful of members from each house.

These three positions underscore the controversy that surrounds the policy-making capabilities of Congress in the new millennium and, as often is the case in evaluating different points of view, each has merit. It is clear that Congress maintains its independence as a policy-making authority, but its effectiveness is another matter.

On a few occasions, Congress has enacted a public policy over the veto of a president. Such actions are rare, and they usually require a bipartisan spirit of cooperation, as was demonstrated with the Private Securities Litigation Reform Act in 1995, which was passed over the opposition of President Bill Clinton. The legislation protected corporations while limiting the rights of stockholders to engage in what some have called "frivolous" lawsuits. An-

other example of congressional independence occurred in 2005, when much to the dismay of President George W. Bush, Congress added to a Defense appropriation bill the Detainee Treatment Act, legislation intended to prevent inhumane handling of prisoners.

Nevertheless, Congress continues to act without conviction or focus in many policy areas, often by assigning key activities to committee staff members, by permitting administrators to carry out functions that were once clearly under legislative control, or by building in loopholes to its own legislation. For example, despite the claim that a tax cut bill in 2003 would cost \$350 billion in lost revenues, nonpartisan analyses suggested real reductions of more than \$800 billion because the lower estimate was based on “temporary” provisions that Congress was likely to make permanent.<sup>16</sup> Likewise, when Congress enacted a \$787 billion economic recovery act in 2009 to cope with the nation’s worst recession in seventy years, lawmakers created the Recovery Accountability and Transparency Board to oversee distribution of the funds rather than exercise oversight through Congress’s many committees and subcommittees. While some critics were relieved that Congress would place purse string controls in administrative hands, others point out that the “hands off” approach is akin to abandonment of responsibility.<sup>17</sup>

Although Congress retains the ability to act independently, its behavior has become more unpredictable than in the past. A number of structural and political changes account for the new fluidity. First, today Congress is a much more democratic, decentralized institution than it was in the past. Seniority used to be the congressional prerequisite for influence; now, committee chairpersons are chosen through elections of the party caucus. Also, whereas party leaders could once be assured of cooperation through the use of threats and rewards, many of their powers have been stripped away by congressional reforms, leaving rank-and-file members with an increased sense of independence.<sup>18</sup>

The end product of these changes has been the development of not one but several methods of operation by Congress in the policy-making process. Therefore, the evaluation of its performance often depends upon many variables, including the types of issues at stake, affected populations, partisan differences, and power relationships. As David Vogler observes, “some of the bills will be considered routine legislation, and others major policy proposals. Some will be perceived as having no direct effect on a particular legislator’s constituents, whereas others will be seen as having a profound impact on the lifestyle or economic situation of every person in the state or district. All legislators, in short, develop some scheme for classifying policies.”<sup>19</sup> Placed in perspective, Congress has the potential to play a large role in the public policy-making process. The extent of its activity, however, is likely to depend upon the issue awaiting resolution.

## President

If present-day evaluations of Congress as a policy-making authority conflict, considerably more agreement prevails over the powers of the modern presidency. For better or worse, this institution has evolved into a formidable element in the policy-making arena. With its high-profile emergence, the presidency has become the centerpiece of the nation's policy-making network.

Until the Great Depression, the preponderance of presidential activities centered largely on administrative and facilitative functions. Only the most severe economic calamities or war-related conditions served as reasons for presidents to assume policy-making stances—and then only on a temporary basis.<sup>20</sup> But modern presidents not only propose policies; they often make them and order their implementation by other agencies within the executive branch—sometimes with no endorsements other than their own sense of what should be done.<sup>21</sup>

It was quite different under the Articles of Confederation, when the president literally presided over the Congress. Fresh from their liberation in the struggle with the king of England, the leaders of the revolution were unwilling to create another monarch to serve as the nation's highest authority. At the same time, the experience of the 1780s showed them that a fledgling nation required discipline, order, and, above all, leadership. This ambivalence carried over into constitutional provisions regarding the presidency. As James W. Davis summarizes, the founding fathers intentionally avoided being too specific about presidential powers in order to quell any concerns about monarchy or unaccountable dictators. In fact, "they seemed to want a president of somewhat limited powers . . . , a chief executive who would remain above parties and factions, enforce the laws Congress passed, negotiate with foreign governments, and help the states in times of civil disorder."<sup>22</sup> Early presidents tended to be modest with their authority, compared to the wide berth they occupy today.

As the nation grew and matured, the president's functions also expanded. To be sure, some responsibilities of the office are much the same today as they were when the institution was first established. For example, the president remains singularly important as head of state. The commander-in-chief role has changed only with respect to the weapons available, the extent of the military's reach, and the immediacy with which the president may order the use of force. However, the office of the chief executive has grown in new directions, particularly with respect to issues that impact the domestic arena. The development of electronic media has greatly enhanced the president's visibility. In nationally broadcast addresses, the president

has become a builder of the public agenda, presenting ideas and problems directly to the public and to other public policy makers. New communications methods now even allow audiences to call in to press conferences and ask their own questions, and owners of personal computers can express opinions to and get information from the president via the Internet. Most recently, President Barack Obama began posting regularly scheduled public addresses online, reaching audiences that typically do not watch television or read daily newspapers.

The president is a prominent actor in the policy-making arena. While he always has had the power to thwart congressional policy objectives through the use of the veto, the president has emerged as an architect of change through his own proactive initiatives. Executive orders, directives officially designed to carry out existing policy, often become controversial policy statements in themselves.<sup>23</sup> In addition, signing statements, presidential “interpretations” that accompany his signatures of newly passed legislation, increasingly have the impact of changing the meaning of the law altogether. George W. Bush used signing statements on more than 700 occasions, easily eclipsing the numbers of his predecessors—Ronald Reagan, George H.W. Bush, and Bill Clinton—combined. Even Barack Obama, who campaigned against signing statements in 2008, wrote two such memos within the first six months of his presidency.<sup>24</sup>

Presidents must beware of overloading the policy agenda with too many issues and policy-making initiatives, thereby creating resistance or political stalemate from other policy makers. George Edwards and Stephen Wayne point out that setting a relatively small number of priorities is important “because presidents and their staff can lobby effectively for only a few bills at once. Moreover, the president’s political capital is inevitably limited, so it is sensible to focus on the issues the administration cares about most.”<sup>25</sup> With the Office of the Management and Budget, the Council of Economic Advisers, and a cadre of skilled experts directly under his control, the president can persuasively frame issues on his terms, especially in the first year or two of his term.

As a policy-making actor, the president may be most powerful in times of deadlock and crisis. For example, when Mexico suddenly plunged to the brink of bankruptcy in 1995, President Bill Clinton moved swiftly to rescue the Mexican peso. With U.S. interests fundamentally intertwined with those of Mexico, Clinton asked Congress to approve a \$40 billion loan package. Leaders in the legislative branch balked at the president’s “fast-track” demand, and set out to schedule lengthy hearings. Feeling the need to move quickly, Clinton committed \$20 billion from a special U.S. Treasury fund usually

intended for stabilizing the dollar. Although many members of Congress publicly criticized the president for unilateral behavior, many were privately relieved.<sup>26</sup> Mexico began repaying its debt early, and Clinton pointed to his intervention as evidence of his foreign policy skills in his 1996 reelection effort, reaping further gains from his earlier action.

Another recent case of dramatic presidential activism occurred after the al-Qaeda terrorist attacks against the United States on September 11, 2001. Within days of the attacks, President George W. Bush established the Office of Homeland Security by executive order. Former Pennsylvania governor Tom Ridge was brought in to head the office. As if to underscore the importance of the appointment, Bush gave Ridge “cabinet-level status,” giving him instant parity with other major department heads. The president also placed Ridge’s office inside the White House.<sup>27</sup> Legislation creating a new Department of Homeland Security was passed a year later. The decisive moves by Bush in the midst of crisis placed him in good stead with the American public. Even though he barely won the presidency in 2000 and limped along with tepid public opinion approval, his standing with the public soared after September 11.<sup>28</sup>

The widely acknowledged ascendant power of the presidency has not met with universal acclaim. Ever protective of the separation-of-powers concept so important to American government, some critics point out that there has been a shift in the constitutional balance, with the presidency usurping policy-formulating authority historically reserved for Congress. Citing his interpretation of the Constitution and its assignment of powers, historian Arthur Schlesinger wrote, in his book *The Imperial Presidency*, “there is no evidence that . . . his office as Commander in Chief endowed the president with an independent source of authority,” particularly as it applies to the domestic policy arena.<sup>29</sup>

Other observers believe that the presidency should be even more expansive as the linchpin of the nation’s public policy-making machinery. “Quite simply,” Samuel Kernell writes, “the American public holds the president responsible for promoting the general welfare.”<sup>30</sup> The long-term threat of international terrorism suggests that attention may be pointed more toward physical security rather than quality of life. A president can carry out such a broad mandate only if he controls levers of power.

Debate notwithstanding, it is clear that the passive presidency of years past long ago gave way to the activist institution of today. To this end, whether the officeholder’s orientation is liberal, conservative, or anything in between, presidents can and do make myriad policy decisions through executive orders, appointments to government agencies, and executive agreements with the

heads of other nations. Republican president Ronald Reagan did as much in 1981 when he unilaterally signed an executive order requiring all regulatory agencies to submit proposed rules to the Office of Management and Budget. Democratic president Bill Clinton showed his willingness to assume sole responsibility for environmental policy making in 1996 when he signed an executive order making 1.7 million acres of land in Utah a national preserve. Republican president George W. Bush showed his willingness to exercise executive authority in areas ranging from national security to the prohibition of racial profiling in federal law enforcement investigations.<sup>31</sup> Such exercise of power not only makes the president a vital policy maker, it also points to the fundamental, if gradual, rearrangement of previous policy-making structures and relationships.

Nevertheless, it is not yet clear whether the reality of the modern activist presidency truly matches the rhetoric surrounding the office and often promised by its occupant. David Stoesz argues that Clinton came to his presidency with the promise of major change in the areas of health, urban renewal, immigration, social security, and welfare. Stoesz adds, "Once inaugurated, however, the oft-evoked 'CHANGE' turned out to be small change, indeed."<sup>32</sup> Why did the administration fall short? Perhaps because the president did not have the tools (and the clout) to live up to his own expectations. At the other end, George W. Bush came to his presidency with the announced intent to restore the status quo. Yet, the events of 9/11 led Bush to take a number of powerful initiatives ranging from limits placed on civil liberties to the invasion of Iraq. Barack Obama campaigned for the presidency with the promise of transforming the nation. Riding into office with a solid victory and a Democratic Congress, he proposed to overhaul health care, tackle global warming, put the country on the path to energy independence, and restructure public education.<sup>33</sup> Only a few presidents have successfully realized such ambitious policy goals.

## Judiciary

Virtually every high school civics class and, regrettably, too many college-level government courses offer the following description of power at the national level: Congress makes the laws, in the form of legislation that enacts public policies. The president proposes policies and executes the laws that emerge from these and other initiatives. Finally, the Supreme Court restricts its activities to carefully measured interpretations of the law. The only problem with this characterization of the separation of powers is that it does not reflect the realities of contemporary American government.

While it is difficult to compare the influence of one institution with that of another, we know that the judiciary is far from passive. In fact, the Supreme Court has long been a factor in the policy-making process, with its decisions often having as much impact as an executive order or a congressional statute. Indeed, in many instances, the “law of the land” effectively is not such until—and unless—it survives a challenge in the courts.

The Supreme Court first developed a deep sense of its institutional role as a policy maker during the long tenure of Chief Justice John Marshall (1801–35).<sup>34</sup> That power, known as judicial review, was first exercised in the case of *Marbury v. Madison* (1803), in which the Court ruled unanimously that a provision in a law that was at issue was in conflict with the Constitution, and therefore was void. Although the Constitution did not explicitly invest the Supreme Court with such power, many state courts practiced legislative review. Thus, when the U.S. Supreme Court asserted the same power with respect to actions and decisions at both the federal and state levels, the principle was understood. In the process, the stage was set for the judiciary’s adoption of a major policy-making role.

While we may think of the Court as being “above politics,” because of its independence from the elected branches, that has never been purely the case. After all, the Court often grapples with the most contentious issues of the day. Although they serve with lifetime tenure, the Court’s members are nominated by the president and confirmed by the Senate. Thus it should not be surprising that the philosophical tenor of the Court tends to change, slowly, but surely, over time.

During the late nineteenth and early twentieth century, for example, the federal judiciary made many controversial decisions on issues related to property rights and capital and labor. In such matters the Court took a “laissez-faire” approach, and struck down efforts by both states and the federal government to regulate the activities of business in any way. Then, beginning in the mid 1930s, the federal judiciary began to come around to the view first espoused by Chief Justice Marshall, namely that the Constitution intended the federal government to be able to regulate economic matters under the “commerce clause.” In Article 1, Section 8, the Constitution gives Congress the power to regulate commerce both with other countries and among the states.<sup>35</sup> The shift of the Court’s majority to this new position took place in the context of the Great Depression and a split in the Court over some of the New Deal legislation adopted under the leadership of President Franklin D. Roosevelt.

Under Chief Justice Earl Warren (1953–69), the Court took on a raft of contentious cases having to do with questions of racial segregation, defendants’ rights, school prayer, legislative reapportionment, and privacy rights. The Court during this period had a decidedly liberal economic and social

bent, but activism can move in conservative directions as well. During the tenure of Chief Justice Warren Burger (1969–85), the Court began shifting in a more conservative direction, giving strong support to law enforcement and the prosecution in criminal cases—and in the process, overturning numerous state and lower federal court decisions. In areas other than criminal procedure, notes one student of the judiciary, the Burger Court “was no more deferential than its predecessor to Congress or to state regulatory efforts affecting Commerce,”<sup>36</sup> although the policy outcomes often went the opposite way. Yet, it was under the Burger Court that a 7-2 majority decided *Roe v. Wade*, legalizing first-trimester abortions under the right of privacy.

After the retirement of Chief Justice Burger in 1986, the general conservative tone of the Court was strengthened with President Ronald Reagan’s nomination of Justice Antonin Scalia and the elevation of William Rehnquist to the position of Chief Justice. By 1995, a slender majority of the Court had restricted the power of the federal government by narrowing the interpretation of the interstate commerce clause, the constitutional provision on which Congress based its authority to legislate on matters ranging from civil rights to working conditions. A typical result during the period was the Court’s 1995 rejection of a 1990 federal law banning firearms within 1,000 feet of public schools.<sup>37</sup>

A narrow conservative majority has continued to prevail under Chief Justice John Roberts, who was appointed to head the Court by President George W. Bush in 2005. Under Roberts, the justices have limited the consideration of race in policies to promote school desegregation (2007), struck down city laws banning gun ownership (2008), curbed the use of affirmative action (2009), and ruled that government cannot ban corporations from spending on electoral campaign advertising (2010)—all by 5-4 decisions. Conservatives have enthusiastically applauded these instances of “judicial activism.”<sup>38</sup>

Yet the Court has not consistently sided with what are generally regarded as conservative positions. Justice Anthony M. Kennedy, appointed to the Court in 1988 by President Ronald Reagan, has most often been the “swing” vote among the nine justices that determines the majority. For example, one month after the firearms case mentioned above, the justices overturned state laws that specified term limits for elected federal offices. Writing for a narrow 5-4 majority, Justice John Paul Stevens noted that “a state-imposed restriction is contrary to the fundamental principle of our representative democracy, embodied in the Constitution, that the people should choose whom they please to govern them.”<sup>39</sup> In 2002, the justices struck down state death penalty laws for retarded defendants, ruling, “today our society views mentally retarded patients as categorically less culpable than the average criminal.”<sup>40</sup> And in *Hamdan v. Rumsfeld* (2006), the Court ruled against the Bush administra-

tion on the establishment of special military commissions to try detainees at Guantanamo.<sup>41</sup>

What can we make of these decisions, some striking down federal laws and others striking down state laws? In each case, the Court majority ruled against policy-making bodies that it deemed to have exceeded their spheres of authority. In the process, the Court has moved vigorously to assert its own authority. Whether the Supreme Court has overstepped its proper role in the policy-making process is a question that has been long debated and with varied answers. For example, Robert Dahl has written that every time the Court supplants public opinion or national law with its own policy, the Court threatens its own legitimacy.<sup>42</sup> To that Nathan Glazer adds, “there is the legitimate fear that disorder will prevail if the means by which complicated issues are settled [through the Court] in a complex society are themselves brought under attack.”<sup>43</sup> The essence of this argument is that power has limits; it is neither absolute nor without checks. The Court jeopardizes the nation’s political health and its own when it reverses too many policy commitments made by other institutions and actors. Decisions by the Warren Court on civil rights and civil liberties, the Burger Court on abortion, and more recently, decisions by the Roberts Court concerning the rights of terrorist suspects or the “political free speech” rights of corporations demonstrate the extent to which the Court’s policy pronouncements can generate heated debate.

Other analysts place the role of the Court in a fairly harmless perspective. Robert Carp and his colleagues note that the judiciary’s unpopular policies are not without sanctions. The Court may be reversed by legislation, by constitutional amendment, executive branch resistance, and even by the Court’s own decisions in future cases. Rather, they argue, “the courts can announce policy decisions that attract national attention and perhaps emphasize that other policymakers have failed to act. . . . [But] all things considered, the courts seem best equipped to develop and implement narrow policies that are less controversial in nature.”<sup>44</sup> Such behavior is hardly coincidental, notes Peter Woll, because as part of its effort to preserve independence, the Court may prefer to exercise self-restraint in sensitive policy areas when its members sense that other branches may work to curb its powers.<sup>45</sup>

Although the propriety of the Court’s policy-making activity remains controversial, its emergence as a policy actor in modern government is beyond question. The Court’s assumption of authority has also had profound repercussions on other policy-making bodies, which must coexist with the judiciary in ways not always anticipated. Furthermore, there is the question of judicial selection. Since a simple majority of the Court’s nine members can issue opinions that have sizable impacts, it is little wonder that nominations to fill vacancies on the bench stir up so much commotion.

## Bureaucracy

Congress, the president, and the judiciary are the most recognized policy-making actors in American society. Although they may differ in function and design, these institutions share the same historical bond: they are products of the Constitution and of subsequent interpretations of that document. The bureaucracy, however, is another matter. Here is a policy-making structure—or a series of structures—that has evolved over time in its relationship to other policy-making authorities and in its self-assumed ability to decide policy matters. Whatever independence the bureaucracy has, however, we must bear in mind that it is a creation of the traditional policy-making institutions.

What does the term *bureaucracy* mean? For our purposes, bureaucracies are units of government that both make and implement public policies. They differ from the “mainline” institutions, discussed above, in the manners in which they are organized. Bureaucracies are established by other policy makers; in almost all instances, they are created by legislative mandates or executive orders. Because of their dependence upon other units of government for their existence, bureaucracies are vulnerable to change at almost any time.

There is a second way in which bureaucracies are different from other policy-making authorities: For the most part, bureaucrats are civil servants. Whether they deliver mail, evaluate tax returns, or monitor the quality of agriculture commodities, bureaucrats are generally part of the civil service system. Other than a select few political appointees at the top, most bureaucrats are hired by merit, expertise, and often for their skill sets. Given their lengthy stay in the same line of work, bureaucrats often develop expertise that exceeds and outlasts that of other policy makers, most of whom have comparatively brief stays in elective or appointed political offices. Thus, bureaucrats offer the qualities of continuity and stability.

Bureaucracies come in different shapes and sizes, with varying amounts of policy-making authority. Gathered under the jurisdictional umbrella of the executive branch are fifteen of the nation’s largest bureaucracies, including the Department of Defense, with 669,000 civilian employees; the Department of Veterans Affairs, with 263,000; and the Department of the Treasury, with 118,000. At the other end are the relatively small Department of Education, with 4,300; and the Housing and Urban Development, with 9,400. The newest cabinet department, the Department of Homeland Security, started out with 164,000 employees and a budget in excess of \$38 billion. Most employees came to the department from existing government agencies; this was a reorganization of the federal government as much as a new bureaucracy.<sup>46</sup>

A number of other large bureaucracies outside the executive branch perform vital government functions. Among these are independent agencies, like the National Aeronautics and Space Administration, with 18,500 employees; government corporations such as the Postal Service, with 800,000 employees; and regulatory commissions as typified by the Federal Trade Commission, with 1,100 employees.

The size of a bureaucracy is not a simple indicator of its ability to formulate and execute public policy. For example, in 2008, the five-member Securities and Exchange Commission, staffed by a workforce of only 3,100 employees, found itself accused of poor oversight of financial firms when their risky practices led to a crisis of the global financial system and required a huge federal bailout.<sup>47</sup> On the other hand, in 2003 the five-member Federal Communications Commission and its 2,000-member staff enacted a sweeping policy change by relaxing limitations on media ownership.<sup>48</sup>

Although bureaucracies were initially designed as policy executors—agencies organized to administer what authoritative sources created—their roles have expanded. For more than a half-century, observers have tracked bureaucratic expansion not only in terms of new responsibilities but also in terms of basic decision-making tasks. A good deal of the change in the United States has occurred since World War II, but even before that period, Carl J. Friedrich cautioned that the legislative experience was a far-from-complete description of the policy-making process. He argued that to look at legislating alone was to ignore the presence of administrative officials who, by virtue of their managerial positions, were able to participate continuously and significantly in the policy process long after basic decisions were made.<sup>49</sup>

Friedrich's early analysis injected unusual candor and insight into public administration. Nevertheless, some students of the subject rejected the concept of bureaucratic policy-making authority. Instead, the counterargument held, bureaucracies were simply logical extensions of the political process. Wrote the authors of one study, bureaucracies "cannot exist without appropriations in enabling statutes. They can survive only as long as they can combine to secure . . . legislative and executive support."<sup>50</sup> In effect, then, this view classifies bureaucracies as recipients of command rather than makers of policy.

Today, the debate is not about whether the bureaucracy makes policy; rather, what is being debated now is to what extent and for whose benefit the bureaucracy makes policy. For some observers, the policy-making ability of the bureaucracy is omnipresent and excessive. In their provocative assault on the excesses of government, Milton Friedman and Rose Friedman write that contemporary bureaucracy is pervasive and beyond control of policy

makers and the public alike: “Higher-level bureaucrats are past masters at the art of using red tape to delay and defeat proposals they do not favor; of issuing rules and regulations as ‘interpretations’ of laws that in fact subtly, or sometimes crudely, alter their thrust; of dragging their feet in administering those parts of laws of which they disapprove, while pressing on with those that they favor.”<sup>51</sup>

Other observers argue that bureaucrats are necessary to complement the workings of other public policy makers, particularly those in the legislative branch. Bureaucrats, write Randall Ripley and Grace Franklin, “make numerous decisions in the course of administering their programs that are important to members of Congress. . . . [But] bureaucrats cannot exercise the power they have over expenditures, location of facilities, or expansion or reduction of services, without regard to the political repercussions such exercise of power has in Congress.”<sup>52</sup>

Whether their powers are modest or substantial, harmful or beneficial, skillfully utilized or politically exploited, bureaucracies are indisputable policy-making actors in contemporary American society. To be sure, some bureaucracies are more independent than others; policy-making abilities and limitations vary among bureaucracies. These shades of difference notwithstanding, modern bureaucracies must be acknowledged as far more than implementing agents or neutral functionaries for others. They are players in the policy-making process.

### **Voting Public**

Thus far, the policy-making roles we have described have application at various levels of public authority in the American polity. Indeed, wherever governments exist, chief executives—whether they are known as presidents, as governors, or as mayors—are part of the public policy mix. Similar conclusions may be reached about legislative bodies, courts, and bureaucracies at the national, state, and local levels of power.

Yet, there is another policy-making component that is particular to certain states. When acting as a collective body, the electorates in twenty-four states may exercise a policy-making role at the state and local levels through reliance on the initiative. State requirements for qualifying citizen-proposed initiatives to appear on the ballot vary from a few thousand signatures to 10 percent of the electorate. Such citizen efforts are in fact routine in the states that permit policy making by the voters. As Jeffrey Stonecash notes, the use of initiatives “may not be a primary means of making decisions, but it does occur regularly and does involve important concerns.”<sup>53</sup> For example,

the voters in various states have acted on legislative term limits, abortion rules, minimum prison sentences for serious offenders, utility regulations, numerous forms of gambling (from bingo to riverboat casinos), handgun controls, affirmative action, immigration, legalization of marijuana for medicinal purposes, assisted suicides, and dozens of other controversial as well as mundane topics. Particularly in states where it is used often, the initiative works as an alternative policy-making process that circumvents the power of elected officials.<sup>54</sup>

In recent years, citizens in states where legislatures were unable or unwilling to pass certain policies have placed growing numbers of initiatives on the ballot. Some of these efforts touched on minor themes, such as the 1994 initiative in Washington State in which voters approved the right of individuals to purchase dentures directly from manufacturers rather than through their dentists. Others have been incredibly costly battles. In California in 2006, the oil lobby spent more than \$100 million to defeat an initiative that would have imposed an oil severance tax (California is the only oil-producing state without such a tax). And in 2008, pro-Indian gaming interests spent \$150 million to secure passage of an initiative to expand Indian casinos, overpowering opponents who mustered only \$40 million for their side.

Of significance is that a substantial number of initiatives under consideration by the voters go down to defeat or are declared unconstitutional by state or federal courts. Defeat often occurs because of the complexity that initiative designers attach to their proposals, leading voters to feel more confused than assuaged. In California, for example, of 334 proposed initiatives that appeared on the ballot between 1912 and 2008, a full two-thirds were defeated by the electorate, even though many were well-financed efforts.<sup>55</sup> In addition, even initiatives that have captured public approval have ultimately been declared unconstitutional by state or federal courts. For example, although voters in twenty-three states enacted term limits for their members of Congress between 1990 and 1994, those efforts were swept aside by the U.S. Supreme Court in 1995 as unconstitutional.

### **Federalism: Coming to Terms with Levels of Decision Making**

The discussion above distinguishes five types of components of policy-making actors. Of these, four—legislative, executive, judicial, and bureaucratic—occur at the national, state, and local levels. The fifth, voters, can be observed at the state and local levels only because there is no constitutional provision for a national initiative or referendum.

What is it that leads a policy to be adopted at one level versus another? The answer is framed through the guarantees and obligations defined in the Constitution and further clarified through judicial decisions. In broad terms, the powers and responsibilities of the federal government are outlined in Articles I, II, and III of the Constitution; most state powers and obligation are outlined in Article IV of the Constitution. But it is not unusual for policy makers at more than one level of government assume responsibility for the same issue. As a general rule, the relative power of the national government versus the states has ebbed and flowed over time, partly depending upon judicial interpretations.<sup>56</sup> Nevertheless, as Joseph Zimmerman notes, “central to a general theory of American federalism is the premise that there is no necessary optimal degree of centralization or decentralization within the nation.”<sup>57</sup>

In fact, for the most part, the American political system is characterized by carefully designed interdependence and joint decision making. Such cooperation is commonly required between policy-making institutions at the national level and is usually expected from comparable authorities at lower levels of government (the Environmental Protection Agency orders new strip-mining procedures; state bureaucracies enforce them). Should the necessary cooperation among policy-making authorities fail to take place either between comparable levels of authority (horizontally) or authoritatively from top to bottom (vertically), issues may remain without resolution. However, even when policies survive the rigorous endurance tests described above, their official prescriptions will be satisfied only through implementation. We will turn to implementation, the next major step in the policy process, in chapter 5.

### **Policy-Making Actors—Society’s Power Brokers**

While the policy-making process may seem cumbersome and opaque, the cast of policy makers responsible for decisions is fairly observable. That key decision makers are identified, however, does not suggest that they will do what they have been chosen to do—cooperate in the construction of public policies. In order to predict policy maker behavior with any sense of certainty, we would require extensive information on leaders’ values, interest group pressures, citizens’ attitudes, institutional checks, and countless other factors that affect power and its exercise. Nevertheless, a catalog of policy makers serves a useful purpose: it sensitizes us to the actors, and to the potential power of those actors, at the center of the public policy process.

Today's decision makers almost always operate under conditions that are different from those in the classic examples of democracies. Historically, from the assemblies of Athens to the town hall meetings of New England, those who made policy had substantial direct contact with those who were affected by it. The makeup, scale, and scope of modern society, however, is such that individuals could not possibly make policy on every important issue; nor are they interested. With the exception of a few pressing matters decided in initiative states, we defer to accountable leaders. Writing nearly a half-century ago, E.E. Schattschneider put the matter best when he wrote, "The problem is not how 180 million Aristotles can run a democracy, but how can we organize a political community of 180 million people so that it remains sensitive to their needs. . . . The emphasis is on the role of leadership and organization in a democracy."<sup>58</sup> In other words, it is not practical for people to govern themselves in a complex society. Instead, democracy is exercised through leadership choices. Public policy is made either by actors selected through the democratic process or by individuals responsible to those actors.

Our fivefold description of policy-making actors frames the major participants in the policy process. Lest we attach too much significance to any particular category, we should remember that commitments seldom are constructed by a single policy-making authority. Without consensus from the principal actors, it is very difficult for any public policy to be put into place. What some call "gridlock" and others call "deliberateness" are two sides of the same public policy-making coin in American politics.

### Questions for Further Thought

1. Who are the major policy-making actors? How do they convert competing claims into public policy commitments?
2. Congress and the president have different structures of accountability from courts and bureaucrats. What distinguishes the two groups? What are the costs and benefits of these different arrangements?
3. Which of the five policy-making actors has the most independence? Which has the least? What are the consequences of these different levels of autonomy?

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# 5

## Implementation

### Converting Policy Commitments into Practice

Public policies reflect the new goals, new values, and new relationships that emerge out of crises and confrontations. Simply said, public policies are commitments to something. As instruments of decision makers, however, policies do not institute movement as much as they direct movement. In order for policies to work, appropriate government agencies must undertake the process of converting new laws and programs into practice. *Implementation* represents the conscious conversion of policy plans into reality. It is the “follow-through” component of the public policy-making process, the part where we learn whether the public policy is actually carried out.

At first glance, it may seem that implementation activities are simply an automatic continuation of directives orchestrated by government institutions and decision-making authorities. But it's not so simple or automatic. There often exists a substantial gap between the passage of new laws or rules and their application. This gap can cause havoc with the policy-making process.

A famous U.S. Supreme Court decision illustrates the difficulties that can accompany implementation. In ruling on the *Cherokee Nation v. Georgia* case of 1831, Chief Justice John Marshall and his colleagues decided by a 6–2 vote that the state of Georgia had illegally seized some Cherokee lands.<sup>1</sup> As a result of this, as well as a subsequent case, the Court ordered President Andrew Jackson to protect the rights of the Cherokee tribe.<sup>2</sup> In defiance of the Court's action, President Jackson refused to accept its opinions. Chief Justice Marshall strongly implied, in turn, that “it was the President's duty to uphold the appellant's rights under federal law,” to which admonition Jackson is reputed to have replied, “John Marshall has made his decision; now let him enforce it.”<sup>3</sup>

The reluctance of an assigned government unit to carry out the legal directive of another unit shows the uncertain state of implementation. There is no natural law ensuring that the policy adopted today will be carried out as intended tomorrow. Indeed, the relationship between decision making and implementation is tenuous at best.

Even though implementation occurs at the backside of the decision-making

process, policy execution inevitably depends upon the components of public policy that precede it. The policy-making process is somewhat akin to the physical composition of a chain-link fence, with its web-like fingers that connect and overlap other sections of the structure. The anatomy of a chain-link fence suggests two distinctly different interpretations of its utility. In one sense, much material seems to be wasted, as one part of the chain curls around another, with the excess suggesting little more than decorative value. In another sense, the fence is organized in such a manner that the various parts of the chain are interdependent. Thus, a single link, while unimpressive alone, is simultaneously the extension of one section and the partial foundation of another. This complementary design provides continuity and, hence, the unexpected strength of the chain-link fence.

Policy implementation reveals the strengths and weaknesses of the decision-making process. Like a chain-link fence, implementation relies on connections for its purposes and direction. The primary connecting elements include triggering mechanisms, a public agenda, and the attempted resolution of emergent issues. These are linked to decision makers who take into consideration various policy alternatives. Policy decisions, in turn, are linked to various agencies and officials, who are assigned the task of executing the new policies. At this point, the implementation of policy faces a range of possible outcomes that include intentional obstruction, inefficiency, neglect, and synchronized cooperation. At some point in the future, all that has or has not been carried out will be scrutinized through a process known as evaluation, the subject of chapter 6.

While implementation signifies the completion of the policy cycle in one sense, it may well represent the beginning of a new policy cycle as well. Poorly designed and poorly executed policies may create new triggering mechanisms. By the same token, well-conceived and successfully implemented policies may put a long-festering public issue to rest. Depending on a variety of circumstances pertinent to an issue, the links of the public policy fence can be direct and strong or fragmented and weak. Implementation is a major part of the material in that fence.

This chapter begins with an explanation of the implementation framework and its relevance to the public policy process. As with other components of policy making, implementation rarely works perfectly or without a hitch. In the pages that follow, we will discuss some of the major nuances associated with implementation. Among these are the extent to which a policy is carried out (implementation by degree); the kinds of governments that are responsible for managing a new policy (micro-implementation versus macro-implementation); and the power of the principal government entity that must do the implementing (the bureaucracy). Finally, inasmuch as implementation

constitutes the last major step of the policy-making process, it is important to understand those factors that encourage or prevent its occurrence. Here a host of variables determine how well this crucial step in the policy-making process converts rhetoric into reality.

### **The Implementation Framework**

Implementation represents the effort to put the policy-making decision into place. Positioned on the less visible “back end” of the process, this component is often overlooked and undervalued. Less knowledgeable observers assume that public policy decisions are automatically put into effect by bureaucrats and others downstream from the policy-making process. Yet, the fact remains that official enactments by appropriate government agencies and institutions are little more than statements of intent. If you visualize a seesaw with policy formulation at one end, implementation is the balance on the other side. As Michael Hayes writes, implementation “consists primarily of the execution of policy.”<sup>4</sup> Without an application consistent with its intent, policy has neither substance nor significance. Policy success depends on how well bureaucratic structures implement government decisions.

Until recently, even astute analysts of public policy making tended to overlook the value of implementation. With their focus mostly on major policy institutions such as the presidency, Congress, and perhaps the courts, most observers tracked public policy from the point of emergence in the political system to the moment of adoption. Major scholarly works emphasized the values and compromises that shaped policy as crucial to the workings of the governmental process.<sup>5</sup> As noted by one policy analyst, early treatments of the political process were so caught up with the descriptions of government offices that they failed to consider either the outcomes of institutional decisions or the ways in which commitments were converted into activities.<sup>6</sup> As a result, considerable confusion developed when policy applications varied from policy commitments. One of the concerns of contemporary political science, then, has been to trace policy from its origins to implementation and, with the help of evaluation (see chapter 6), to actually determine the extent of congruity from the beginning to the end of the policy cycle.

Efforts to understand and evaluate policy implementation have been hindered by the low visibility of the bureaucracy, the most commonly utilized agent of the implementation task. Unlike government bureaucrats and their agencies, most policy makers (e.g., the president and Congress) face a good deal of public scrutiny because of their consistent accountability to the public. They are confronted with periodic public assessments of their efforts in the

form of elections, press reports, or criticisms from other political camps. Yet, the decisions of policy makers are actually carried out by bureaucratic agencies with little direct accountability to the public. Randall Ripley and Grace Franklin conclude: "The bottom line with reference to delegation of authority is that a good deal of the detail of public policy is made by the bureaucracy," even though the core of the policy-making process is located in the more visible parts of government such as Congress or the presidency.<sup>7</sup> The failure of bureaucratic agencies to implement a policy properly not only brings confusion to the intent of the policy but also helps to rekindle the political debate initially responsible for the policy action.

In addition to their relative invisibility, bureaucracies often have tremendous latitude in the means and methods they use to carry out their assigned tasks. Such discretion varies with the type or level of bureaucracy and the form of public policy that the bureaucrat is assigned to carry out.<sup>8</sup> Given the lack of standardized procedures and conditions for implementing public policies, it is easy to understand the confusion about bureaucratic behavior; there are few generalizations with respect to predictable action. The implementation process of one bureaucracy may be issue-specific or narrowly defined, while the implementation effort of another may be filled with flexibility. Why such inconsistency? The answer, write Joseph Stewart and his colleagues, is because those who formulate policies "are often unable or unwilling to include precise guidelines either due to the complexity of an issue under consideration or because of lack of time, interest, or information."<sup>9</sup> Nevertheless, the combination of general public awareness and the vast amount of discretionary power makes bureaucracies sleeping giants in the public policy-making process.

As we have ascertained in the first few chapters of this book, the policy-making process is fraught with challenges and obstacles; implementation, the final step of policy decisions, suffers from similar difficulties. In actuality, the policy decision itself may be the last opportunity for legislation to be recognized in its entirety. Once adopted, a policy is dissected by multiple interpretations, assessments, and responses—some in concert, others in contradiction—by both the bureaucratic sector and other levels of government. As Charles Lindblom and Edward Woodhouse note, "The mere size of the government's efforts at administering or implementing of policy poses staggering problems of resolving conflict and of arranging cooperation."<sup>10</sup> Given the scale and complexity of the problem dealt with at the national level, bureaucracy plays a critical if unsung role in making things work. Difficulties with respect to implementation can be found at other levels of government as well, even with small units such as cities, as Michael Mila-

kovich and George Gordon observe, where the carrying out of policy directives “requires a considerable investment of executive resources—assuming the mayor has such resources—to direct implementation of programs under the mayor’s leadership.”<sup>11</sup> Only the process of evaluation, an activity that takes place subsequent to a policy’s operation, gives any sense of where and how the policy has been implemented vis-à-vis the intentions of those who designed it.

While some disagreement exists over the elements that compose implementation, certain assumption seems to have widespread acceptance. For implementation to occur:

1. There must be an *entity with sufficient resources* assigned to carry out the implementation task.
2. The implementing agency must be able to *translate goals* into an operational framework.
3. The entity assigned the implementing task must *deliver on its assignment and be accountable* for its actions.<sup>12</sup>

Identification of the components necessary for implementation is in no way a barometer of success; such awareness only points to the countless hurdles that must be overcome en route to fulfilling a policy objective. For a variety of reasons outlined later in this chapter, the same agencies that successfully implement one policy may fail in their efforts to implement another policy of similar design or structure. Such inconsistency stems from the complex processes that determine implementation objectives and strategies for individual policies.

### **Bureaucracies as Agencies for Implementation**

Bureaucracies are the necessary, if sometimes cumbersome, outgrowths of modern government organization. As institutions and their responsibilities have become more complex, so too have the bureaucracies established to carry out government-directed objectives. Kenneth Meier writes, “When faced with acute crises, chronic problems, or even apathy, the positive state [government] responds; and the response usually includes a bureaucracy.”<sup>13</sup> Thus, in the 1970s, when the national government adopted a policy to secure the environment from degradation, the Environmental Protection Agency (EPA) was established to consolidate the efforts of many smaller offices and programs to administer this new goal. Similarly, in 2002, the Department of Homeland Security was created to coordinate national efforts to both prevent

and respond to domestic threats posed by terrorist activities as well as other types of emergencies.

Although designed chiefly as policy-implementing agencies, bureaucracies often assume *policy-making* roles. In the words of one authority, the difference between policy making and policy administration often is “clearer in theory than in practice. In highly complex societies, bureaucratic organizations often are asked to elaborate alternative approaches to a problem in addition to translating a policy into concrete programs and implementing those programs.”<sup>14</sup> Such enhancements add to the discretionary leeway of the bureaucracy, often giving it much more power than its designers ever intended.

Sometimes bureaucracies are pared back or even eliminated because policy makers perceive that they have become inefficient or are no longer necessary, but the examples are relatively few. Thus, in 2009 when California faced its worst budget deficit on record, Governor Arnold Schwarzenegger insisted on elimination of the state’s Integrated Waste Management Board on the grounds that its functions were duplicated by two other state agencies. The legislature complied.<sup>15</sup>

Similar efforts have taken place at the national level, although not always with success. When the newly elected Republican-dominated Congress sought to eliminate the Department of Commerce in 1995, the leadership argued that the Cabinet department was more harmful than beneficial to the promotion of U.S. commerce. That effort failed. In 2003, several members of Congress promised investigations after the Federal Communications Commission (FCC) made it easier for television stations and newspaper corporations to own several media outlets in the same markets,<sup>16</sup> but nothing resulted from the effort. And in 2009, an internal investigation severely criticized the Securities and Exchange Commission (SEC) for its apparent laxity in regulating the financial sector.<sup>17</sup> Some members of Congress threatened to redesign the functions of the SEC, yet the agency has remained intact.

### **Implementation by Degree**

The mere decision to create a policy or a law in no way dictates any certainty of application. That’s because sometimes the wheels of government move at a slow and erratic pace; moreover, with our congested system of actors and tasks, sometimes the wheels stop altogether. But for *any* movement to occur, compliance and cooperation are required at all levels in the policy framework, from government agencies to individual citizens. Given the public’s general acceptance of government, it is a rare occasion when those wheels grind to

a halt. It is another matter, however, to assert with confidence that all government policies are automatically implemented with their intentions intact. More times than not, implementation is not a “yes or no” matter. Rather, it is an activity that occurs in degrees.

One way of understanding the potential for implementation is to examine the extent to which different types of policies are carried out. Theodore Lowi divides public policies into three separate categories: distributive, regulatory, and redistributive.<sup>18</sup> *Distributive* policies have had a long-established role in American politics. These policies are designed to ensure that government decisions benefit specific clientele. Once identified chiefly as patronage appointments and contracts, distributive policies correspond to society’s major sectors—such as labor, business, agriculture, or armed services veterans. The need for government to accommodate these groups was so great that Cabinet-level departments were structured within the executive branch to ensure a smooth policy flow from planning to implementation.

Regulatory and redistributive policies are largely products of the twentieth century. It is the overt intent of *regulatory* policies to award approvals or sanctions to clientele pursuing certain activities. General rules are applied by administrative units on a case-by-case basis. Agencies such as the Food and Drug Administration (FDA), the Federal Communications Commission (FCC), the Federal Trade Commission (FTC), and the Occupational Safety and Health Administration (OSHA) are known for exercising regulatory supervision of food and drug safety, broadcast licenses, corporate mergers and acquisitions, and workplace hazards. With the ability of these agencies to move in radically different directions depending on the administration in power, however, some critics argue that the application of their authority can be arbitrary, if not discriminatory.<sup>19</sup> In the case of OSHA, the federal agency did an about-face during the George W. Bush administration. The agency squashed dozens of proposed workplace safety regulations and backed away from enforcement on the grounds that such efforts were harming business.<sup>20</sup>

Unlike regulatory policies that entail focused, ongoing relationships, *redistributive* policies have wide application and they account for the largest portions of the national domestic budget. Once a redistributive policy is in place, efforts to change it can be extremely contentious—Social Security, for example, has been called the “third rail” of American politics. But the demographic trends are such that analysts project national bankruptcy unless redistributive programs are reformed or revenues are raised or optimally both. Of course, it’s generally easier for politicians to propose to increase

benefits and lower taxes. Taxation changes to address a looming deficit problem extracted a high price from President George H.W. Bush after he backed the Budget Reform Act of 1990, which not only led to a tax increase of \$500 million but reversed a "Read my lips, no new taxes" pledge by the president. Some observers believe that Bush's about-face contributed to his defeat in 1992.<sup>21</sup> That said, President Bill Clinton presided over the largest peacetime tax increase in American history, with no negative effect on his popularity, and produced budget surpluses. Clinton's successor, George W. Bush, promoted three tax reduction bills and added a prescription drug benefit to Medicare within his first three years of office. By the end of his second term, the budget was deeply in deficit and the national debt was rising steeply.<sup>22</sup>

Lowi's analysis throws a spotlight on the objectives of policy makers and raises the possibility that some policies are implemented as intended, while the fates of others are more ambiguous. Such suspicions of inconsistency and misdirection become more pronounced when Lowi's framework is used to assess the extent to which bureaucracies manage policy implementation. Here we may observe a wide range of relationships between policy intent and policy administration.

According to Lowi, it was during the Great Depression that Congress delegated its lawmaking authority "increasingly in statute after statute to an agency in the Executive Branch or to the president, who had the power to subdelegate to an agency."<sup>23</sup> Policy commitments were designed in such ways that Congress would pass laws and delegate to others the ability to "fill in the details." Lowi labels such delegation "administrative legislation"; it gives bureaucratic agencies broad discretion to implement laws as they see fit.

In his study of the federal bureaucracy, Kenneth Meier discovered that discretionary powers of relevant agencies that deal with Lowi's major public policy types varied greatly. While distributive policies are implemented with some bureaucratic discretion, Meier noted that appropriate congressional subcommittees and those organized groups receiving distributive benefits exercise continuous oversight. Given these checks, distributive agencies tend to implement policies in accordance with the needs of their clientele.<sup>24</sup>

With respect to regulatory policies, most agencies are responsive to the sectors over which they preside. Although regulatory agencies theoretically follow congressional guidelines, the independence given to them allows them to be discretionary in their work. A case in point is the changing role of the Environmental Protection Agency, which was originally set up by President Richard Nixon in 1970 as an independent pollution control agency

with particular concerns for air and water contamination.<sup>25</sup> Yet, over time the agency's administrators expanded its functions considerably. For example, in 1993, the EPA declared that "passive" or secondary tobacco smoke was a human carcinogen. Although the EPA had no mandate to determine workplace or restaurant conditions, its ruling on the secondary smoke issue provoked nationwide changes in companies to create nonsmoking environments in order to avoid lawsuits by victims of cancer and other illnesses brought on by passive smoke.<sup>26</sup>

In the area of redistributive policy, little discretion is left to bureaucrats. Congress is very precise with regard to managing these policy commitments. In Meier's words, "Congress perceives redistributive issues as so important that they should be resolved in the legislative branch rather than by the bureaus in consort with their clientele."<sup>27</sup> Although the massive scale and impact of these programs act as barriers to new policy directions, the implementation is fairly routine and reflective of the intent of policy makers.

Perhaps this explains some of the difficulty in enacting health-care reform in 2009. With health care amounting to 16 percent of the gross domestic product, Congress was not about to assign the Department of Health and Human Services or any other bureaucracy responsibility for system reform.

As the foregoing suggests, implementation is anything but an all-or-nothing process. Some laws encourage precise implementation, while others do not; some policy changes leave room for bureaucratic discretion, while others transpire under close scrutiny. It is often the case that implementation does not occur wholesale, but step by step and by degree.

### **Vertical versus Horizontal Implementation: Adventures in Federalism**

Implementation efforts may move between levels of government and/or within levels of government. Indeed, the requirements of federalism, the multifaceted web of intergovernmental relations, make it likely that most public policies will be implemented by a series of institutions or levels of government.<sup>28</sup> At the same time, the implementation process will be encouraged or discouraged, in part, by the route of policy application.

If Congress enacts a national law that requires administration solely by an agency in the executive branch, the horizontal path may limit the number of actors as well as increase synchronization. That happened in 2008, when Congress enacted the Emergency Economic Stabilization Act to shore up a rapidly deteriorating financial system that rocked the economic stability of the United States and other countries throughout the world. The new law

gave the Department of the Treasury temporary powers to buy troubled assets, lend funds, and in some cases help financial institutions transition into bankruptcy. Virtually all activities associated with the stabilization of the banking industry—from funding to oversight—took place at the national level. With no vertical linkages for the \$700 billion program, its activities remained under the day-to-day supervision of the Treasury and the Federal Reserve while closely monitored by Congress.<sup>29</sup> Much of the emergency plan's success stemmed from its simplicity in design. Program administrators provided the emergency funds, supervised their use, and welcomed the return of funds as financial institutions stabilized. By August 2009, the national government had already collected \$10 billion in interest on the first \$70 billion returned.<sup>30</sup>

Conversely, when one or more segments of the national government must interact with institutions at various levels on the federal ladder, the implementation challenges increase. No issue better exemplifies vertical difficulties than the question of civil rights. The U.S. Supreme Court declared racial segregation of schools unconstitutional with a unanimous 9–0 decision in 1954, and in a follow-up decision called for “all deliberate speed” in the implementation of school desegregation.<sup>31</sup> Nevertheless, vestiges of resistance to the Court's decision continue to this day. More than a half-century after the historic decision, two-thirds of all minority children still attend minority schools.<sup>32</sup> Similarly, after Congress passed the USA Patriot Act in 2001, the states were left to implement myriad elements of the multifaceted law, particularly with respect to questions relating to undocumented immigrants, resulting in great inconsistencies in application of the new statute.<sup>33</sup>

As a public policy increases in complexity and in layers of interaction, its implementation activities may transcend both the vertical and the horizontal dimensions of bureaucracy and the political process. With each new dimension of government involvement, the policy faces a new power base, a different set of interpretations, and the potential of resource scarcity. Because of the hazards associated with implementation of overlapping institutions and levels of government, the coordination issues can become as compelling the policy itself.

### **Conditions That Promote Implementation**

Because different political actors and institutions are connected with each policy, the implementation framework varies with each public policy enactment that awaits execution. Moreover, the opportunities—both structural and political—to halt, delay, or modify policy commitments are numerous.

For now, however, we focus on the conditions that can facilitate the implementation effort. Some of the more valuable of these inducements include adequate funding, boilerplate provisions, limitations on the number of agencies involved, and political controls on the bureaucracy.

### *Funding*

Few provisions are as vital to the ultimate achievement of a public policy goal as funding. Adequate financial resources allow for making long-term plans, making staff arrangements, making policies operational, and completing policy objectives. Most of all, funding is the hallmark of commitment.

Consider the Food Stamp program, proposed by President Lyndon Johnson as part of his “War on Poverty” effort during the mid-1960s. Johnson argued that an end to hunger represented the first step toward ending poverty in America; in 1964, Congress responded to Johnson’s plea by passing the Food Stamp Act. The program allowed recipients to purchase food coupons at a fraction of their worth; the coupons could then be redeemed for food at nearby supermarkets or food outlets. (The obvious benefits to agricultural interests and grocers have always been part of the political support for the program.<sup>34</sup>) The Food Stamp program began with an initial budget of \$400 million for 2 million recipients. By 1994, 27 million people—more than one out of ten Americans—received benefits totaling \$26.4 billion, and criticisms became more vocal. A Republican Congress forced Democratic president Bill Clinton to trim about 1 million recipients from the Food Stamp program through tightened eligibility rules. But that was short-lived. More recently, in conditions of rising unemployment, enrollment in the program and its costs began to spike again in 2007.<sup>35</sup> In Michigan, home of the American auto industry, one in eight residents received food stamps.

Not every policy commitment involves the distribution or redistribution of public funds, but funds are nearly always required on an ongoing basis to implement public policies. Yet, funding can be tricky, particularly if one level of government creates a policy that other levels must carry out with their own financial resources. The concept, known as *unfunded mandates*, was applied vigorously during the Reagan administration. Couched as “deregulation,” “privatization,” and “decentralization,” this approach to policy making emphasized the combination of federal rules with state and/or local government application. Most distressing to the lower levels of government were the costs mandated upon them by the federal statutes.<sup>36</sup>

The effect of legislative mandating was that it gave the illusion of a smaller federal government while shifting responsibilities to other levels of government. In other words, the federal government outsourced implementation of national programs to the states.

Over time, this backdoor approach to policy implementation drew increased anger from state and local authorities. Finally, the issue was addressed in 1995, when Congress and President Clinton enacted legislation that required the federal government to make public cost estimates on any federal legislation mandating state expenditures in excess of \$50 million, with the “option” for the federal government to pick up the tab, if possible. (Such options rarely are realized.) The Unfunded Mandates Reform Act of 1995 failed to approach anything close to true reform. Publicizing the facts did not necessarily change the facts. To that end, a study in 2005 showed that in the ten-year period since enactment of the Unfunded Mandates law, states had annual unfunded costs from various federal program requirements of more than \$30 billion.<sup>37</sup>

### ***Boilerplate Provisions***

Public policies sometimes are written in such a manner that their implementation is contingent upon the agreement of state and local government agencies or recipients in the private sector to a series of previously established conditions. Known as boilerplate provisions, these conditions represent commitments to general social goals created through programs adopted at earlier points in time. The implementation of one policy, then, may be dependent upon the continued enforcement of other laws or regulations.

Boilerplate provisions are particularly vital to those governments that rely upon federal financial assistance for support of their own programs. The numbers of dollars at stake are substantial. For the 2008–9 fiscal year, states and local governments received about \$500 billion in federal grants-in-aid, up from \$97 billion in 1984–85. These dollars exclude approximately \$200 billion set aside on a one-time basis with the American Recovery and Reinvestment Act in 2009. Moreover, they are critical to the survival of other governments. In many cases, grants-in-aid amount to as much as 30 percent of a state’s entire budget.

But the dollars are delivered on “terms.” These conditions range from promises that the recipient agency will hire X percent racial minority or female contractors to the guarantee that it will hire all eligible workers for a specific program irrespective of their ages. Should the recipient government agency fail to live by the boilerplate provisions associated with the

grant-in-aid, in all likelihood it would lose its federal assistance, even if those funds were used properly for the program in question. Many of the nation's most visible public policies are linked with boilerplate provisions at the implementation stage. The Economic Stimulus Act of 2009 contained many such provisions, including one that governments use "American made" products to rebuild highways, bridges, and other infrastructure components. While the boilerplate condition satisfied local companies and their employees, it set off an incident with Canada, one of this country's largest trading partners.<sup>38</sup>

The particular boilerplate conditions built into a specific public policy may be completely unrelated to the new program designed for implementation. In addition, according to one study, these strings have increased with allocations of federal dollars.<sup>39</sup> The combination of strings and growing federal financial commitments has led many observers to take a hard look at the grant-in-aid concept.

Current reassessments notwithstanding, boilerplate provisions remain subtle, yet powerful components of policy implementation. Their importance lies not only with the specific legislation to which they are connected, but with general commitments made at previous points in the public policy-making process. Simply put, their conditions help to ensure that new policies are carried out simultaneously with the fulfillment of other long-standing goals.

### *Limited Numbers of Agencies*

American government is a maze of overlapping and interconnecting policy-making structures. Horizontally, at the national level, executive, legislative, judicial, regulatory, and (to some extent) bureaucratic entities both compete for and share authority. Similar divisions of authority not only occur at the state and local levels, but also must interact with the power that flows from the national sector. Given these myriad points of pressure and influence, it is easy to see the challenge of implementation. Robert Lineberry offers the following observation: "The larger the number of actors and agencies involved, the lower the probability of successful implementation."<sup>40</sup> But there is another side to Lineberry's axiom: Restated in a positive context, this logic holds that successful implementation depends upon simplicity, and simplicity demands that authority and administrative responsibilities be shared among the fewest possible agencies.

Development of the interstate highway system in the United States demonstrates the success that can be attained from a program that has

limited numbers of participants. Initially designed in 1944, the network was scheduled for completion by the century's end. Today the interstate highway grid contains 46,876 miles of four-lane (at least), high-speed roads. Estimated cost for building the project was \$129 billion, but the payoff seems substantial: With 2.5 percent of the roadways in the nation, the efficient interstate system carried more than 24 percent of the traffic as of 2006. Significant for this discussion is that the system has been built with tight vertical management. Under the auspices of the Department of Transportation, the federal government pays 90 percent of the cost and supplies standards. State highway department counterparts pick up the rest of the tab and build the roads.

### *Political Controls on the Bureaucracy*

Bureaucracies are important components of the political process because they translate orders, laws, and decisions into concrete application. In carrying out their assigned tasks, however, bureaucracies rely largely upon their own biases and interpretations. This self-appointed control mechanism is known as bureaucratic discretion. It is important because the implementing approach determined by bureaucrats can be just as consequential as the content of the policy itself. As Charles Jones notes, "The policy process relies heavily on the communication of words and their meaning. Interpretation—'What did they mean by that?'—is crucial to understanding what goes on at every stage of decision making."<sup>41</sup> Somewhere, somehow, policy makers and policy implementers must be on the same page.

Without political controls on the bureaucracy, implementation of the intended policy may drift away from policy objectives. Marc Landy and his colleagues discovered this problem in their exhaustive examination of the Environmental Protection Agency. In its effort to meet confusing mandates and directives, the authors explain, the agency "has ignored gray areas, fuzzy boundaries, and ambiguities; sorting situations instead into a small number of distinct, mutually exclusive boxes."<sup>42</sup> As a result, the public and the policy makers have been confused by some of the EPA's actions, thereby harming the agency's credibility.<sup>43</sup>

But controls on the bureaucracy do not emanate only from within the internal bureaucratic apparatus. If policy makers expect accurate implementation of their goals, their participation in the policy-making process must continue beyond the point at which decisions are made. Robert Lineberry cites several strategies that policy makers may use to ensure that their commitments are carried out as intended. These include:

1. *Change the law* to tighten loopholes that bureaucracies use for discretionary authority.
2. *Overrule the bureaucracy* through the powers that exist in the presidency or Cabinet-level officials.
3. *Transfer responsibility for administration elsewhere* so that new bureaucrats will be more respectful of actual policy commitments.
4. *Replace a recalcitrant agency head* when the current official in charge repeatedly thwarts clear legislative, executive, or judicial intent.
5. *Cut funding* if there is no way to assert control over the agency's management practices.
6. *Abolish the agency altogether* if there is no other way to assert control over the agency's management practices.
7. *Make the legislation more detailed* to force the bureaucracy into conformity with specific instructions and narrow laws.<sup>44</sup>

Members of the executive branch can supervise implementation through tight controls of cabinet agencies and occasional executive orders where appropriate; legislators can oversee implementation through watchdog committees and the power of the purse; even judges can affect implementation by issuing court orders, although, admittedly, their power to control bureaucracies is less than that of other government branches. Why don't these policy makers exercise such power with greater regularity? Perhaps because such bold action would result in higher visibility (and greater controversy) than they might like.<sup>45</sup> Nevertheless, political control of the bureaucracy remains the most effective means by which to ensure rigorous implementation.

### **Conditions That Obstruct Implementation**

Clear, specific, and well-directed policy decisions are essential prerequisites for implementation. Even so, the prospects of either implementation failure or partial implementation haunt the public policy-making process. Some of the most common pitfalls include bargaining, lack of funds, changes in priorities, multiple goals, and poor oversight.

#### ***Bargaining***

Bargaining has a different character in public policy implementation than it has during the period of policy creation. As part of the decision-making process, which includes compromise, bargaining is a commonly accepted ingredient

of politics. With respect to implementation, however, the time to discuss the merits of various policy proposals theoretically is over. Since only a small portion of the many political actors who make the policy are also involved in its application, further debate would cloud the original issue and obstruct completion of the original public policy objective.

Once a public policy decision has been made, the need for sound application is paramount if it is to reflect credibly upon the policy and policy makers alike. Nevertheless, bureaucrats are often allowed to bargain, or to negotiate, as a means of smoothing out any unforeseen problems connected with implementation. The more an implementing agency is allowed to bargain, the more likely it is that the policy in question may be administered in an arbitrary way. While bargaining may make life easier for the bureaucracy, it may also diminish the value of policy and law.

In his discussion of "interest-group liberalism" as the *modus operandi* of implementation, Theodore Lowi refers to bargaining as one of the reasons for the decay of modern American government. As government's role has expanded, administrative agencies have been given discretion to implement policies. In Lowi's words, "delegation has been elevated to the highest of virtues, and standards have been relegated to the wastebasket of history because that is the logic of interest-group liberalism. Bargaining . . . must be preferred over authority at every level and phase of government."<sup>46</sup> With bargaining as an administrative tool, public policy implementation takes place on a case-by-case basis. Because the bureaucracy often implements decisions with an eye to expedience, a single public policy casts a different shadow with each application. Bureaucrats, then, act less as administrators and more as politicians charged with the responsibility of policy making. Each implementation effort becomes unique with each set of circumstances, leaving the "policy" a meaningless description.

Consider the No Child Left Behind Act, the education policy centerpiece of the George W. Bush presidency. Enacted by Congress and signed by the president in 2002, this effort to improve the education of America's students is based on four core principles: stronger accountability for results, more freedom for the states and communities, better prepared teachers with proven education methods, and more school choices for parents. According to the legislation, states are required to provide annual "report cards" on the performances of their students in math, reading, and other areas in conjunction with defined national standards. If schools do not improve within a fixed period of time, students are allowed to move to other, better performing schools, while the poorly performing schools are subject to federal sanctions. The problem is that the law allows each state to define "proficiency" and other

success measurements. Most states have declared their students proficient, using state-administered tests that are much less demanding than the expectations defined in the law.<sup>47</sup> In other words, the states have bargained their way around the process.

Bargaining may be viewed as a subtle obstacle to implementation; however, bureaucrats do not always employ it successfully. This is because bargaining activity between an agency and an interested party may be related not only to the design of a specific policy but to the clout of the implementing agency and the issue under review. For example, Gary Bryner finds that bargaining is likely to be intense in those policy areas in which a relatively narrow sector of society is called upon to pay for the benefits enjoyed by many (e.g., environmental, health, or safety regulation); conversely, bargaining will not be intense when the benefits of a policy are narrowly focused and the costs are spread among a broad base (e.g., agricultural price supports, tariffs, or licensing).<sup>48</sup> Depending upon the policy area and the affected parties, bargaining can derail the implementation of a policy per its intentions or design.

### ***Lack of Funding***

As discussed earlier in the chapter, funding is a critical ingredient in the implementation of public policy commitments. The absence of adequate financial resources can undermine the objectives set forth by decision makers. If necessary monies do not accompany (or follow soon after) a public policy commitment, the policy objective is likely to suffer in some proportion to the absence of funds. It may seem contradictory for a decision-making authority to decide upon a commitment without suitable resources for implementation. Nevertheless, such ironies are part of the political process.

In some instances, policy-making agents intend to fund their programs but fail because of political breakdown, or because of a fierce struggle over resources after the program's passage. The underfinanced EPA Superfund constitutes a case in point. As enacted in 1980, the Comprehensive Environmental Response Compensation and Liability Act initially set aside \$1.6 billion over a five-year period to deal with toxic waste, oil spills, and other hazardous sites in need of restoration. Nevertheless, twenty-four years and more than \$25 billion later, only 900 of the 1,400 original sites had been repaired. In 2009, EPA officials released a new estimate of 350,000 sites with projected clean-up costs of \$250 billion over the next thirty years.<sup>49</sup> Clearly, this policy area has been underfunded with respect to its intended objectives.

In other instances, a policy may fail to garner funds because of a conflict between the actors in two or more institutions that share responsibility for creation of a public policy. One such battle occurred between President Bill

Clinton and Congress in 1993 on the issue of national public service. En route to his “victory,” Clinton proposed a massive community service program for 150,000 high school graduates who, as a condition of their two-year commitment, would receive a modest stipend and enough money for four years’ worth of college tuition. By the time Congress worked over the idea, only enough dollars were in the program to permit a fraction of the number to participate in a program that would provide two years’ worth of education.<sup>50</sup>

Simply stated, inadequate funding is a virtual guarantee of programmatic disappointment at the point of implementation. If a program lacks resources, or if competing arenas of power disagree on the necessary commitment, substantial amounts of policy-making energy will have been wasted.

### *Changes in Priorities*

Abrupt policy changes are not commonplace in American politics. Political traditions and long-term, well-defined relationships among policy makers, bureaucrats, and powerful interest groups generally work against rapid change in the policy arena. This is not to suggest that the public agenda is static or unyielding. However, policy makers are more likely to alter existing commitments in subtle, piecemeal fashion rather than through wholesale change.

Despite this tendency toward incrementalism, or slow change, dramatic new demands or events such as the 9/11 attacks do sometimes lead policy makers to respond with major new commitments. At other inflection points, one policy may be replaced by another, or an existing commitment may be dropped without replacement, bringing implementation of existing programs to an abrupt halt.

When Democrat Barack Obama won the presidency in 2008 following the two terms of Republican George W. Bush, he and his advisers assembled a list of about 200 Bush administrative actions and executive orders that could be quickly reversed by a new president’s own actions. The policy areas included emissions standards, stem-cell research, reproductive rights, and other controversial areas.<sup>51</sup> With a decisive victory and a friendly Congress on his side, Obama encountered little resistance to these abrupt policy changes, some of which undid Bush’s own reversals of Clinton-era policies.

### *Multiple Goals*

Public policies often are pieced together as coalition products, the result of intense negotiating and compromise among several political actors. As policies are subjected to many pressures, they may appear to be hybrid compilations born out of conflict. Because of the complex negotiations along the path to

adoption, a new policy, therefore, may stress several goals simultaneously as the price for keeping an ad hoc coalition intact.

The need to satisfy multiple goals may be the political price for organizing seemingly incompatible ideas into a workable public policy decision. As previously mentioned, the Food Stamp program's longevity is explained in large part because it has met more than one goal: While the program avails foodstuffs to a large number of needy people at a nominal cost, it also provides sources of stability for the agricultural community as well as food retailers.

Although adopting multiple goals may be a political necessity in order to secure support for a policy's passage, incomplete coordination of competing objectives into compatible goals can bring on implementation failure. In some instances, for example, the conflicting objectives of two government branches can have negative effects on policy application. In other cases, the objectives of national policy makers and local recipient agencies may be so divergent that policy implementation falls short of either group's goals.

The development, operation, and reconsideration of policies pertaining to the nuclear power industry illustrate how multiple goals can paralyze a sector of the economy and leave society at risk. Nuclear energy plants initially were brought online during the 1950s and 1960s. By the 1970s, more than 100 units were in operation or under construction, with an equal number in the planning stage. Proponents viewed these facilities as fulfilling the goals of clean energy and the promise of "cheap" power. But after the 1979 accident at Three Mile Island, Pennsylvania, and the 1986 meltdown at Chernobyl in the Soviet Union, public opinion shifted against nuclear plants because of nuclear disaster fears. Suddenly, it became clear that some of the objectives related to nuclear energy, foremost among them a healthy environment and inexpensive energy, were also at risk. By the 1990s, the nuclear industry was in shambles, partly because of broken faith and partly because of the uncertainty within government regulatory agencies. As opponents moved to terminate the operation and construction of these units, their concerns were compounded by the tremendous costs from decommissioning nuclear plants—costs that actually exceeded construction and all other benefits of the plants.<sup>52</sup> Now, in the early years of the twenty-first century, another twist has been added to the nuclear energy issue. Pollutants associated with the use of fossil fuels have contributed to global warming, leading public policy makers to reconsider whether nuclear power is a less risky alternative.<sup>53</sup> For the nation's political leaders, especially those with longer memories and no local dependence on one or another part of the energy industry, it is not necessarily an easy call.

Contemporary public policies are replete with the problems like those

connected with nuclear energy policy. As the number of objectives increases, the likelihood grows that not all objectives will be satisfied. Such discontent leads to a breakdown in implementation and, potentially, to reconsideration of the policy in question.

### *Poor Congressional Oversight*

Congressional oversight is the process of scrutinizing the implementation of policy decisions. Congress has a spotty record in exercising this authority. Once a policy has been enacted, Congress often takes only a cursory glance at its outcome; instead, it places such responsibilities in the hands of the bureaucracy. Lack of congressional supervision can be a hindrance to effective implementation.

As the grand “committee of committees,” Congress divides itself into three dozen committees and more than 200 subcommittees. It is this specialization that allows members of the legislative branch to develop expertise in relatively narrow policy areas. At the same time, specialization of members of Congress has a negative by-product, fragmentation. Narrow subcommittee responsibilities give members of Congress the opportunity to become familiar with small niches rather than with the general policy area that ultimately gets treated by the full committee and Congress as a whole. With responsibilities so divided, control over what ensues is almost impossible. In describing Congress as “a broken branch,” Thomas E. Mann and Norman J. Ornstein lament “a loss of institutional identity, an abdication of institutional responsibility vis-à-vis the executive, the demise of regular order (in committee, on the floor, and in conference), and the consequent deterioration of the deliberative process—the signature comparative advantage of Congress as a deliberative body.”<sup>54</sup>

The role of Congress in overseeing American anti-terrorism policy stands out as an embarrassment for the institution. After the terrorist attacks on September 11, 2001, President Bush asked for and Congress promptly passed sweeping legislation expanding the government’s domestic intelligence gathering and law enforcement capabilities. But the aggressive policies the administration then implemented were known to only a select few policy makers. Even the independent inspector general of the Department of Justice in 2003 concluded that federal agents “made little attempt to distinguish” between law-abiding immigrants and individuals with possible ties to terrorism.<sup>55</sup> In 2006, the U.S. Supreme Court rejected a plan by the Bush administration to try alleged terrorists before military commissions on the grounds that the administration had no authority to do so.<sup>56</sup> All this took place as Congress remained eerily silent in its oversight responsibilities.

### **Implementation: Link or Lapse in the Public Policy Process?**

In a sense, each policy commitment can be compared to a seedling planted in a garden. The seedling has the potential of undergoing great physical change, the outcome of which may be a shade tree or a full-grown plant. Once placed in the ground, however, the seedling requires water, nutrition, and cultivation if it is to grow as intended. Leaving the seedling to chance without any intervention would make the future of the young plant uncertain.

So it is with implementation. The policy decision is an important, vital ingredient for programmatic response. Public policies translated into commitments by government institutions and actors. But policy enactment alone does not guarantee that implementation will be consistent with its objectives. Policies must be properly structured, funded, and directed so that the implementing bureaucracy has a clear framework for application. In other words, for policies to succeed, clear lines of transmission and jurisdiction must be drawn. Thus, policy makers have to be precise, while bureaucratic discretionary authority must be constrained. In addition, implementation requires willing cooperation by relevant actors and institutions along critical intersections of the federal network.

Regardless of the inducements for implementation, public policies often will be applied more by degree than in entirety. Incomplete implementation clouds the public policy process for both decision makers and the public. Such confusion frequently undermines the credibility of those individuals responsible for the public policy.

Implementation depends upon the linkage between policy makers and bureaucrats for its success. To this end, Kenneth Meier writes that public policy “is no longer so simple that the legislative decrees are self-implementing. The complexities of modern public policy demand functions that can only be performed by large scale formal organizations,”<sup>57</sup> namely bureaucracies. As hierarchical organizations, bureaucracies are structured to make policies work. A problem develops when the policy maker effectively expects the bureaucracy to make policy as well. Conflict then moves from the open environment to a closed environment, and resolution becomes vulnerable to the vagaries of interpretation.

### **Questions for Further Thought**

1. What is the primary role of implementation in the policy-making process?
2. Bureaucracies are crucial agencies for implementation, yet they are often criticized for what they do. What is behind this seeming inconsistency?

3. It has been written that, more times than not, implementation takes place along the lines of a continuum. What does this mean? How can the chances for implementation of a public policy be maximized?

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# 6

## Evaluation

### Assessments and Directions

If there is an underside, or a stealth-like component to the public policy process, it lies with the process of policy evaluation. So much political capital is directed toward agenda building, formulation, and (to a lesser extent) implementation of a public policy that we often overlook the most obvious review questions of all: Did the new policy attain its stated objectives along the lines of its intentions? What levels of satisfaction or dissatisfaction developed as a result of the new policy? Has implementation of one policy created in its wake additional issues for the public agenda? Policy evaluation is the activity devoted to answering these questions.

Simply defined, *policy evaluation assesses the effectiveness of a public policy in terms of its perceived intentions and results*. Policy makers spend a good deal of their time and political capital framing what they want to occur; but the essence of evaluation, Lawrence Mohr writes, lies in comparing “what did happen after implementing the program with what would have happened had the program not been implemented.”<sup>1</sup> As such, policy evaluation is a reactive experience that takes place in the aftermath of an earlier activity. It is the best opportunity for those parties interested in the public policy process to glean firsthand knowledge about whether a commitment has been carried out in line with its design. Other than internal assessments or unexpected events, it is also the last major opportunity to bring the policy back into the decision-making arena if it has been mismanaged, or if it has had undesirable impacts or unintended consequences. Policy evaluation is a powerful tool of the policy-making process because of its potential to reframe an issue once thought to be resolved by policy makers.

Like other components of the policy-making process, the meaning of evaluation has evolved over time. During the 1950s and 1960s, when the practice of evaluation was first developed as a formal component of policy making, analysts went out of their way to “measure” results without regard to values or bias.<sup>2</sup> At that time, practitioners viewed evaluation as a narrow quantitative mechanism for scientifically measuring the outcome of public policy implementation. Such objectives are somewhat limited by today’s standards.

In recent years, the evaluation focus has changed. A number of contemporary authorities in the evaluation field now argue that it is nearly impossible to separate policy assessments from the values that go into the policies as well as from the political environment that surrounds the implementation of policies. Thus, Dennis Palumbo and Steven Maynard-Moody conclude, "All evaluations are political in the sense that they are commissioned by individuals with a political stake in their outcome, they are fed into a political decision-making process, and they take a stand on program success or failure."<sup>3</sup> In today's world of complex decisions and multifaceted application, policy evaluations have both quantitative and qualitative elements; accordingly, they are more comprehensive assessments of those policy applications.

Contemporary policy evaluation now looms as a vital element in the arsenal of activities associated with judging what governments decide to do and the value of what they have done. Particularly in democracies, policy evaluation provides a check on the merits of the policy-making commitment and subsequent implementation. Without this mechanism, we may have little sense of whether budgets have been spent correctly, rules have been applied as written, or individuals have carried out their assignments as directed. Evaluation allows analysts to compare the "before" and "after" and to assess what has or has not been put into place. In other words, without policy evaluation, both the credibility of the policy and the accountability of those individuals and institutions responsible for its development remain uncertain.

Such concerns have more than mere intellectual or abstract value. In fact, they speak to the compelling question of legitimate authority. Why should anyone approve the organization of a program or the spending of public monies unless he or she believes that the proposal will be carried out as presented? We know from the information discussed elsewhere in this volume that the time period between design and implementation can be exceedingly long. We also know that both the number of individuals and the number of institutions associated with a given policy can be many, and at times unwieldy, and that large numbers of participants in the formulation component increase not only the complexity but the likelihood of implementation problems. All these conditions present potential challenges to the execution of a public policy commitment.

Policy evaluation provides feedback to what has occurred and the extent to which the commitment has been fulfilled as intended. As such, this process assists policy makers and implementers in a review of whether authoritative actions have been carried out appropriately within their legally defined framework, as well as in evaluating other issues surrounding that framework. With its emergence in the "back end" of the public policy framework, evaluation

has become an important element of the policy-making process, as well as a predictor of further actions to come.

This chapter zeroes in on the various ingredients of public policy evaluation. Specifically, we examine the evaluation environment, the major approaches to policy evaluation, the types of analyses that emerge in their wake, and the options that may be considered when sufficient information permits additional action steps.

One final note: Like all the other elements of the public policy process, evaluation, too, is an inherently political activity. “Objective” tasks notwithstanding, evaluators begin and end their work with their own values, criteria, and objectives, sometimes determining the impact of a policy with less than detached standards. Such actions do not necessarily doom the value of the evaluation experience as long as we are able to acknowledge and deal with these biases as part of the chemistry known as evaluation.

## **The Evaluation Environment**

In its most basic context, evaluation represents the attempt to gather information about a public policy that has been put into place; it is an assessment of what has—or has not—been done in the wake of a policy commitment. The circumstances of and conditions related to that information-gathering experience are critical to the credibility of the conclusions that are reached and, ultimately, inserted into the public policy-making framework. If the evaluation takes into consideration intent, implementation, and the intervening factors that may separate the two elements, then the conclusions are likely to provide helpful insights. However, if an evaluation is little more than a knee-jerk response to a policy unpopular with the evaluator, then the analysis represents little more than a crass political statement.

Some experts argue that it is virtually impossible to separate clinical assessments from the larger social, value-laden framework. Thus, policy deliberation, Frank Fischer writes, “works on two fundamental levels, one concretely concerned with a program, its participants, and the specific problem situation to which the program is applied, and the other concerned with the more abstract level of the societal system within which the programmatic action takes place.”<sup>4</sup> To the extent that the process stays on the first track, evaluators are likely to be more rule-oriented in their assessments. To the extent that the process follows the second track, evaluators will be more normative, or value-oriented, in their reviews. Whether concrete, abstract, or both forms, evaluation helps to provide meaning to the changes that have emanated from public policies.

There are several key criteria associated with the policy evaluation objective. They include: assignment of an agency or political institution with the responsibility of performing the evaluation effort; determination of the rationale for assessing the worth of the policy that has been formulated and implemented; possession of sufficient resources to fully execute the evaluation effort; and an authority designated to receive the information resulting from the evaluation enterprise. In the public sector, most evaluation activities are assigned by one government body to another, although some public entities specifically include independent evaluation by outside authorities as part of their ongoing activities.

### ***Why Evaluate?***

Once a public policy is implemented, decision makers and tax payers alike may wonder whether it is working as intended by those who enacted it in the first place. Such curiosity is likely to be much more than an academic exercise. A new policy may cost considerable dollars or may present the potential of rearranging key values; it may also extract resources such as lives, if the policy relates to going to war or putting people in dangerous situations. Sometimes policies rearrange key institutions, such as when 170,000 federal employees from twenty-two agencies were consolidated into the newly created Department of Homeland Security, constituting the largest government reorganization effort in more than a half century. The more there is change or potential for change, the more important it is to go through the assessment steps that constitute evaluation.

Policy or program evaluations may also serve to distinguish perceptions of success or failure from reality. This happens by comparing the starting point of a new policy with the outcome at a point later on. By benchmarking a condition and measuring subsequent change, an evaluator or evaluation team may reach conclusions significantly different from knee-jerk assessments.

The reactions to a new policy may be far more serious than the initial conditions that made way for the policy. In other words, implementation of a program may go beyond its objectives as defined by policy makers. Under such circumstances, analysis and measurement of the outcomes are vital not only to the policy's future but to other elements of the public policy-making environment. Such work may also help policy makers realize that they need to go "back to the drawing board."

Evaluation of public policy for critically ill newborns illustrates the consequences that a policy in one area can produce for others. It also shows how periodic evaluations can lead to fundamental policy change. During

the Reagan administration, pro-life groups joined with disability rights organizations in an effort to pressure the government to develop strict policies regarding the treatment of severely retarded or deformed babies. Until that time, physicians had been left to work out termination or treatment decisions with parents on an ad hoc basis. By the mid-1980s, the Reagan administration was threatening sanctions against hospitals that withheld treatment from deformed newborns and published a series of government guidelines to protect them. Aspects of the new policy were controversial for usurping parents' and physicians' judgments about the best interests of the child. While the new policy was intended to be "pro-life," there are many circumstances where palliative care may be more life-affirming than aggressive intervention.<sup>5</sup> Subsequent court cases and legislation modified the Reagan administration rules.

The issue flared anew in 2001 over the question of stem-cell research using human embryos. Pro-life groups argued that the harvest of such cells for research was equivalent to abortion. Scientists argued that the recovered stem cells were made available as a result of in vitro fertilization, and that they were the key to medical breakthroughs for problems ranging from serious diseases to life-threatening birth defects. President George W. Bush attempted to straddle the line by limiting federal support for research to the stockpile of existing stem cell supplies—a policy that, upon evaluation, seemed to please no one.<sup>6</sup> Meanwhile, vigorous stem-cell research continued abroad and even in some states. Stem cell advocates railed against a policy that negated what they viewed as tremendous scientific promise. Editor-in-chief of *Science* magazine and former FDA Commissioner Donald Kennedy accused the Bush administration of mixing science and politics by putting "its political cart before the scientific horse."<sup>7</sup> In 2009, President Barack Obama issued an executive order that reversed the Bush policy.

### ***Who Evaluates?***

On a personal basis, almost everyone evaluates how he or she is affected by a policy. When taxes go up, for example, we not only deal with the change but judge the merit of that change. When the president commits troops to a remote part of the world, we not only watch to see whether the mission succeeds, but we also deliberate whether it was worthwhile. In the world of policy making, however, evaluation is often a formal component of the policy-making environment and is generally conducted by experts who are intimately familiar with processes and objectives pertaining to the issue un-

dergoing assessment. Under these circumstances, evaluation is undertaken with deliberation and precision.

The selection of the evaluation agent or body is critical to not only the caliber of work performed but also the credibility of the agent's conclusions. Those organizations that participate in the evaluation process because of their roles within the governmental process are known as internal evaluators. As official government organizations, they are likely to know about the policy and its nuances firsthand. On the other hand, they may be so close to the political process that they are not able or willing to demonstrate political independence from the policy-making authority.<sup>8</sup>

Consider federal budget forecasts, which help Congress determine the annual budget. These forecasts are predicated upon a series of assumptions, including projected incomes, inflation rates, mortality expectations, and numerous other variables. The Congressional Budget Office, a research unit of Congress, is closest to (and probably most aware of) congressional budget intentions and policy commitments; because of its proximity to Congress and its dependence upon the legislative branch for its very existence, however, the agency may be unwilling to take controversial positions on budget decisions.<sup>9</sup> Conversely, the Office of Management of the Budget (OMB) may well evaluate the same data with different values, due to its location in the executive branch, where it is accountable directly to the president.<sup>10</sup>

More removed from the immediate policy-making arena are external evaluators, independent organizations that are not officially attached to the policy in question but that nevertheless possess—or claim to possess—some expertise for reaching credible assessments.<sup>11</sup> External evaluators often do not have the political baggage of proximity to the policy-making body or the implementing agency. On the other hand, they may be too removed from, and therefore insensitive to, the nuances of the policies that they have been asked to assess.

Sometimes, groups that are either partially or totally removed from the public policy process will offer their evaluations of existing policies. For example, the Conference Board, an independent, business-supported nonprofit research organization, offers monthly assessments of the health of the nation's economy. This group of economists evaluates the direction of the U.S. economy by measuring several indicators. When its findings are released, key policy makers tend to heed the Board's reports simply because it is not affiliated with a bank, a brokerage house, an industry, or any other element that might have a direct stake in a particular government program or policy.

In other instances, interest groups may offer their offices as independent, external evaluators, even though their purpose is to serve as a check on undesirable public policy initiatives. The Council for Tobacco Research, for example, has defined itself as an independent group tasked with evaluating the tobacco policies promulgated by the Food and Drug Administration. Yet, most would describe the council as little more than a “front” for the tobacco industry.

The difficulty here is that interest group lobbyist and advocacy organizations of all types are likely to turn “evaluation” into a political exercise that centers on the value of the idea or policy proposal from their perspective more than on the way it has been carried out. Such “evaluations” are little more than sophisticated interest group activity.

### **Approaches to Evaluation—Process versus Outcomes**

Public policies may be evaluated in terms of their process as well as their outcomes. Process refers to the means by which a policy is carried out. With this evaluation approach, the evaluator focuses upon whether the policy has been executed as intended by those who have framed it. Outcome evaluations center on the actual change that has taken place from the time of the policy’s formation through the period of its implementation. Ideally, process and outcome evaluations should be conducted as sequential activities, although the absence of resources or the presence of a political agenda may lead the evaluator to utilize only one tool.

#### ***Process***

Process evaluation (sometimes known as monitoring) represents a systematic attempt by the participant to estimate the level at which a policy reaches those it is supposed to affect. This method, Peter Rossi and Howard Freeman note, measures “the degree of congruence between the plan for providing services and treatments (program elements) and the ways they are actually provided.”<sup>12</sup> Process evaluation is not concerned with the quality, success, or value of the public policy as much as with the extent to which the implementation reflects earlier-stated objectives. As such, it is very specific in approach and precise in methodology. Process evaluation asks the simple, yet compelling question: Has the program been implemented in accordance with its design?

Sometimes things go wrong after they go right. The Alternative Minimum Tax is an example of a law that initially fulfilled the intentions of public policy

makers. In 1969, reports surfaced that 155 multimillionaires had avoided paying federal income taxes in the previous year. An embarrassed and outraged Congress responded with the Alternative Minimum Tax (AMT), which was designed to collect a minimum amount of taxes from wealthy people who used tax “shelters” and deductions. The problem is that Congress failed to index the AMT to inflation, so as incomes went up, more people fell into the AMT tax category. Seeing that application of the tax was conflicting with intentions, in 2001 Congress enacted a “patch” to keep the AMT from affecting people with middle-class incomes. Had Congress not acted, by 2009 the AMT would have been applied to 21,000,000 Americans with annual incomes as low as \$75,000. Say what you will, such amounts do not reflect the status of the “fat cats” that Congress intended to reach.

On the state level, California suffered unintended consequences when it deregulated utilities in the 1990s, hoping to create competition, and therefore lower energy prices. Within four years, the state suffered a huge electrical power shortfall, which, subsequent examinations revealed, was contrived by energy sellers. The results: billions of dollars in energy price overcharges; a 40 percent increase in consumer utility bills; the bankruptcy of at least one major state utility; and serious political trouble for California Governor Gray Davis, who, ironically, had nothing to do with the original policy!<sup>13</sup>

### *Quality Assurance*

Once exclusively a tool of business management, quality assurance has emerged as an evaluation tool of the public policy-making community. Like other evaluation tools, this process focuses on whether the needs of the customer have been satisfied by the policy that has been put in place. However, with quality assurance, the evaluator examines results on an ongoing basis, allowing for assessments to take place closer to the time of implementation as well as at periodic intervals after the event. Often, quality assurance is assigned to a team of evaluators who pursue their responsibilities by observations, interviews, and other means of data collection. The more consistent the application, the more successful the public policy.

Biotechnology, a relatively new area of science that relies upon technology to alter the biological environment, has been subject to considerable quality control by government agencies. For years, scientists have attempted to improve the human condition through “genetic engineering,” a process that permits sophisticated technologies to rearrange DNA and other biological components in such a way as to eliminate disease, neurological disorders, and

other genetic deficiencies. The potential for the betterment of humankind as a result of this research is almost limitless; conversely, the possibility of misuse of such research is also real. In order to make sure that genetic engineering abuses do not take place, the National Institutes of Health (NIH), an agency of the federal government, routinely establishes and monitors guidelines for biotechnological research and development.<sup>14</sup> While such efforts do not guarantee compliance, they set the tone (and some controls) for standards and compliance in the industry.

### *Measuring Change*

Perhaps the most demonstrable indication of implementation is observed by comparing the results of a policy with the original conditions that inspired it. Quantitative measurement of change permits such analysis, providing readily understandable data for appraisal. Unlike qualitative assessments, the analysis of change based on percentages, on the addition or loss of variables, or on “before” and “after” comparisons invites straightforward comprehension by a broad-based audience. As an element of process evaluation, measurement focuses not only on the merit of change but on the extent to which it has occurred.

The Clean Air Act of 1970 illustrates the extent to which a policy may satisfy some goals while failing to meet others; either way, the nature of the law invites measurement as a means for assessing success or failure. The law has been put into effect over the course of more than three decades. Indeed, this cornerstone of environmental policy has been amended by Congress on several occasions. A few components have been carried out in concert with intentions, although implementation of others has lagged the original deadlines. In other instances, implementation of the Clean Air Act has made little headway, either because of new interpretations by the Environmental Protection Agency (EPA), the chief governmental entity in charge of implementation, or because of lawsuits.<sup>15</sup>

Despite the measurability of its criteria, the Clean Air Act has been particularly vulnerable to political sway. Officials in the Bush administration attempted to meet clean air standards by changing their meaning. The administration hoped to give greater flexibility to industry compliance with the Clean Air Act by recasting the requirements. New rules allowed power plants, oil refineries, and other industrial units to refrain from installing expensive antipollution equipment that had been ordered by the Clinton administration. Oddly enough, once it had eased requirements, the EPA could point to greater compliance, thus leading to a positive evaluation

of the policy. Praised by industry leaders as “thoughtful and rational,” the approach was vilified by others who described the proposed rules as “an attack on the Clean Air Act.”<sup>16</sup> But this wasn’t the last word. Toward the end of the Bush presidency, environmentalists won a victory when the U.S. Supreme Court ruled that the EPA had ignored its own guidelines for determining greenhouse gas pollutants.<sup>17</sup> Stung, the EPA had no choice but to declare a series of pollutants as harmful to the environment. In essence, evaluation by the Supreme Court forced the EPA to revise its measurement criteria.

### *Outcomes*

Whereas process evaluations deal with the extent to which policies are carried out as intended, outcome evaluations emphasize the quality of the implementation. At stake here is whether what actually happens is good or bad, right or wrong, worth the investment, or not worth the price. Outcome evaluations are particularly important, because the findings may well point the way toward continuing that which has already been done or toward reconsideration of a policy newly in place. With outcomes assessments, the policy analyst has the opportunity to recast an issue on the public agenda, thereby starting the public policy-making process anew. The two best-known forms of outcome evaluations are cost-benefit analysis and experimental research.

### *Cost-Benefit Analysis*

Cost-benefit analysis provides a means by which the policy analyst ascertains the effectiveness of a new program in terms of resources expended and dividends gained. Assuming that a new policy initiative is put into place exactly as intended, and that the results match expectations of its sponsors, the question remains, is the policy worth the cost and expense? In other words, are we getting our money’s worth, compared to alternative approaches or methods? This is the essence of cost-benefit analysis. A new program may satisfy its stated objectives in the immediate sense, but be burdensome or unpredictably expensive nonetheless. This is where cost-benefit analysis is a valuable tool; it considers all elements relevant to the implementation of a new policy, allowing the analyst to weigh the merits of the policy in the widest possible context.

Examination of the Endangered Species Act represents a case in point. The law, originally passed in 1973, provides a safety net for animals and plants

that are near extinction by preventing human intrusion into their endangered habitats. More than a gratuitous gesture to animals, the act emphasizes the links of the life chain; more than 900 animals and plants have been listed as “endangered” by the U.S. Fish and Wildlife Service. As fulfillment of the law’s mandate, landowners in affected areas are required to provide comprehensive development plans for agency approval. Critics have condemned these requirements for their costs in money and time. A former Interior Department official complained, “the Fish and Wildlife Service has no incentive at all to figure out ways to cheaply provide habitat, when they instead can in effect condemn huge acreage with the stroke of a pen, at no cost.”<sup>18</sup> Several members of Congress have since begun to reconsider the Endangered Species Act not because of the law’s failure, but because of the costs associated with unintended consequences. One bill offering compensation for property owners who suffered loss because of enforcement passed the House of Representatives in 2006 but stalled in the Senate. At the same time, the U.S. Supreme Court began issuing opinions that focused on the costs suffered by landowners as equally important, if not more so, than the benefits gained by society from protecting endangered species.

Another recent policy change subjected to the rigors of cost-benefit analysis was the adoption of a new federal minimum wage law. Studies conducted by the Clinton administration and several leading economists all concluded that the new law, which increased hourly wages by 90 cents over a two-year period, would have little impact on businesses and workers. Most persuasive was a study of an 80-cent-per-hour increase in the state of New Jersey, one of ten states with minimum wage levels above the federal level. The study, along with two dozen other similar efforts, found “insignificant evidence of job loss.” Such information, occurring under conditions similar to the would-be federal change, proved powerful ammunition for federal minimum-wage-law proponents.<sup>19</sup> A similar adjustment took place in 2007, when Congress raised the minimum wage to \$7.25 an hour from \$5.15 in three stages over two years. Although opposed by some fiscal conservatives, the new law was relatively limited in application because 4,600,000 workers receiving increases represented less than 3 percent of the U.S. labor force. Once again, upon evaluation, proponents saw the benefits of increased purchasing power as more valuable than employer costs.<sup>20</sup>

### *Experimental Research*

In some instances, the assumptions and applications of a policy may be tested through the efforts of experimental or exploratory research.<sup>21</sup> Under such

circumstances, scientists and other experts focus on the claims that led to sponsorship of a policy. Such efforts include examination of targeted groups (elements singled out for scrutiny or policy impact), random sampling, pretest/post-test comparisons, and intervention.<sup>22</sup> Experimental research often validates previous assumptions, putting to rest claims to the contrary. Sometimes, however, new findings may lead policy makers to reassess the merits of an ongoing program, thereby placing a once-resolved issue or set of questions back onto the public agenda.

Efforts to understand the linkages between smoking and lung cancer illustrate the power of experimental research as well as the consequences of its findings with respect to current policies and future implications. Lung cancer is a serious disease; with more than 200,000 new cases diagnosed every year, it is the leading cause of cancer deaths in the United States. For more than forty years, government and university researchers suspected tobacco as a primary cause of lung cancer, although their findings were criticized by industry defenders as incomplete and indirect.<sup>23</sup> In 1996, using complex statistical studies on human subjects, scientists in Texas and California discovered the particular cigarette smoke ingredient that is responsible for causing lung cancer as well as the mechanics that precipitate ensuing genetic damage. The new data could influence outcomes in court cases that have generally let tobacco companies off the hook as parties responsible for premature deaths of smokers.<sup>24</sup> With causality no longer in dispute, Congress ended the subsidy program for American tobacco growers.

### **Metaevaluation**

Along with definitions of evaluation in terms of process and outcomes, the evaluation concept itself may be subject to "evaluation." This approach, referred to as metaevaluation, represents the effort of an evaluator to assess the assumptions and procedures relating to the data that have been collected for analysis. If the value of gathered information is suspect or tainted, then the worth of the analysis is also brought into question. To put it another way, metaevaluation provides the opportunity for an evaluator to validate approaches, methodologies, and various hypotheses that form the foundations of the conclusions reached by experts charged with assessing a program or policy.<sup>25</sup> It may also serve as a check for policy makers who might otherwise act on false assumptions.

Evaluation of the evaluations associated with immigration policy indicates the extent to which different analytical approaches regarding the

same issue can yield decidedly different assessments and future policy recommendations. The United States has more immigrants than any other nation in the world. Experts on all sides of the issue agree that as many as 12 million immigrants are in this country illegally. After that, the discussion gets murky. For example, a study by the Heritage Foundation estimates that illegal immigrants cost the United States \$16 billion annually because of their eligibility to participate in programs and services ranging from public education to emergency health care. Conversely, a review by the nonpartisan Congressional Budget Office found that illegal immigrants cost the government \$54 billion in programs and services over a ten-year period, but contributed \$66 billion in revenues.<sup>26</sup>

How can studies of the same issue yield such different results? In each case, the evaluators reached their conclusions by relying on their own sets of assumptions. In the first instance, the data did not reflect the purchasing power of illegal immigrants and the benefits from their participation in the economy; in the second instance, the study did not clearly distinguish immigrant participation in universal programs like public education from less visible issues such as poor management of infectious diseases. Either way, some data are almost impossible to quantify with a dollar figure and can be based on little more than assumptions or speculation.

Metaevaluation cannot resolve different conclusions such as those described above. However, this evaluative process can illustrate the problems associated with inconsistent approaches and potentially flawed assumptions. With this assistance, analysts and policy makers have the opportunity to continue examination of controversial issues instead of moving forward with commitments based on flawed data.

### **Evaluation and Public Policy-Making—Using the End as a Beginning**

Although it comes at the end of the policy-making cycle, evaluation can be viewed as the foundation for new policies; it may serve as confirmation of policies that work. In terms of the systems approach to politics described by David Easton some fifty years ago, evaluation provides “feedback” for those who make public policy.<sup>27</sup> At a time when cynicism abounds in American politics, such linkage is a valuable way of connecting those who make policy with the impact of that policy. That includes another group as well. In the age of delegation, bureaucrats and administrators have increasing responsibilities for policy choices as well as making those policies work, moving, as Frank Fischer notes, ever closer to the “center of the decision-making process.”<sup>28</sup>

Finally, even though they do not make policy, evaluators have a pivotal role in the public policy framework.

Ronald Sylvia and Kathleen Sylvia have developed a ten-point checklist for policy evaluators. Summarized, the list components are as follows:

1. Is the program experimental or ongoing?
2. Who is the audience for the evaluation?
3. Are the evaluation methods appropriate for the audience?
4. What kind of evaluation is desired?
5. What is the purpose of the evaluation?
6. What kinds of data are necessary for the evaluation?
7. How will the information from the evaluation be used?
8. Are there sufficient resources to carry out the evaluation?
9. Will the evaluation measure the right elements?
10. Who will care about the evaluation results and why?<sup>29</sup>

### Questions for Further Thought

1. Some observers describe evaluation as the “underside” or the “back end” of the public policy-making process. What is meant by this characterization? Does it have merit? Why or why not?
2. Process and outcomes are two primary approaches to evaluation. Using your knowledge, cite examples of recent public policies that have been evaluated by each of these methods.
3. Although far removed from the policy-making process, evaluators nonetheless have the potential to impact the formulation of future policies. At the same time, evaluators are not elected and, therefore, are accountable to virtually no one. What do you make of this irony?

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# 7

## Public Policy Making in an Evolutionary Context

The invention of the movie camera by Thomas Edison in 1889 represented a great leap forward for the concept of storytelling. Prior to that moment, photographers were limited to “stills,” pictures that showed their subjects in frozen positions. Such displays left the viewer unable to see the events before, after, and even during the time that the photographs were taken. Stated another way, still photography presented material in the context of a static environment.

Movies changed all that. With the ability to shoot and show frames in rapid sequence, photographers could depict action as well as unfolding events. This technological breakthrough gave photographers the means to chronicle circumstances and conditions in an entirely new and more informative (not to mention more entertaining) way. It’s not that moviemaking invented storytelling; it’s that moviemaking, as compared to still photography, represented a much more comprehensive and a creative approach to telling stories. Simply put, movies gave context to stories.

What does this have to do with the study of public policy making? Politics is a mainstay of life. Wherever there is a struggle for resources that do not exist in quantities sufficient for those who desire or require them, there will be politics. Whenever there is competition over values and approaches to relationships, there will be politics. Likewise, whenever there is a dispute over values underlying the distribution of rewards and deprivations, there will be politics as well. It is the process of these struggles and their outcomes that directs us to the study of public policy. Just as motion picture photography has found a multidimensional way to present the kinds of stories that were once unveiled by still photographs, so it is that the study of public policy has emerged as an improved way of describing the interaction between political issues, actors, institutions, and society. Like movies, an understanding of the public policy-making process gives us context.

## Expanding the Context

As chronicled here and elsewhere, public policy making is more than “government,” institutions, or the sacred documents that guide both. Traditional descriptions of the utilization of power emphasized the interaction of formal authority relationships, revealing little more than the activities of observable power sources. Such descriptions provided scarce information about the development of issues, the ways in which they were managed, and the outcomes as well as the reactions to those outcomes. Such accounts tended to leave out much of the policy mix. To this extent, contemporary emphasis on political change invites discussion and analysis in a considerably larger framework than has been used in the past.

Utilization of a wider lens to study politics allows the analyst to appreciate the dynamics of the whole as well as its parts. More than ever, we realize that a terrorist group halfway around the world can impact policy-making decisions in Washington; that scientific breakthroughs can reframe a social issue; and that illegal immigration from Mexico and elsewhere can influence public policy on a variety of topics ranging from health care to drivers’ licenses.

Equally important, we recognize that actors in the policy-making process are not only elected officials or designated public authorities. Sometimes they are seemingly nonpolitical people who suddenly find themselves in political situations. Consider the case of Marc Klaas, father of Polly Klaas, a twelve-year-old girl who was kidnapped, raped, and killed by a repeat felon. Marc Klaas had no experience in the political arena; yet, after his daughter’s death, he set up the Polly Klaas Foundation for Missing Children in California, became a national spokesperson for missing children’s issues, and led the movement for passage of “three-strikes-and-you’re-out” legislation in several states that ensured long-term incarceration for repeat offenders. Or Cindy Sheehan, whose son was one of more than 4,000 American service men and women killed in the Iraq war. Prior to her son’s death, Sheehan had not been involved in politics, but she took energy from her personal tragedy to become an activist who, along with others, galvanized public opposition to the war.

Within the public policy-making framework, we are able to see how once seemingly extraneous factors connect with political decision making as well as with the consequences of action or inaction related to those issues. Within the same context, we can appreciate the value of nonissues, potential political problems that are resolved before they reach the attention of the policy-making environment. Activities such as “shuttle diplomacy,” quiet efforts behind the scenes in hot spots around the world, occasionally

appear as foreign policy examples of resolution of problems before they join the spotlight of the public policy agenda.<sup>1</sup> On the domestic front, the government guidelines on DNA research established by the National Institutes of Health as long ago as 1976 represented an early effort to strike an agreement between scientists and government administrators to prevent the mismanagement of genetic engineering.<sup>2</sup> In a related area, computer scientists and government experts have labored at length to develop the proper protocol database management that allows the advancement of research without sacrificing privacy.<sup>3</sup>

In addition to nonissues, there remains an array of potential issues that, for lack of immediate tragedy or triggering mechanism, would otherwise descend into the policy-making arena with tremendous urgency. The tenuous condition of the nation's underground water system constitutes such an example.<sup>4</sup> More to the point, an understanding of the policy-making process gives meaning to how and why such questions move from seemingly benign existence outside the policy-making arena to active areas of concern.

### **Focusing on Process**

By viewing the policy-making arena as a dynamic, moving environment, we underscore its process-oriented nature. The focus on process illustrates the constant churn of policy making. Actors, events, and conditions interact in ways that are often unpredictable, leading to equally unpredictable policy decisions and applications. Unlike an "open-and-shut" system that has a set beginning and an equally defined end, the process often continues long after basic decisions are made. New actors, conditions, and pressures deal with implementation, while still others offer feedback on what has or has not been put into place.

Throughout the entire cycle of events, countless political forces attempt to shape and reshape the issues working their way through the multifaceted public policy-making machinery. Thus, the welfare reform package hammered out by Congress and President Bill Clinton in 1996 emerged in a much different form from its original design. And the health-care reform package proposed by President Barack Obama in 2009 got caught in a welter of partisan wrangling and interest group wheeling and dealing that nearly derailed the legislation. In these and so many other cases, the process is simply too difficult to predict with any certainty. Why? Because of the many variables that enter the picture at numerous junctures of the process.

Consider the issue of "term limits," or constraints on the permissible length of service in an elective office. This highly political question was debated extensively before and during the writing of the Constitution and

has been on the public agenda ever since.<sup>5</sup> Between the late 1980s and the early 1990s, reformers in twenty-three states secured passage of congressional term limits as a way of forcing the turnover of elected officials. Nevertheless, the U.S. Supreme Court, in a 5–4 decision, declared in 1995 that such restrictions were “contrary to the fundamental principle of our representative democracy, embodied in the Constitution, that the people should choose whom they please to govern them.”<sup>6</sup> Thus, the process surrounding the term limits debate has been political from the first debate to the present time.

At the other end of the spectrum are those issues that originate well outside the political arena but that, because of unanticipated events, are swept into the cauldron of the policy-making process. The case of *E. coli* bacteria stands out as such an example. This toxin, a by-product of cow excrement and fertilizers, interested only scientists until the 1990s when its presence in apple juice caused the death of a child and the serious illness of dozens of others. At issue was the fact that the apple juice had been processed without pasteurization. In 1996, the Food and Drug Administration adopted new pasteurization regulations designed to prevent a recurrence.<sup>7</sup> A 2008 report noted that 76 million Americans—about one in four—become ill from “food-borne” diseases every year, leading to hospitalization for 300,000 people and deaths for 5,000.<sup>8</sup>

The examples above share a trait: namely, that policy making stems from a process that recognizes issues, organizes those issues into political and nonpolitical tracks, and sends the political issues into the decision-making arena for disposition, implementation, and evaluation. Those matters that stay out of the political context, say professional athletes’ salaries, new clothing apparel patterns, or the evolution of language, remain outside the policy-making arena because of the consensus that they do not require the intervention of public authority. The resolution of those matters that are political, or that become political, however, will take place via the policy-making process.

### **Underscoring the Principles of Politics and Policy Making**

In politics, change is constant. The overall public policy-making framework is similar to a kaleidoscope’s ever-changing picture arrangements—it is in a state of perpetual transition. Some policies may remain in place for long periods of time, yet others will be forged, altered, or eliminated. The tension associated with uncertainty (how will things turn out?) brings high drama into the public policy-making experience.

Ever-changing circumstances notwithstanding, public policy making

is wedded to certain basic principles of politics. These staples include the existence of conflict, the public nature of an issue, the presence of decision makers with the ability and resources to resolve the issue, a commitment resulting from the debate to deal with the dispute, some assessment of what is or is not done, and the extent to which the commitment fulfilled objectives. All these elements are far from antiseptic; rather, they are laced with political values.

### *Conflict as a Precursor*

Disputes arise from disagreements over values, scarce resources, and policies, and these arguments are the proving grounds of the policy-making environment. The unfolding of such controversies may occur over time periods ranging from gradual development to sudden emergence, but their addition to the public agenda rearranges the entire constellation of issues already before public policy makers. Some social scientists worry about excessive conflict in American society as a sign of dissolving consensus.<sup>9</sup> Others, however, conclude that not only are the divisions over values well managed, but also that they bring out the best in society and public policy makers alike.<sup>10</sup> Why? Without some well-defined way to express conflict, disaffected elements of society might become increasingly contentious or alienated from the political process. For most of us, periodic elections sort out our concerns. For others, however, conflict brings them intimately involved with the policy-making process, ranging from protests and email writing to legislation and bureaucratic management.

### *The Struggle over Defining Public Issues and Values*

Where does one draw the line between public and private issues? This question is a key element in the politics of policy making and a critical activity for the policy maker. With respect to the work of Congress, for example, Edward Schneier and Bertram Gross note that several factors are important in establishing the boundaries between public and private issues and policies. Among these is the pivotal question: for whom? The greater number of parties that are likely to benefit from a proposed policy, Schneier and Gross conclude, the more likely it is that the proposal will be transformed into policy.<sup>11</sup> Conversely, the more groups that are interested in a proposed policy, the more likely it is that pressures will appear on all sides of the policy issue, as policy makers attempt to find common ground for resolution. That said, there are times when policy makers actually move policies from the public arena into the private sphere. That's what the U.S.

Supreme Court did in 2003, when the justices declared that public authorities had no right to govern adult, consensual, sexual, including homosexual, behavior.<sup>12</sup> Whether expanding or contracting the role of those in authority, the fundamental issue for the public and the policy maker alike is to debate what issues are part of the public agenda.

### ***Policy Makers as Managers of the Public Good***

Throughout the policy-making process, those who are part of the decision-making apparatus act on behalf of several constituencies: the public, interest groups, self-interests, partisan themes, and the folks back home.<sup>13</sup> However, focus centers on the public good as a portion of motivation. Policy makers may differ on the merits and/or benefits of a proposed policy, but their disputes must be based at least in part on their interpretations of the public good, not the private benefit; this is the essence of leadership.<sup>14</sup> Equally important as substance is the process through which matters are decided. While it is important for conflicts to be resolved, it is almost as important that policy makers be seen attempting to resolve them. Such effort presents symbolic benefits as well as the possibility of resolution. If observers perceive an open, legitimate process at work, this alone will go far toward generating a sense of public inclusiveness in the political process.<sup>15</sup> To this extent, the nature of the policy-making process looms as a profound psychological component of the political system.

### ***Execution of Decisions***

Much of the value of a political system depends upon how authoritative power is exercised by those in power. Following through in a manner consistent with the “rules of the game” shows the polity that policy makers respect the system as much as they expect others to respect the system. In the United States, the rules are spelled out in the Constitution. Under the terms of this document, those who exercise governmental authority must do so in accordance with its rules. If people see public policy makers as acting within the framework of constitutional guidelines, they will accept the actions as legitimate, even if some people do not agree with the policy outcomes. But if large numbers of people question the legitimacy of those making decisions, they may not feel compelled to accept them.<sup>16</sup> Elections offer voters the opportunity to assess, among other things, whether incumbents have performed as promised. If so, those already in office may be given further opportunities to govern; if not, they may be denied reelection for failing to follow through on enough public policy issues enough of the time.

### ***Evaluation of the Policy-Making Activity***

Inasmuch as policy making focuses on the commitment of values and resources, the process must include some means of checking up on the decisions made and the way they have been executed. This evaluation component remains essential to the overall process for three reasons: first, because evaluation provides an opportunity to review the linkage from the origins of a policy to its implementation; second, because evaluation helps us determine the extent to which the policy as implemented is, in retrospect, the appropriate response to the issue on the public agenda; and, third, because such information provides potentially powerful feedback for the rest of the policy-making network. Feedback represents closure of the policy-making loop, allowing communication from those affected by a policy with those who put it into place. The very process orientation of public policy making must include mechanisms for such information transfer on a continuous basis.

### **Future Questions**

The American political system is anything but a static arrangement of institutions, actors, and responsibilities limited to a few actors. Quite the contrary, it is open and susceptible to unexpected events and responses; the boundaries of the political system also change with the times and circumstances. Accordingly, the floodgates of the policy-making arena rarely hold back the surges of concern, whether they stem from elements of the public, private individuals, the media, bureaucrats, or those actually in position to make decisions. In today's political environment, it is abundantly clear that the key to policy making is not whether information and concerns spill into the policy-making arena, but the ways in which that information is successfully channeled, filtered, and managed with desirable outcomes.

As society becomes more complex, the rush of issues to the public agenda inevitably tests limited resources and competing values. The policy-making process is one way of understanding the means through which conflicting demands are heard, reconciled, and resolved in orderly, if not always satisfactory, fashion. Fundamentally, it provides some explanation of the cacophony known as "politics" in an ever-changing society.

### **Questions for Further Thought**

1. With the description of the process now complete, what do you believe is the greatest strength of the public policy-making framework? What do you view as the greatest weakness?

2. Public policy making has been described as an evolutionary process. What factors contribute to this condition?
3. Conflict is at the heart of the public policy-making experience. Give examples of a conflict-laden issue that has been successfully resolved as well as one that has remained on the public agenda without resolution. What factors were responsible for resolution of the first example, and what factors have impeded the unresolved issue?

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