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## Chapter 7

# The Building Blocks of Government

PLEASE NOTE: This book is currently in draft form; material is not final.

We may sometimes think of government as a monolithic force, acting in concert to achieve its ends like a well-trained team. In fact, government is a lot of people divided into a lot of different parts. These building blocks of government usually include some kind of legislature; an executive or person in charge; a court system; and the bureaucracy—the agencies charged with putting law into practice. Additionally, in a federal system, where the national government shares power with state or local governments, those smaller, sub-national governments also will be part of the system. Let us consider them piece by piece.

## 7.1 Legislatures

PLEASE NOTE: This book is currently in draft form; material is not final.

### LEARNING OBJECTIVES

In this section you will learn:

1. About the different kinds of legislatures.
2. How the U.S. Congress works.
3. How parliamentary systems work.

Basically, there are three kinds of legislatures:

- **Consultative**<sup>1</sup>—in which the legislature advises the ruler or rulers on matters of law and policy. Members may be elected and/or appointed.
- **Parliamentary**<sup>2</sup>—in which an elected legislature makes laws and also, through its leadership, serves as the executive branch of government.
- **Congressional**<sup>3</sup>—in which one or more elected groups of legislators make law and share powers with other branches of government.

1. An elected or appointed body that advises a chief executive, often but not always a king, prince, sultan or other hereditary monarch. Also found in communist states.
2. A legislature which holds both executive and legislative power, with the top official of the legislature, such as the prime minister or chancellor, serving as the head of government.
3. A legislature responsible for making laws, but also sharing some power with other branches of government.

Legislatures typically perform a basic set of functions:

- **They make and revise laws.** This usually includes the sole or main authority to write budgets—to officially sanction the imposition and collection of taxes, and the spending of public money.
- **They engage in administrative oversight.** Legislatures usually are charged with ensuring that the laws are being carried out properly by the agencies of government. In a congressional system, they may also “advise and consent” with executives on appointments to government and the making of treaties with other countries. Effectively, this means that a legislature may deny a presidential appointment, or prevent the adoption of a treat.
- **They represent constituents to the government.** In legislatures where elections are based on geographically defined districts,

individual legislators will spend some time attempting to help out their constituents address individual problems they have with government, such as public pension benefits or securing appointments to military academies.

The biggest job of legislatures is making laws. Having legislatures make laws pushes power toward the people, who, in a functioning republic, have in some fashion elected the members of the legislature. That gives voters the power to recall legislators by electing somebody else next time around. Legislators typically have defined terms of office, usually from two to six years in length. In parliamentary systems, the term of office may be only until the next election, which could be anywhere from a month to five years. Elections can come quickly in parliamentary systems. The Earl of Bath served as British prime minister for two days in February 1746; the government collapsed when no one agreed to serve with him. George Canning served as prime minister for 119 days in 1827 before an election was called. In contrast, Sir Robert Walpole served as prime minister for 20 years, from 1721 to 1742. As explained in the previous chapter, legislators may be elected to represent certain districts, states or provinces within a nation, or elected in proportion to the number of votes received by their party in the election. And many nations use a combination of the two methods.

### **Consultative Assemblies**

A handful of nations have consultative assemblies, which lack the lawmaking power of a traditional legislature. These include several Middle Eastern states such as Saudi Arabia, the United Arab Emirates, and Kuwait. Ostensibly communist states such as China, Vietnam, Cuba and Laos have national assemblies, which, on paper, have lawmaking power. In practice, however, as with the Chinese National People's Congress, they meet briefly each year and have very limited ability to make law. Consultative assemblies give the appearance of giving the people a voice, but they provide no real check on the power of the government, wherever it may actually be found.

China's legislature is worth a little examination, if only because it is so different than what is found in much of the rest of the world. At 2,987 members, it's the largest legislature in the world, and still means only one member of Congress for about every 400,000 people in China. In contrast, the New Hampshire state House (part of the world's fourth largest legislature), has 400 members representing about 3,000 people each. Members of the U.S. House of Representatives serve about 700,000 people each.

The People's Congress meets for a couple of weeks each year, at the same time as the Chinese People's Consultative Conference, which is supposed to represent various interest groups in the country. Its supporters say that it works to mediate disputes between different factions within China; its critics say it's still mostly a rubber stamp for the Chinese Communist Party, which still holds effective ruling power in the country. Technically speaking, the members of the People's Congress are elected by assemblies below them, and those assemblies are elected by the people. In reality, the members of the People's Congress are largely chosen by the party. Around 70 percent are party members, and while there are eight other political parties in China, they've all been approved by the Communists.

### **Legislatures in Congressional Systems**

Most legislatures don't look like that. As the American poet John Godfrey Saxe once said, "Laws, like sausages, cease to inspire respect in proportion to how they are made." Frequently misattributed to 19th century German Chancellor Otto von Bismarck. Legislatures can be messy, cantankerous affairs, full of arguing, bargaining and general unease.

Let's consider the U.S. Congress, which has some differences from other legislatures but is not atypical of how the legislative process works in general.

In the United States, Congress is the body of government that makes laws. All federal laws start in Congress; neither the courts nor the president has the power to make law.

Congress, like most legislatures, is an arena for the articulation of conflict. That means it's a place where the people's business can be done without real violence. Although, in the pre-Civil War 1800s, physical attacks by one member on another were not unheard of.

While Congress' main job is making law, it must balance the needs of making policy and meeting constituent needs. This is at the heart of the internal conflict that drives Congress—how to balance the particular needs of one's state or district against the needs of the nation as a whole. These two things may not coincide, and sometimes it appears that members of Congress tend toward considering parochial needs over national ones. So, many members of Congress have railed against what they saw as excessive government spending, but didn't fail to direct federal funds to their home states and districts. Similarly, members of Congress may find themselves in conflict over the needs of the nation and the needs of particular constituents and interest groups. So a member of Congress likely would say that he

or she is in favor of a balanced budget, but may still vote for spending that funds a local project or a defense contractor in his or her state or district.

Congress has a substantial constitutional mandate: It can levy taxes, borrow money, spend money, regulate interstate commerce, establish a national currency, establish a post office, declare war, raise and support an army and navy; establish courts; and pass all laws “necessary and proper” to implement this. It can propose amendments or call a constitutional convention; it can admit new states. The **House of Representatives**<sup>4</sup> can elect a president. The **Senate**<sup>5</sup> advises and consents on treaties and nominations to judicial posts. The House can impeach and Senate may try any officer of government. It can investigate whatever it likes, and discipline its own members.

The U.S. Congress has 535 members: 100 in the Senate, two for each state; and 435 in the House of Representatives, apportioned among the states by population (about 600,000 people per district). The House is capped at 435 by act of Congress in 1929. The House includes non-voting delegates from the District of Columbia, Puerto Rico, Guam, the Virgin Islands and American Samoa. DC voters don’t get real representation because the national capital was put outside the boundaries of any state, as the states were all still pretty jealous of each other the late 1700s. While that’s no longer as true, at various times in the nation’s history, Republicans and Democrats each feared that giving congressional representation to the district would mean more seats for the other party. The most rational solution, simply letting D.C. residents vote in Maryland’s congressional elections, hasn’t cleared that hurdle either.

Having a two-chambered legislature—the House and Senate are coequal branches of government—slows down the legislative process. For any bill to become law, it must pass both chambers in exactly the same version. This is further complicated by the nature of the Senate. As the Senate is based on states and not on population, it disproportionately tips power toward less populous states. If you added up all the smallest states to get 51 seats (and hence a Senate majority), you’d have legislators representing about 17 percent of the nation. And being able to block something in the Senate means being able to stop nearly everything. The Senate has unlimited debate, which means that even the threat of filibuster—talking without end on the floor of the Senate—can derail any piece of legislation. It’s pretty rare for any party to have 60 seats in the Senate anymore, so invoking cloture and ending debate is not a simple task.

If Senate apportionment by state wasn’t in the Constitution, it wouldn’t last a day in court. In decisions in the 1950s and 1960s, U.S. federal courts ruled that legislative districts need to be fairly equal in terms of population, usually within 1 percent.

4. In the United States, the legislative chamber elected to two-year terms and apportioned by population among the states.

5. In the United States, the national legislative chamber elected to six year terms, with two Senate seats apportioned to each state, regardless of population.

Prior that, districts often had wildly uneven populations—a good thing in a smaller district, not so good in a larger one. In Arizona, for example, the state House was apportioned by population, while the state Senate was divided by county. With the great majority of the state’s population in only two counties (centered around Phoenix and Tucson), rural interests dominated the Legislature. That’s not necessarily wrong, but it wasn’t fair to the majority of the state’s residents.

Now, following the U.S. Census, every 10 years states must redistrict, both for state legislative and U.S. House districts. Some states let legislative majority parties draw new districts, which is usually bad news for whichever party isn’t in the majority; other states appoint technically non-partisan redistricting commissions to do the job. Even there, that often means partisan appointees will try to get an edge in redistricting for their side.

House members are elected to two-year terms; from the start, it was intended to be the chamber of the people (although state legislatures commonly had annual elections before the adoption of the Constitution). Members of the Senate are elected to six-year terms. The original design was a more deliberative body to put a check on the temporary passions of the masses. With a six-year term, members of the Senate can afford to take a slightly longer, broader view of issues without having to face re-election quite so soon. Also, for that reason, originally they were elected by state Legislatures. By the late 19th century, this system had run into problems. State legislatures frequently couldn’t agree on whom to send, and seats sometimes went vacant. The lack of popular control on the Senate also meant that it tended to be dominated by the interest groups, such as railroads, much to the displeasure of many voters. The 17th amendment was passed in 1913 to provide for direct election of U.S. senators.

The vice president serves as President of the Senate, and can in fact vote to break a tie. The Speaker of the House leads the House, and the Senate Majority Leader is the boss of the Senate. The majority party typically elects both positions.

The majority party also controls the committee system, which is where the work in Congress is done. Often as not, by the time something gets to the floor, the issue is decided. This should be called McCrone’s rule, after the eminent political scientist Don McCrone, who said that nothing comes to a vote that hasn’t already been decided. Typically, if you know you don’t have the votes to get something passed, you don’t bring it to the floor, unless you want to make a statement. Statements are fine, but they don’t get bills passed.

The speaker has some ability to control floor debate, make committee assignments and assign bills to committee. This can be effective in finding out whether a bill has

a future or just a past. Committee chairmen have similar power with regard to their committees.

Congress convenes in early January and, with occasional recesses, will meet until anywhere from August to October. Most of the work is done in committees.

### **The Committee System**

There are 21 standing committees in the House and 17 in the Senate, though the numbers change from year to year. They cover everything from the budget and taxes to agriculture to science. Members of Congress vie for choice committee assignments. If you're from a farm area, you don't need a guidebook to know you should be on the agriculture committee. If you've got military bases in your district, then the armed services committee would be a prudent choice. A successful member of Congress will find a specialization and become an expert. This gives the representative or senator some power, something to trade with other members, and something to hang her or his hat on when she or he goes home to the district.

Committees divide labor and allow specialization. It would be difficult for any member of Congress to be an expert on everything; committee specialization allows members of Congress to be good at something, and, hopefully, share that expertise with others.

Committees are further broken down into subcommittees. Subcommittees typically are where the nuts and bolts work of legislating is done. For a bill to become law, some member of Congress must sponsor it. Most bills can start in the House or the Senate, where they will be assigned to at least one committee, and maybe more if there's a revenue or spending impact. The bill may get scheduled for a hearing, and maybe even a vote in the subcommittee. If it survives that, it must be voted out by committee, and then on to the House or Senate floor. If it survives all that, it goes to the other chamber, where it must go through the same process all over again. For the bill to become law, it must pass both chambers in exactly the same version. If House or Senate amendments change one version, the two sides may call a conference committee featuring members of both parties, who may be able to hammer out a compromise. And then it must be signed by the president.

Given that gantletThat's not a misspelling: A gauntlet is not a punishing line of people whacking the person who has to run the length of the line, it's a kind of glove. of challenges, most bills die long before they become law. But like the villains in a zombie movie, a bill is never really dead. If you're a member of the minority party, the majority party is less likely to let you push legislation through. A skillful legislator finds a friend across the aisle and lets her or him sponsor the legislation.

Alternatively, a dead bill can rise from the grave as an amendment to a bill that's still alive. The Senate has no germaneness rule, which states that an amendment must be germane (relate) to the subject of the original bill. The House has such a rule. So, in the Senate, you can hang any amendment on any measure, and some bills get so many amendments that they get called "Christmas tree bills," as everyone has hung an ornament on them. But even with those potential lifesaving measures, most bills are doomed to fail. Congress gets 10,000 bills a year—most from the executive branch—but only 3–5 percent will ever become law.

One of Congress' most important jobs is among the least glamorous: administrative oversight. Congressional committees spend a lot of time talking and listening with members of the executive branch to try to figure out if everything is working the way the law said it was supposed to. But there are few immediate rewards for the important but unexciting task of oversight. An incumbent seeking re-election can't go home and get much mileage out of "Vote for me; I oversaw the routine handling of road repair and bridge building." And yet that's actually a more important task than some high-profile issues.

Among the most important committees is the House Rules Committee. This is typically chaired by the speaker or by someone he really trusts, and it sets the terms and conditions of debate, and the path through which legislation must travel. Contrast that with the Senate and its unlimited debate, and where the threat of filibuster can hold up even innocuous legislation if somebody has his knickers in a twist over something. A single senator can hold up a judicial or other federal appointment for any reason as well. One school of thought suggests that the Senate needs some reform, but its ability to stop the train may look better or worse depending on your point of view. If you're a conservative and the Senate is blocking a liberal agenda, this might look OK, and vice versa. Absent a constitutional amendment, the Senate writes its own rules, so it would take something dramatic to force a change.

The Senate "advises and consents" on presidential appointments, including high administrative officials and federal judges, and on treaties with foreign nations. That means the Senate conducts hearings on appointments and treaties, and either approves or denies them. **McCrone's Rule**<sup>6</sup> comes into play once again, as the Senate will signal to the president that a nominee or a treaty isn't up to standard long before it comes to a vote. And unlike congressional parties, presidents are much less interested in making a statement; if the Senate just says no, the president looks bad.

6. Nothing comes to a vote that hasn't already been decided.

Members of Congress are not alone. Committee staff work on policy; legislative (personal) staff work on constituency concerns. Congress has about 31,000 staffers.

Constituency service is an important part of what members of Congress do—everything from meeting the home folks, both at home and in the capital, to helping citizens sort out their issues with federal agencies. Members of Congress who are seen as too remote from their states or districts typically have a harder time getting re-elected. So they maintain offices back home as well as in Washington. Despite a travel allowance, serving is easier for members from East Coast states than for those from the west, who have a lot longer to travel and still maintain some kind of residence back home. An average member works more than 60 hours a week, at a salary of \$174,000 a year, plus a travel allowance and office support. The travel allowance is good if you live close by, less good if you don't, and the salary would be comfortable if you lived in one place instead of two.

### **Congress and the President**

The president must sign bills into law. He can veto them. Congress can override the veto by a two-thirds vote. But that has happened only 4 percent of the time since George Washington was president. Presidents don't actually use veto all that often; Richard Nixon vetoed a few dozen bills in his entire term in office and that was regarded as a lot. The two sides must work together, and so there's a lot of give and take, and Congress will take care in sending the president bills he is less likely to veto unless they're specifically trying to embarrass him. Meanwhile, Congress has resources with which to challenge the president: The General Accounting Office, the Congressional Budget Office, and the Office of Technology Assessment. Information is power in government, and typically is seen as more impressive than money.

Congress tends to have more power in domestic policy than in foreign affairs. Foreign policy often requires quick and decisive action; Congress is not designed for this. Domestic policy, on the other hand, can be more careful and deliberative, and Congress excels at this.

Members of Congress frequently form caucuses of members concerned about a variety of issues, from economic interests to ethnicity. These can form blocs within Congress. In recent years, for example, moderate Republicans have forced Republican leadership to back down on sweeping changes to environmental laws.

Congress isn't like the rest of the country. Congress is older, whiter, richer than the nation as a whole. In 2012, it was 8 percent African-American, 5 percent Hispanic-American and less than 2 percent Asian-American, so that is now whiter than it was 20 years ago even as the nation has become more diverse. Only 17 percent of members are women, and that's the highest ever. Nearly 16 percent of members are over 70, and only 4 percent are under 40. The average age is 58. The average House member has served for 10 years, and the average Senator has served 13. Eighty-five

percent of members are married, and fewer than 8 percent are not some flavor of Christianity. Nearly all have college educations, with professions most often listed as public service/politics, business and law.

## Congress' Lack of Popularity

The conundrum of Congress is that this symbol of American democracy is, and long has been, wildly unpopular. In July 2012, Congress' approval rating was only 16 percent, although it's generally on the low side when the economy is bad. But even in good years, Congress' approval rating hasn't moved north of 50 percent in the last half century. Studies have shown that Congress generally follows the popular will, broadly speaking, and it costs you less than the price of dinner at a fast-food restaurant, once a year. And yet people don't like it.

Congress is a convenient repository for national blame and popular regret. Why? This, in some ways, the heart of the American system of government of which U.S. citizens are so justly proud.

Some possible reasons:

**People think Congress wastes money.** Among the things it is famous for is pork barrel legislation: The phrase comes from the 18th century practice of keeping pork in a barrel, and letting slaves and farmhands have a grab, and they would grab for all they could get. Hence it can be with legislators at all levels, who will grab for all the morsels they can in terms of getting money for projects in their districts. But one person's pork is another person's paradise. Where do you draw the line? Then again, **earmarks**<sup>7</sup>—amendments to bills to fund projects in home states and districts—account for less than 1 percent of the federal budget. So the issue is probably somewhat overstated. You could make all the earmarks disappear, and the federal budget would not be much closer to being balanced.

Figure 7.1 [To Come] Federal Budget and Revenue Pie Charts

Some earmarks do look a bit silly, such as nearly \$1 million in 2010 to get more poetry in zoos. Consider a somewhat famous example from the 2000s. The late U.S. Sen. Ted Stevens, a conservative Republican who still managed to bring home billions in federal aid to Alaska, helped get federal funding for a \$398 million bridge in Ketchikan in Southeast Alaska. As Ketchikan has a population of only about 15,000, the project acquired the nickname of “the bridge to nowhere.”

7. Items in the federal budget that specifically benefit a particular member of Congress' state or district.

In fact, the bridge would have connected to Gravina Island, home of about 50 people and to Ketchikan's airport, which serves about 200,000 passengers a year. Ketchikan, a lovely town, sits at the foot of impassible mountains and is connected to nowhere else by road. So the only way in or out of the self-proclaimed "Salmon capital of the world" is by boat or by plane, and you have to take a ferry to the airport (which takes about 15 minutes). That complicated the structure of the bridge, since it had to be long enough to reach the island and high enough to allow ship traffic to pass underneath. Bridge proponents also argued that it would allow development of more land on the island. Developable land is, somewhat ironically, in short supply in many parts of the country's largest state.

The issue was controversial everywhere, even in Ketchikan. On one visit, I asked a friend of mine who lives there what locals thought about the bridge, and he responded, amid a local store, "Do you want to see me start a fight, right here?"

Criticism of the project mounted, both in Congress and in the national discussion, and the project became something of a poster-child for wasteful federal spending. Then-Alaska Gov. Sarah Palin, originally a staunch proponent of the project, cancelled it after Sen. Stevens' earmark was excised from the federal budget. Palin then became the Republican vice-presidential nominee, and started claiming that she had stopped the project herself. She also went ahead and accepted \$25 million in federal highway funds to build the Gravina Island highway, which would have connected with the bridge. It sits there now, largely unused, appropriately dubbed "the road to nowhere."

Whether the bridge project was a good idea or a bad one, it underscores people's feelings about federal spending—one person's boondoggle is another person's vital civic improvement. If you had to take a ferry to the airport—and if you've ever had to wait in a ferry line, the question changes in scope and dimension—would you rather have a bridge?

**Congress vs. itself:** Part of the problem is that candidates have been running against Congress for much of the last 40 years. Even incumbents may rail against the institution, even as they ask voters to send them back. If you keep telling people that "the system is broken," in one currently popular phrase, eventually they'll believe you. And yet incumbents win more than 90 percent of the time, year in and year out. Voters appear to like their own members of Congress; it's those other guys who are causing all the trouble. Part of that may relate to what political scientists have called the case of the vanishing marginals: Why have so many races become less competitive over the years? More often than not, since the second half of the 20th century, congressional elections are not close. In part this may be due to redistricting efforts that have created congressional districts that are

predominantly Republican or Democrat, leaving the other party with a diminished chance of ever winning the seat. Parties respond by failing to invest in campaigns in those districts, knowing they have little chance of winning.

The evidence isn't entirely conclusive as to why incumbents win so often. But if you're so unhappy with Congress, why keep sending the same people back, over and over again?

**Misinformation:** The internet, that great font of misinformation, probably hasn't helped. You don't have to look very far to find some version of the endlessly forwarded e-mail calling on Congress to have to adhere to its own laws (it does), to cut its pay (which would encourage either real corruption or make it impossible for anybody but a billionaire to serve), and make them pay into Social Security (they do). The list goes on, and it's all bunk.

**Lack of understanding:** The fact that Congress was designed to deliberate and work slowly seems to be lost on too many people. Like that tingling sensation from your dandruff shampoo, when you see the president and Congress at an apparent impasse, that means it's working, and working the way it was supposed to. Congress was supposed to be a check on the presidency, the courts, and, above all, on the momentary passions of the electorate. When national consensus is achieved, Congress acts. Failing that, Congress deliberates. It's not very pretty, but that's what was supposed to happen.

### Legislatures in Other Countries

Nations in North and South America tend to have congressional-style governments, with separately elected presidents who are not entirely tied to the whim of the legislature. The alternative to a congressional-style legislature is the parliamentary style, an approach more common to Europe, Africa and Asia.

And Canada, which is a good example of how parliamentary legislatures work. The Canadian Parliament is divided into two chambers, the House of Commons and the Senate. More power and authority ride in the 308-member House of Commons. The members are elected in winner-take-all elections in districts known as ridings, which may derive from an old British term, which may derive from an old Norse term. The number of seats is expected to rise for the next election, tentatively scheduled for Oct. 19, 2015. At one seat per 110,000 people, the level of representation is much higher than in the U.S. at one seat per 650,000 people. Terms are up to five years or until the next election, which is one key difference for parliamentary systems. The ruling party or coalition of parties may call for an

election whenever they want, or an election may be forced by a no-confidence vote in the Commons.

The biggest difference between parliamentary systems and congressional systems is in the structure of government. In the congressional system, power is shared and divided between the different branches of government, including the legislative, executive and judicial. In a parliamentary system, the chief legislative body serves as both the executive and legislative branches. The head of government is the prime minister, who is chosen either by the majority party or by the coalition that builds a majority in the legislature. All of what in the United States would be cabinet secretaries appointed by the president are in Canada simply members of Parliament, appointed by the prime minister and the majority party. So instead of a secretary of defense and chairmen or women of the House and Senate defense committees, they have a defense minister who is not only in charge of the agency, he or she can vote on its budget and policies.

Canada's government has some vestiges of its British ancestry. The governor general is the representative of the British crown in Canada. He or she is appointed by the British monarch on the advice of the Canadian prime minister. Although governors general take their roles seriously, they are largely ceremonial. The 105-member Senate is appointed by governor general, again on the recommendation of the prime minister. The Senate is somewhat like the British House of Lords. It can debate and amend pieces of legislation, but cannot introduce any measures relating to spending and taxes. Once appointed, Senators may remain in office until age 75. The Senate does, on occasion, block legislation from the House of Commons, at various times holding up or rejecting bills relating to trade, abortion, greenhouse gases and taxes. The House of Lords in Great Britain has no say on revenue or spending measures.

As with the congressional system, parliamentary systems divide work by committees. Unlike congressional systems, a change in government via election can mean rapid change in government policy. With most power vested in one chamber, the only serious check on the power of the majority is elections, although court systems provide some check on power in some parliamentary states. But typically, in Canada, a victory by the Conservatives or the Liberals will mean a definite turn toward that party's priorities. Contrast that with the United States, where a new congressional majority may face presidential vetoes, or where Republican control of one chamber and Democrat control of another may provoke disagreement and stalemate. In the British House of Commons, debate is severely limited, so that unlike in the U.S. Congress, for example, the minority party is less able to hold up legislation it doesn't like. So things may happen more quickly in a parliamentary system.

### KEY TAKEAWAYS

- Members of the U.S. Congress, and legislators in general, have three basic duties: Making law, overseeing the efficient operations of government, and serving constituents.
- Congressional systems are used in nations where government power is divided and shared by more than one branch. Parliamentary systems place executive and legislative power in one branch.
- The basic work of legislatures of all types is often done in committees and subcommittees, where legislators and their support staff can specialize in particular policy subject areas.

### EXERCISE

1. Look up your local state or congressional representative. What committees does this person serve on? How long has she or he been in office? Contact them and ask a question about a policy issue that you are interested in.

## 7.2 Executives

PLEASE NOTE: This book is currently in draft form; material is not final.

### LEARNING OBJECTIVES

In this section you will learn:

1. What executives do.
2. The difference between the head of state and the head of government.
3. The difference between a president and a prime minister.

The chief executive of a nation has two potential tasks: **head of government**<sup>8</sup> and **head of state**<sup>9</sup>. Head of government is in charge of the day-to-day affairs of the state, like the chief executive of a large corporation. The head of state represents the nation to the world, and may include any number of ceremonial duties. Some chief executives combine both functions; others perform one or the other.

### Types of Executives

In congressional systems, the chief executive, often called the president, is both head of government and head of state. Approximately 48 nations feature a separately elected president, who is in some way a check on the power of the chief legislative body. In some handful of states, the chief executive is a monarch—a king, a prince or a sultan, for example—who owes his or her job to heredity. The majority of nations have a parliamentary system. In parliamentary systems, the prime minister or premier is the head of government. Depending on the nation, the head of state may be a hereditary monarch such as Queen Elizabeth II of Great Britain. It might also be a separately elected president, such as in Germany. The German presidency is a largely ceremonial post; the president has veto powers over the Bundestag, the main house of parliament, but has never used them. He or she serves a five-year term, elected the federal convention, which includes all the members of parliament plus members chosen by the state parliaments. Policy and power, however, rest with the chancellor, the equivalent of Canada's prime minister. And many more people around the world could probably tell you that Germany's

8. A person elected to be the chief operating officer of a nation, such as a president or prime minister.

9. A person assigned with the ceremonial duty of representing a nation in the process of government.

chancellor in 2012 was Angela Merkel than could tell you that Germany's president was Joachim Gauck.

A prime minister or chancellor in a parliamentary system is also a member of the more powerful house of the legislature, and also typically the leader of that party. Assuming that the prime minister has an outright parliamentary majority, as opposed to heading a coalition of allied parties, he or she has some advantages and challenges with regard to governing. Since by definition the prime minister has a legislative majority, it should be easier to push through one's legislative agenda. You start every day with the votes you need. That's an oversimplification, of course. Members of parliament, even of your own party, will have their own take on things, and what the parliamentary majority wants may not be precisely what the majority of people want. So no parliamentary majority is completely immune from public pressure. On the other hand, unlike a separately elected president in a congressional system, a prime minister owes his or her power to his or her legislative majority. If the majority becomes unhappy with the prime minister's leadership, they can conduct a no-confidence vote and that executive's career at the top of the heap may be over.

### **Presidents in Congressional Systems**

Presidents in congressional systems are separately elected. Such a president may or may not have a working majority in the legislature. If she or he doesn't, it will be more difficult to get her or his policy agenda turned into law. The key point here is that a president in a congressional system does not have anywhere near complete power to change government and policy. Although such a president is both chief of state and head of government, she or he lacks full authority to dictate which way government is going to go. Nonetheless, citizens in countries with this kind of president tend to put all of their hopes and dreams and fears onto the presidency, and onto the particular president in office at any given time. Let us consider the presidency, using the U.S. presidency as an example.

### **The U.S. President**

The U.S. *presidency* is probably the single most powerful office on earth, and yet the president finds himself (and someday herself) in the middle of competing power centers. Presidents get far too much credit for what goes right in the country, and far too much blame for what goes wrong. A president is elected every four years in years divisible by four. U.S. presidents may serve no more than two terms or 10 years, in the case of a president assuming office mid-term. This came from the 22nd amendment, adopted 1947 after Franklin Delano Roosevelt was elected and re-elected four times beginning in 1932.

The U.S. president has a number of formal powers. He or she can:

- **Carry out legislation.** The president directs the executive branch and the federal bureaucracy to carry out the laws as passed by Congress.
- **Provide information and advice to Congress,** including through the State of the Union address.
- **Negotiate treaties and executive agreements with foreign states.** Treaties must be approved by the Senate; executive agreements need not and are more easily contravened either by act of Congress or by the next president.
- **Make appointments to positions in the executive branch.** He has about 3,000 jobs to fill, including cabinet secretaries. The cabinet doesn't actually function like a cabinet, however; they don't all get together and have meetings. From the original four positions, the cabinet has grown to 14, and the president may designate other officials as cabinet level, such as UN ambassador.
- **Grant pardons.** The president can pardon criminals who have been convicted of crimes except in cases of impeachment.
- **Act as chief of state and commander in chief of the armed forces.**
- **Sign legislation to make it law and veto legislation to block it** (Congress can override vetoes by a two-thirds vote). The president has limited ability to impound federal funds, and can issue executive orders to the bureaucracy. Both of these actions can be easily overturned by Congress, simply by passing a new law.

The Founding Fathers didn't really envision the president having as much power as he does today, but this was probably inevitable. If nothing else, the nature of the situation suggests that one person—the president—can pull himself together and make a decision faster than can a group of 535 people—many of whom think they should be president—divided into two typically contentious groups. The organizational dynamics of the situation dictate that the president will be the dominant player in the political scene.

Consequently, although it is Congress' job to make law, 80–90 of legislation proposed in Congress comes from the executive branch, including all of the cabinet agencies under the president. As a consequence, at times Congress is more of an arbiter or gate-keeper of policy, as opposed to leading the way.

Nonetheless, the president has the power to persuade, not to command. He can't say jump and expect immediate action outside of the White House. This power is not inconsiderable. U.S. citizens may be acutely unhappy with a particular president, but on the whole, Americans have tended to have a great reverence for

the office of the president, and this lends itself to substantial power if used properly. That's one reason why presidents go around and make speeches: It's usually to try to sway public opinion in the direction of policy goals, which can be very useful if you're butting heads with a recalcitrant Congress. This has been true since Franklin Delano Roosevelt first gave his famous "fireside chats" on the radio in the 1930s. Roosevelt spoke each week on the radio when that was the chief medium of mass communication. His comforting president gave people a little hope in otherwise difficult times. Ronald Reagan and Bill Clinton also were very good at using the media to persuade the masses. To the extent that the news media still covers politics in any meaningful way, the U.S. House of Representatives gets fairly meager coverage, while the U.S. Senate gets a little more. What the president says, by definition, is news, so that the president's face and voice are ever-present.

This is important because presidents must succeed symbolically. They must be seen to be in charge, to care, to be trying to do something to make people's lives better. So Franklin Delano Roosevelt, under whose watch the Great Depression stretched on for nearly 10 more years, still remained popular with many voters because they believed that he cared about them. Ditto for Ronald Reagan, who, as George H.W. Bush once sneered during the 1980 primaries, had "that vision thing." The unfortunate Mr. Bush, who enjoyed record popularity at the successful conclusion of the first Gulf War, still failed to get re-elected in part because the economy was sagging and he seemed out of touch with what that meant to people. Ronald Reagan, in contrast, pursued policy that people said they disagreed with in reliable opinion polls. But they elected him twice because they liked him. So the president's actual performance and his popularity may diverge quite a bit. Voters who may not be paying close attention are often compelled by the form rather than the substance of the president's action.

Quick and decisive action usually helps the president's approval ratings, which is why presidents score big points on the foreign policy front but not many on the home front (unless the economy does well). The Founding Fathers actually imagined that Congress, in particular the Senate, would direct foreign policy, but this is not workable. The gang of 535 simply can't respond quickly enough. The president, meanwhile, can travel the world, meet with foreign leaders, negotiate treaties, open doors and be seen to be taking decisive action and solving problems. In the 1980s, as the Soviet Union collapsed from within, Ronald Reagan's stern anti-communist speeches and efforts to negotiate with the Soviets helped him look like the conquering hero of the Cold War. Some scholars do give Reagan credit, but one could argue that the Soviet Union was on its last legs when Reagan was first elected.

As commander-in-chief, the president can put the armed forces to work. As a consequence, U.S. troops have been sent overseas more than 150 times but Congress has declared war only six times, and not once since World War II. In the wake of the

United States' involvement in Vietnam, which went from being a training mission to having half a million men and women serving there, Congress felt the need to assert itself. They passed the

War Powers Act in 1973, which requires the president to commit troops for more than six months before reporting to Congress and justifying her or his actions. It's not clear if this works, as it hasn't been tested, and the hammer is still with the president. Congress can't order the troops home. Its only recourse is to cut off funding for the mission. That would likely be seen as endangering the lives of the men and women who have been sent overseas, which is likely to be extremely unpopular back home.

Other presidents in other countries will have particular mixes of duties and authority, but this is the general model for what a president in a non-parliamentary system. One could argue, as the United States has one of the oldest governments in the world, that the American presidency was the model for what followed. It's probably no accident that this system of government is most common in North and South America.

### KEY TAKEAWAYS

- Chief executives may have both ceremonial and practical responsibilities in government.
- A president in a congressional system is a separately elected official who represents the executive branch of government, which is usually co-equal with the other branches of government.
- A prime minister is the leader of the majority party or majority coalition in a parliamentary style of government. He or she serves as the head of government, but not usually head of state.

### EXERCISE

1. What would it mean if the United States had a parliamentary style of government? At this moment, who would be in charge and what would that mean for policy for the country?

## 7.3 Courts

PLEASE NOTE: This book is currently in draft form; material is not final.

### LEARNING OBJECTIVES

In this section you will learn:

1. The role and function of court systems in most modern governments.
2. How the U.S. court system works.

Courts are typically the branch or part of government where laws are interpreted and enforced. Courts typically feature judges, either alone or in panels, who decided legal matters in cases brought before them according to the laws of that country. The court system may be separate from other branches of government, as in divided systems; or they may be subservient to the rest of the government, as in authoritarian systems; or they may be somewhere in between, as in some parliamentary system. Courts are often set up for specific purposes, such as tax, bankruptcy and military courts in the United States. Let's first consider courts in the United States, then see how they compare with court systems in other countries.

### U.S. Courts

U.S. courts are different in a couple of ways: First, because the United States is a federal system, there is a dual federal and state system of courts, each with its own powers and area of authority; second, because of the power of **judicial review**<sup>10</sup>, by which U.S. courts can overturn acts of Congress or state legislatures because they are judged to run contrary to the U.S. or to a state constitution. Not every court in every country has this power; all U.S. courts of a certain level have this power.

In the United States, courts are the third branch of the government, and thereby serve as a check on the first two. The highest court, the U.S. Supreme Court, is one of the most powerful in the world because of its ability to overturn legislation. It

10. The power of a court to overturn acts of government as unconstitutional.

cannot, however, consider things on a review basis; someone has to bring suit for it to consider anything.

The **Supreme Court**<sup>11</sup> is the only court mentioned in the Constitution, but that document gives Congress the power to create courts inferior to the Supreme Court. They did. Beneath the Supreme Court are 13 Courts of Appeal, and beneath them 96 federal district courts. In addition, the federal court system includes the Court of Military Appeals, tax courts, bankruptcy courts, claims courts and international trade courts.

Federal judges are appointed for life, except for bankruptcy court judges, who are appointed for 14-year terms. Apparently, this is because the courts were created until Article I on the Constitution, not Article III, which says that federal judges are appointed for life. <http://www.bankruptcylawnetwork.com/here-comes-the-judge/> This insulates them from political pressure because they don't have to run for re-election. This sometimes leads people to complain about the court's insularity, most often when they disagree with the kinds of decisions the courts are making. Many state court judges are elected, and the evidence does not suggest any particular advantage or disadvantage for that system. Voters may find judicial elections particularly challenging, since judges are not supposed to campaign on how they would rule on a particular kind of case, as they are supposed to rule on cases based on the facts as presented in trial. The people who might know something about the quality of a judicial candidate are lawyers, but outside of bar association ratings, they're generally not talking, since every potential judge is somebody you might have to try a case before some day. Consequently, judicial elections sometimes feature little-known candidates with good names unseating experienced judges whose names don't sound as good. In some U.S. states, judges are chosen by commissions; in others, they are appointed by governors and confirmed by the state senate, much as with the U.S. federal courts.

In the case of federal courts, federal judicial nominations have become a serious political issue in the last 30 years. Presidents nominate federal judges, including Supreme Court justices, who must be confirmed by the U.S. Senate. Conservative presidents will want to appoint conservative judges, while more liberal presidents will do the opposite. So nominees, particularly for the Supreme Court, tend to undergo intense scrutiny in Senate hearings, with nearly every moment of the nominee's adult life up for inspection. Under the rules of the U.S. Senate, one senator can hold up the confirmation of any judge, even if that senator's party lacks a majority in the Senate. As a consequence, judicial vacancies have been filled rather slowly, especially during the presidency of Barack Obama, as conservative Republicans sought to prevent him from filling all the court openings below the U.S. Supreme Court.

11. The highest level of court in many countries; the court of last resort.

Even with Supreme Court vacancies, the Senate can and sometimes does say no. In 1969, President Richard Nixon nominated Clement Haynesworth to the high court, despite the candidate's questionable record on civil rights. The U.S. Senate rejected his nomination. Nixon, apparently angered, responded with an even more conservative nominee, G. Harrold Carswell, and the Senate again voted no. Ronald Reagan sought to nominate Robert Bork to the high court, but he did not fare well in hearings and seemed too conservative for the time. His next nominee, Daniel Ginsberg, foundered on revelations that he had smoked some marijuana in college. George W. Bush sought to nominate his private White House attorney, Harriet Myers, whose relative lack of qualifications prompted Senate leadership to make clear to the president that his was a questionable choice, the nomination was withdrawn. So, most of the time, these rejections don't come to a vote, and a careful president tends to sound out Senate leaders on the likelihood that a nominee will be looked upon favorably.

Although the 50 state court systems have great authority within their own borders, the U.S. Supreme Court has the final say in interpreting the Constitution. The court has subsequently made many important decisions that have had large impact on U.S. politics and government.

At various times in its history the court has validated slavery and sent people to jail for nothing more than peacefully protesting U.S. involvement in World War I. The 19th century High Court simultaneously prohibited the states and the national government from regulating railroads, saying that was reserved for the other level of government (depending on the suit). The court also struck down FDR's New Deal proposals that would have given the government sweeping powers over the economy. The court ended segregation in schools and greatly expanded civil rights protection in the 1950s and 1960s.

Not everybody will agree with every court decision. Modern courts are sometimes criticized for "judicial activism," which seems to flow one way or another depending on whether you happen to agree with the court's decision. Critics of judicial activism argue that the courts should strictly interpret the Constitution as written, as opposed to those who might argue that the Constitution's often vague and open language renders that idea both difficult and questionable. And one could argue that both ways. In the 2011 Citizens United decision, the court clearly made a decision that put freedom of speech in the form of spending money on politics ahead of ensuring equal access of all citizens to electoral office. The point is not whether that was a right or wrong decision—there's a rational argument to be made for both positions—the point is that the high court, in making that decision, had to interpret the law.

This is especially important in light of what is known as case law. Court decisions at all levels build and expand the body of law that guides the country. Other courts, in reaching verdicts in new cases, will make reference to other decisions in other courts. In particular, U.S. Supreme Court decisions trickle down to all lower courts, informing their decisions on subsequent cases. To that end, it makes a difference if the Supreme Court has ruled 9–0, leaving no doubt as to their opinion, or merely 5–4, which means that things might someday change. In light of the importance of case law, to argue that judges should only interpret law, not make it, is to misunderstand the U.S. court system. Every judicial decision makes law.

As we discussed earlier, U.S. Courts can only hear cases that are brought before them. The power of judicial review does not extend to issuing advisory opinions on proposed or existing laws. Somebody has to file suit, and a judge has to say that the case has enough merit to be heard. In the United States, court cases start at what are called **trial courts**<sup>12</sup>. At this level, evidence is presented and arguments are made. The case may be heard by a jury of six to 12 people; in major cases, a grand jury may be convened, to determine whether a case should proceed to trial. In some cases, defendants may waive their right to a trial by jury and have their case decided solely by the presiding judge. There are basically two kinds of cases: civil cases, featuring disputes between two or more private parties; and criminal cases, in which someone stands accused of having broken the law. In criminal cases, the judge may also set the sentence if the defendant is convicted. The defendant is presumed innocent until proven guilty, so that the burden of proof lies with the plaintiff or with the state, in the form of the prosecution, to prove that the defendant has committed some wrong or otherwise broken the law. In criminal cases in particular, the prosecution must prove beyond a reasonable doubt that the defendant has committed a crime.

If either party in a civil case is dissatisfied with the verdict, or if the defendant feels he or she has been wrongly convicted, they may appeal the decision to a higher court. At the federal level, this is the U.S. Court of Appeals. Every U.S. state court system has a similar court, although it may have a different name. **Appeals courts**<sup>13</sup> accept no new evidence; the parties making the appeal are arguing, in effect, that mistakes were made in the original trial, such as overlooking evidence or misapplying the law. Appeals courts are under no obligation to hear appeals. They can let the verdict stand; they can overturn the verdict in whole or in part; or they can send the case back to the trial judge with instructions.

12. The lowest level of court, at which arguments are heard and evidence is presented.

13. Usually the next level of court, to which parties can appeal decisions.

It is possible to appeal all the way to a state supreme court or to the U.S. Supreme Court, but the highest courts usually only hear cases in which substantial constitutional questions are at stake. So while 5,000 cases may get appealed to the U.S. Supreme Court in a single year, it may hear no more than 150–200 in that same time frame. Decisions by state Supreme Courts may sometimes be appealed to the

U.S. Supreme Court, which is the court of original jurisdiction—the trial court—in cases involving top federal officials.

You probably can't appeal your traffic ticket all the way to the Supreme Court; there's no constitutional question involved there. But sometimes an ordinary citizen can succeed in seeking justice at the highest level. For example, in 1961, a sometime, small-time criminal named Clarence Gideon was arrested for knocking over a pool hall in Florida. Mr. Gideon was actually innocent of this crime, but as he couldn't afford legal representation, he was forced to represent himself and was quickly convicted of this crime. Gideon didn't give up, however, and eventually his letters reached the U.S. Supreme Court, which was looking for a case that involved this issue of legal representation—the right to attorney. The court took on the case, ruled that in all felony cases, the defendant has the right to an attorney, and sent the case back to the trial court for a rehearing. A lawyer was appointed to represent Gideon, and he quickly demolished the prosecution's apparently flimsy case, and Gideon was set free. The public defender system, which grew out of that Supreme Court decision, is often overworked and underfunded, but sometimes, it works. It worked for Clarence Gideon, who remains a shining example that sometimes, you can make a difference.

Courts in other countries may vary from U.S. courts. In France and other countries influenced by France, under the Napoleonic code, a defendant is guilty until proven innocent. French courts also do not consider case law in making decisions. Many courts in other nations lack the power of judicial review, although the United Kingdom adopted a Supreme Court in 2009. Some countries do have a special constitutional court, which does have the power of judicial review.

### KEY TAKEAWAYS

- In congressional systems, courts are the third branch of government.
- U.S. courts have the power of judicial review, which means they can overturn acts of government as unconstitutional. But this requires somebody to have filed suit over the law.
- U.S. federal judges are appointed for life, to help insulate them from political pressure in making judicial rulings.

**EXERCISE**

1. How does your state choose judges? What are the advantages of this system, compared to the federal system of presidential appointments with Senate confirmation? Are there also disadvantages?

## 7.4 Sub-National Governments

PLEASE NOTE: This book is currently in draft form; material is not final.

### LEARNING OBJECTIVES

In this section you will learn about:

1. The role and function of subnational governments in modern governments.
2. How, in the United States, power is apportioned from state to local governments.

In the United States and other countries with federal systems of government, another important piece of the political pie are state and local governments, also sometimes called **sub-national governments**<sup>14</sup>. In most countries, these are governments in some way below the national government, whatever form it takes. In all systems, to some extent, but especially in federal systems, state and local governments are closest to the citizens, and frequently are the parts of government that deliver services and enforce laws in your city, town or neighborhood. In the U.S., voter turnout for elections for this level of government tends to be the lowest among all elections, which is probably unfortunate. This is the level of government closest to citizens, and the one most likely to have an immediate impact on your life.

Remember that the status of sub-national or local depends on whether the nation operates under a federal or under a unitary system. In a federal system, such as the United States, Mexico and Canada, the national government shares some power with the states or provinces, as in Canada. While particularly in the area of foreign affairs, states are subservient to the national government, they may have quite a bit of leeway to set their own laws within the boundaries established by a national constitution. In unitary governments, all power comes from the national government, which delegates some of that power to local governments to carry out the local business of governing.

14. Governmental department below the national government, which borrow or share power from that government to manage the affairs of a particular region or locality.

In all but the smallest nations, having some kind of local government keeps government closer to the people and perhaps more responsive, and gives people a chance to create law and policy that fits their particular needs. State and local governments therefore are often responsible for things such as local transportation needs, law enforcement, and public schools, and sometimes have a role in broader issues such as environmental protection and health care.

## U.S. State and Local Governments

The 50 U.S. states are in some ways like 50 mini-republics, each with its own executive, legislative and judicial branches. The governor is the chief executive, although states often have separately elected statewide officials such as the state attorney general or the state treasurer. In 49 states, voters choose a two-chambered legislature, such as a house and a Senate. Only Nebraska has a **unicameral legislature**<sup>15</sup>, with one non-partisan chamber to do the state's legislative business.

States have substantial leeway to order their own affairs—to create and maintain laws particular to the people of that state. So, for example, self-service gasoline remains illegal in Oregon, while the drinking age in Louisiana is 19.

In addition to creating policies that might fit more with the desires and conditions of local citizens, states deliver services directly to citizens. So, federally funded programs such as welfare and Medicare/Medicaid will be funneled through state offices, with the states and the federal government sharing funding responsibility. Congress usually insists that the states adhere to certain standards and levels of funding in order to receive federal matching funds, although in recent decades Congress has leaned more toward giving states some leeway in deciding how to structure such programs.

U.S. states typically have much more authority over education than does the federal government. There is a U.S. Department of Education, and the federal government provides some funding for both K-12 and for higher education, but the great majority of funding for education, and hence the standards to be applied, the level of tuition, and the location of schools, colleges and universities, is the work of state and sometimes local governments. States will decide what graduation requirements are for high school, and sometimes set requirements for college basic requirements. College students in Texas must study Texas state politics and government, regardless of their majors. That was a decision of the state government.

15. A legislature with only one chamber, as opposed to a two-chambered legislature, such as the U.S. Senate and U.S. House of Representatives in the U.S. Congress, or the House of Lords and House of Commons in the British Parliament.

States have a major say in transportation issues, aside from the interstate freeway system, which was created by the federal government. States will often set speed limits on state highways. Wyoming once had no speed limit on freeways outside of

urban areas, a nod to the travel time between its somewhat far-flung towns and cities. Congress, which was concerned about energy issues, wanted states to set lower speed limits to encourage fuel conservation, and threatened to take away Wyoming's federal highway funds if it did not comply. Wyoming got to the letter if not the spirit of the law by having state troopers issue tickets for wasting resources for drivers who treated state highways like the German Autobahn (where there often is no speed limit). States and provinces, and the local governments inside of them, often find themselves dependent on the governments above them for revenues. Nations and states have broader revenue bases, which allows them to collect more money than any state or city can. So even as they try to create law and policy that appeals to local residents, they find themselves under pressure from governments above them to spend the money in a particular way, as dictated by state or national governments.

States manage park systems, regional economic development efforts, and state legislatures set tax rates and create budgets that direct state spending. States may create more or less stringent environmental laws; expand or contract marriage rights; and regulate business and commerce within their own borders.

### Local Governments: Cities

States are **unitary governments**<sup>16</sup>—for the most part, they lend power to local governments. In some states, large cities and counties have received what's called a limited home-rule charter, by which they have a little more authority to decide their own affairs. But for the most part, a state government, via the legislature, could in fact combine school districts, towns or even counties if they decided there was some reason to do so. When this happens, it's usually because one of these local governments is too small to support itself.

There are more than 87,000 local governments in the United States. These range from counties to cities to special purpose districts, local governments designed to provide and manage a particular kind of service.

Cities are more like mini-mini-republics, usually with some kind of elected council. In a strong-mayor form of government, the city council and the mayor are elected separately, and relate to each other in a way similar to how the president and Congress, or a governor and a state legislature, deal with each other. The council makes law; the mayor is the chief executive of city government. This system is more common in large cities. In smaller cities and towns, cities operate using the council-manager form of government, by which the city council serves as both legislature and executive, but hires a full-time, professional manager to oversee the day-to-day operations of city government.

16. Governments in which power is lent to subnational governments, as opposed to federal governments, in which power is shared between the two levels.

Cities may provide police and fire protection, local transportation planning and improvement, and laws relating to the conduct of life within city limits. It is city government that sets local speed limits, puts in a stoplight, or takes out a traffic camera from your neighborhood. Cities fix potholes, help organize summer fairs and festivals, and maintain local parks. Many cities engage in zoning, laws by which rules are set about what can be built where. So, if an area is zoned retail, a developer can put in a store. If an area is zoned residential, the only thing that can be built there is housing. Like anything government does, zoning helps some people and hurts others. It can protect homeowners' home values, because you're going to have a harder time selling your home if somebody builds a Wal-Mart or other large store around the corner. On the other hand, zoning, by limiting the supply of available land, can make housing and other construction more expensive. Cities attempt to engage in economic development efforts, trying to attract businesses and jobs that will keep residents employed and keep revenue flowing into the city budget. In large cities in particular, city governments often face a balancing act in promoting economic development while trying to maintain quality of life for existing residents.

### **Counties**

Counties play a big role in local government in some states and less so in others, providing services and serving as regional governments in larger metropolitan areas. There are more than 3,000 counties in the United States, ranging from the 25 square miles of Arlington County, Virginia to the 330,000 square miles of the Unorganized Borough of Alaska. They range in population from around 10 million in Los Angeles County to less than 100 in Loving County, Texas. In Connecticut and Rhode Island, there are counties, but no county governments. In Louisiana, counties are called parishes, and in Alaska they are boroughs. Like cities, county governments may have either an executive and a council, separately elected, or, in the case of smaller counties, an elected board of 3–5 commissioners who have both executive and legislative power. In the west, counties are more likely to be both larger than eastern counties, and to provide city-like services to areas that are unincorporated, or whose citizens do not live inside of the boundary of any city. In Maryland, counties run school systems; in North Carolina, counties do not maintain local roads as they do elsewhere. Counties often maintain vital statistics records, such as marriages, births and deaths. Counties also often are responsible for local election and voter registration. In the northeastern U.S., counties may be divided into townships, establishing local governments which then have responsibility for a particular area within a county.

## Special Purpose Districts

**Special purpose districts**<sup>17</sup>, as we noted earlier, are created to provide one kind of service. The most common special purpose district are school districts, which manage K-12 school systems in most parts of the country. While much of the money for schools comes from state governments, school districts manage how the money is spent. School districts usually have regularly elected boards of directors and a hired superintendent to manage the everyday operations of the district. Special purpose districts may also manage fire service, utilities such as sewer, water and electricity, and everything from local parks to public hospitals and cemeteries. In rural areas, special purpose districts may be created to manage pest control and irrigation, allowing local farmers to pool their resources and provide common service to a wider number of people. In some states, port districts are charged with encouraging economic development and managing sea and airports to encourage commerce and foster job creation.

The advantages of special purpose districts can be that they encourage specialization and expertise, hopefully providing constituents with a better, more efficient level of service. In theory, with elected boards in charge, they are not immune to popular control. If citizens are unhappy, they can throw the rascals out and elect a new board. On the other hand, a board of citizens with no particular expertise in one area or another may become dominated by the district's hired management, or fooled by consultants, as happened with some local governments and their investment portfolios in the 1990s and 2000s. So, like all levels of government, they are by no means perfect. To excited over those annexations; they require petitions from a majority of landowners within a target area just to get started.

### KEY TAKEAWAYS

- Sub-national governments manage local affairs on behalf of national governments.
- U.S. states often delegate local responsibility and authority to cities, counties, townships and special purpose districts.
- The autonomy of states or provinces will depend if the overall system of government is federal or unitary.

17. Local governments created to perform a particular task, such as providing water, sewer or fire service.

### EXERCISE

1. Look up the local government where you live. What services does it provide? What is the structure of its government? How does it fund those operations—what are its sources of revenue? How much of that money comes from the state government? Contact a local elected official and ask how much they are required to adhere to state guidelines on spending the money.

## 7.5 Bureaucracy

PLEASE NOTE: This book is currently in draft form; material is not final.

### LEARNING OBJECTIVES

In this section, you will learn:

1. What is the role and function of the bureaucracy.
2. Why bureaucracies may seem inefficient or inflexible.

The last piece of government we will consider in this chapter are the agencies of government that are assigned with turning all that law into practice. Often, this part of government is called “the bureaucracy,” usually not meant as a compliment. Bureaucracy is often used as a dirty word to describe a government out of control. This is unfortunate, because it is actually only a form of organization.

**Bureaucracy**<sup>18</sup> refers to organization with a defined chain of hierarchical command; defined tasks for people within that chain; division of labor; clear lines of authority; goal-oriented approach to problems; and adherence to established rules. In fact, this describes most modern human institutions, from the college where you study to the place where you work.

Why do we have a bureaucratic form of organization? Because people have demanded a high degree of accountability and predictability in government, and this is one way to get it. Bureaucracy delegates and handles the details. It provides governance and oversight of the government. Generally speaking, people working in government agencies try to adhere to the laws as written, and sometimes one of the challenges is figuring out just what the legislative body intended.

In the United States, this form of organization grew in part from unhappiness with the often-corrupt spoils system that was common in the late 19th and early 20th centuries. Many if not most government jobs were handed out to party loyalists as opposed to who might do the job best; as a consequence, contracting and various government jobs often went to the highest bidder—the one who promised to kick back the most of the money made from the job. The civil service system, which was

18. A form of organization that relies on hierarchical structure, a defined chain of command, an adherence to established rules, and specialization of labor within the organization.

created by Congress following the assassination of newly elected President James Garfield by a disappointed office seeker in 1881, insists that government hire people based on their ability to do whatever job they're being hired for. This is sometimes called the merit system.

This kind of system is not new. The long-term success of both the Chinese and British empires were based on their civil service systems, which required substantial learning and rigorous testing before admission into government service. Although the Chinese system, which was heavily based on knowledge of Confucian classic texts, eventually failed to keep up with a changing world, as it helped maintain the empire for 2,000 years, it can hardly be called a failure.

This gets at the heart of the important trade-off in bureaucratic systems. Because they are rule-based systems, they provide some consistency, predictability and accountability. The goal is that everybody who has to deal with a government agency is treated equally and fairly—treated the same. The trade-off is that this kind of system makes it more difficult for agency officials—bureaucrats, in the term used by people who may be unhappy with the results—to apply judgment to particular circumstances. So a city building inspector is supposed to ensure that every construction project meets particular demands for safety and durability, and isn't supposed to give anybody a little leeway if circumstances warrant. For a contractor or a homeowner doing a remodel, this can be frustrating, but for the next buyer, she or he can be assured that the project was done “up to code” when it was first built. And while we might like our bureaucrats to be more flexible when dealing with the public, too much flexibility can lead to favoritism and looking the other way at the wrong time.

This kind of system is common now in more developed countries. Agencies, staffed with experienced experts, attempt to administer the law, provide services to people, keep an eye on the public purse, and provide feedback to lawmakers about how everything is working. As agency heads often are political appointees, this can create problems for agencies. For example, in 2003, President George W. Bush appointed Mike Brown as head of the *Federal Emergency Management Agency (FEMA)*, which attempts to help states and communities plan for and respond to both natural and man-made disasters. Brown, an attorney, had a fair amount of legal and government experience, but not necessarily crisis management or managing a large organization. FEMA appeared to be slow to respond to the disaster wrought by Hurricane Katrina in New Orleans in 2005, and Brown was forced to resign. Whether he was responsible for FEMA's slow response, or merely the fall guy for the Bush administration is by no means clear, but someone better suited to the job might have been appointed in the first place.

You have probably had good and bad experiences with government agencies—welfare offices, the Postal Service, even your college if it's a public school and hence an agency of the state government. Either way, one should be careful in generalizing from those experiences. For the most part, however, the people who work in government agencies are just people, trying to balance the needs of their constituents and the demands of policymakers above them. So, for example, people complain about both the expense of welfare programs and object to paying people who aren't working. That pressure leads policymakers to push agencies to keep a close eye on the books, so that agency employees try harder to ensure that no one gets on welfare illegally (and the incidence of welfare fraud is, in fact, very low in the United States). As pressure mounted to get people off welfare rolls, can it be surprising that getting on them became so much more difficult? In the end, then, the agency and its people become unpopular with both the people they serve and with the people who foot the bill.

How big is the bureaucracy? The U.S. federal government employs about 1.8 million people, plus 515,000 in the U.S. Postal Service, plus about 2.6 million in the armed forces, 1.4 million of whom are classified as active duty. That's actually not greatly different than 40 years ago. You can check the *Bureau of Labor Statistics* for the most current numbers. In the United States, most of the growth in government over the last 50 years has occurred at the state and local level.

The federal government also spends about \$2.8 trillion a year, versus the total U.S. economy of \$13.1 trillion. The U.S. government's size relative to the size of the national economy actually is smaller than that of most other industrialized countries. Government spending was 38.9 percent of GDP in 2011, a down year for the economy. Internationally, the range runs from 8 percent in Burma to 97 percent in Zimbabwe. In terms of tax burden, globally the U.S. is in the middle of the pack, which ranges from 0.9 percent of GDP in Equatorial Guinea to 63.1 percent in Lesotho (both nations in Africa).

The largest U.S. agency is the *Department of Defense* in terms of bodies, with 1 million civilian employees. Social spending, including health care and *Social Security*, is the largest budget category, at about 40 percent of the total federal budget. What you may think of as traditional welfare actually is about 3 percent of the whole budget. Foreign aid, another target of internet outrage, is also around 1 percent. Defense spending is 15 percent.

The federal government, through its agencies, plays a huge role in the economy. And while it hasn't grown that much, some people argue that it should still be smaller. One ongoing suggestion is to privatize certain public services, with the argument that the private sector will do a better job at less price. This might be

true, but in the case of transit and postal service, for example, it would mean less and more expensive service for rural areas. In some states, private contractors have used their private status to avoid dealing with legally elected unions or to comply with rules on workplace safety. So, as with most things, there are significant tradeoffs to be made when choosing between public and private service providers. As for efficiency, both Social Security and Medicare have lower expense ratios (overhead) than do their private-sector counterparts. So while not every government agency is a picture of perfect efficiency, not every agency is burning piles of public cash in bonfires.

### KEY TAKEAWAYS

- Bureaucratic forms of organization are common in governments and other organizations throughout the world.
- Bureaucracies trade flexibility for predictability and fairness.

### EXERCISES

1. Think about where you do or have worked. Was it organized bureaucratically? What would it mean for that place to be organized differently?
2. What public agencies have you dealt with on a personal level? What kind of service did you receive?

PLEASE NOTE: This book is currently in draft form; material is not final.