Chapter 13: Public Policy

13.0 | Public Policy

The previous chapters examined public opinion and congressional and presidential decision-making. This chapter describes the stages of the public policy process, explains the different types of public policies, and uses health care, environmental, and immigration policy as case studies that illustrate the politics of public policy.

13.1 | What is Public Policy?

A policy is an official position on an issue or a plan of action that is intended to achieve certain results. It is a position or plan of action taken by a government body, a business, a not-for-profit organization, or even an individual. The following are examples of policies:

- A statute that makes it a crime for individuals to provide material support for an organization that the government labels a terrorist organization.
- An executive order that defers deportation of certain undocumented immigrants who are by law eligible for deportation, or one that restricts entry of certain people from certain countries.
- Workplace safety rules and regulations.
- Corporate marketing practices for advertising tobacco or alcohol products to children.
- A company’s personnel employment practices for hiring, firing, and promotion.
- An interest group’s position on the environment or crime or some other issue.
- A non-profit organization’s hiring practices.
- A church’s budget priorities or community outreach.
- A university’s academic integrity code.
- A professor’s grading of coursework.

“...POLICY IS MORE LIKE AN ENDLESS GAME OF MONOPOLY THAN A BICYCLE REPAIR”


“IT IS NEVER OVER UNTIL IT IS OVER—AND EVEN THEN IT IS NOT OVER OVER.”

Public policy refers to governmental programs, rules, and courses of action. Public policies are in statutes, executive orders, administrative regulations, judicial rulings, treaties and executive agreements, Federal Reserve Board decisions (monetary policy), and budgets (fiscal policy). The study of public policy includes decision-making (who makes decisions and how they are made), substance (what the official position is), and analysis of impact (implementation and effectiveness). Public policy is both an academic discipline and a profession. The professional association of public policy practitioners, researchers, scholars, and students is the Association for Public Policy Analysis and Management. The academic discipline of public policy includes a broad range of social science fields including political science, economics, sociology, and public administration.

Public policy includes both government action and inaction. A government decision not to take action on
climate change, health care, poverty, or housing is a public policy. Politics includes efforts to get the government to act and efforts to stop government action. The U.S. political system has so many veto points that it is usually easier to play defense—to stop proposed action—than to play offense—to take action. Advocates of gun control historically played offense and advocates of gun rights played defense, but the success of the gun rights movement has enabled it to play offense to remove gun control laws.

The public policy process has three main stages, and politics occurs at all stages of the process:

- Identifying a problem and putting it on the government agenda;
- Making or formulating a policy and then adopting it; and
- Implementing and evaluating the policy.

13.2 | Identifying a Problem and Getting it on the Government Agenda

The first stage is individuals, interest groups, or even government officials identify a problem and put it on the government agenda. The problem might be pollution, taxes, inflation, food or drug safety, crime, terrorism, health care, immigration, bad roads, or bad schools. Agenda setting is putting the problem on the government agenda for action. It is easy to get some issues on the government’s “to-do” list. It is easier to get maintaining safe streets, providing economic stability and prosperity, and providing national security on the government agenda because these are core government functions. Responsibilities. It is hard to get other issues on the government agenda which is why political movements are created to mount sustained campaigns and lobbying efforts to get the government to pay attention to issues such as mass shootings, public transportation, health care, environmentalism, or workplace or consumer safety.

Politics requires convincing people that something is a problem AND that the government should do something about it. Is workplace safety a public issue? The answer often depends on whether a job is, or is perceived to be, dangerous.

Think about it!
What are the deadliest jobs in America:

13.21 | Sex and Violence in the Media and Music

Efforts to get the government to regulate indecent or violent programming on broadcast television and radio illustrate how agenda setting works. Individuals and organizations concerned about broadcast media depictions of sex and violence, and profane music lyrics, mounted sustained lobbying efforts to convince the government to put the issues on the government’s agenda. The Federal Communications Commission licenses and regulates the
broadcast media. The public, and therefore the government, is especially concerned about the impact of such materials on children.

In the 1980s, the Parents Music Resource Center and other organizations lobbied Congress to put offensive music lyrics on the federal government’s agenda. Tipper Gore, at that time the wife of Senator Al Gore, bought Prince’s *Purple Rain* for their daughter mistakenly thinking it was a children’s album. She was offended by the explicit lyrics. In 1985, she testified before Congress that music should be labeled, primarily to protect children from an increasingly coarse culture where sex and violence were more explicit. Worries about explicit lyrics were similar to earlier worries that watching violent television programming caused violent behavior in children. Congress listened to Tipper Gore’s testimony, other complaints about the lack of family values in the music industry, and the testimony of musicians such as Frank Zappa who opposed government regulation of the music industry. Congress ultimately decided not to pass a law regulating music lyrics. Instead, Congress relied on the recording industry to voluntarily label music that contained offensive lyrics. This is an example of an unsuccessful effort to put an issue on the government agenda.

However, the media effect is still of great public interest. The question whether watching violent television programming, playing violent video games, listening to vulgar music lyrics, or visiting offensive Internet sites has a negative impact on attitudes or behavior remains an important public policy question.

13.22 | Indecency and the Internet


Unlike the efforts to label music, efforts to put Internet indecency on the government’s agenda have been successful. Stories about children being exposed to, or accessing indecent, obscene, or other objectionable material simply by doing a Google word search prompted Congress to act. The Communications Decency Act of 1996 was intended to protect minors from harmful material on the Internet by making it a criminal offense to knowingly transmit “obscene or indecent” messages to any person under 18 years old. The American Civil Liberties Union challenged the law in court arguing that the First Amendment protected freedom of expression from such federal laws. In *Reno v. American Civil Liberties Union*, 521 U.S. 844 (1997), the Court ruled that the law was unconstitutional. The Court held that the penalty—making it a federal criminal offense to send an indecent message—was too severe, particularly considering the lack of agreement on what indecent means. For example, it was not clear whether the law made it a federal criminal offense to email or Tweet an off-color joke to a minor?

The Court’s ruling did not put an end to efforts to put Internet indecency on the government’s agenda, and Congress passed the Child On-line Protection Act of 1998 to protect children from Internet material that was “harmful to minors.” The Court struck down this Act as a violation of the First Amendment freedom of expression so Congress than passed the Children’s Internet Protection Act of 2001. The American Library Association filed a lawsuit claiming the Act was unconstitutional but the Supreme Court upheld it in *United States v. American Library Association* (2003). Parental concerns
about the content of Internet materials and activities such as sexting keep the issue on the government agenda.

Think About It!
Former Congressman Anthony Weiner (D-NY) plead guilty to sexting explicit pictures and messages to a minor in violation of Title 18 U.S.C. Section 1470, which prohibits transfer of obscene material to minors.

13.23 | Climate Change

Climate change is an especially interesting case study of agenda setting. Scientists and environmental organizations use data showing temperature increases to lobby the government to take actions to reduce emissions that contribute to global warming or climate change. Business groups and conservative organizations lobby against such government action. Their initial defensive strategy was to deny the existence of climate change by claiming that temperature increases were part of natural, long-term cycles of temperature fluctuations that sometimes resulted in ice ages and sometimes resulting in warm periods. The increased scientific consensus supporting climate change required a shift in strategy, so the opponents acknowledged climate change but claimed that the evidence did not support human causes of it. In fact, climate change—like evolution—is an example of political science or the politicization of science related to controversial public policies. The Yale Project on Climate Change is an organization that is committed to “bridging science and society” on the matter of climate change. It includes an examination of how public opinion has been shaped by organized efforts to challenge the science.

13.24 | Imported Goods

Many consumer products are imported. The safety of products imported from China became an issue when media reports of goods with the “Made in China” label included stories about imported pet food and toothpaste with chemical contaminants or other harmful ingredients, dangerous toys, drugs that were not tested the way that drugs with the “Made in the U.S.A.” were tested. These stories created a campaign to put consumer protection from imported products on the government agenda. The campaign included lobbying the federal government to adopt policies that increased inspection of imports. Parents who worry about imported toys with lead paint or heavy metals such as cadmium and imported dairy products contaminated with the chemical melamine can be effective advocates for putting the safety of imported products on the government agenda. The Consumer Products Safety Commission now monitors toy safety standards. The creation of the law does not end politics or the policy process. It is often necessary to lobby for funding for the agencies such as the Department of Agriculture, the Food and Drug Administration, or the Consumer Products Safety Commission, which are responsible for inspecting imports. And it is necessary to monitor whether the Consumer Products Safety Commission is actually enforcing the safety standards.
13.25 | Food Policy

The story of how food security and nutrition were put on the government agenda is another example of how issues become political. In one sense, the consumption of food is a classic example of a private good rather than a public good. After all, food is an item whose benefits can be limited to those who have paid for it, and kept from those who were not willing or were unable to pay for its costs. But at least certain aspects of food consumption are also considered appropriate for government action. Food policy is examined in greater detail in a separate chapter.

13.26 | Tobacco Policy: The Tobacco Wars

One of the early fights over health care policy was a political and legal campaign to regulate or even ban smoking and the use of other tobacco products. The term tobacco wars was coined to describe the long-running battle between the tobacco industry (primarily growers, manufacturers, and sellers) and the anti-tobacco lobby (the American Medical Association, the American Heart Association, the American Lung Association, and other consumer and public health advocates). The fight over control of tobacco policy has been waged in all political arenas: city government, state government, and the federal government; congress, the executive branch, and the courts. The consumption of tobacco was traditionally considered a private choice to use nicotine. As the adverse health consequences of tobacco use were discovered, however, an anti-smoking movement emerged to make tobacco a political issue, to put tobacco on the political agenda. The movement used political litigation (lawsuits that are intended to change public policy), administrative regulation, and legislation to produce a complicated system of tobacco regulation.

Looking at how tobacco advertisements have changed over the years reveals how much attitudes toward smoking and tobacco regulation have changed over the years. What is especially striking about many of the early tobacco ads is that they explicitly claimed or strongly implied that smoking was healthful by using doctors and nurses and science to sell cigarettes. They even used images of infants who seemed to notice that mommy was especially enjoying a particular brand of cigarettes.

13.3 | Making Policy: Policy Formulation and Adoption

Issue network have developed around specific areas of public policy. An issue network consists of the congressional committees with jurisdiction over an issue, the executive departments with jurisdiction over the issue, and the interest groups organized to advocate on matters related to the issue. Each of these three members of the issue network works to formulate public policy based on its understanding of the problem and the solution.

- Energy. Is the price of a gallon of gasoline too high or too low? Are gas price increases caused by high rates of consumption (Americans tend to drive big cars and SUVs that do not get good gas mileage!) or by decisions to not exploit all
sources of energy ("Drill, baby, drill")? Environmentalists and energy companies typically have opposing views on energy policy.

- Health Care. Is the high cost of health care caused by too much or too little access to health care? Do consumers overuse health care because their employers are paying for some of the cost of health insurance? Or are health care providers the problem? Supporters of The Patient Protection and Affordable Care Act (Obamacare) defined the problem in terms of access and coverage, while opponents defined the health care act’s mandate to buy insurance as an infringement on individual freedom. Health care providers and insurance companies and groups representing consumers (patients) typically have different views on health care policy.

- Economics. Should economic policy focus on reducing taxes, budget deficits, or inflation? Or should it focus on unemployment and stagnant wages. Is unemployment caused by the lack of individual initiative or training? Management and labor typically have conflicting views on employment policy. Business interests and consumers typically have conflicting views on economic regulatory policy.

- The Environment. Energy companies and environmentalists typically have conflicting views on environmental policy. Are market forces the best way to protect the environment and conserve resources, or is government action necessary?

- Immigration. Is immigration a threat to American national identity? Do immigrants take jobs from Americans or lower wages? Is immigration policy about economics (importing a labor supply) or national security (the threat of terrorism)? Business interests have historically supported importing labor, while labor and other interests have historically worried about the effects on wages.

How an issue is framed affects the formulation of public policy. Defining the energy problem as a problem of over-consumption produces energy policy that emphasizes conservation. Defining the energy problem as inadequate supply produces policy that emphasizes production. Defining the health care problem as the need for cost control leads to health care policy that is very different than health care policy that emphasizes increased access. Each of the three components of the issue networks work hard to maintain control over how a problem is defined in order to control the substance of the policy that is ultimately adopted.

13.31 | Policy Adoption

**Policy adoption** is the decision to officially give the policy the force of law. It usually follows public hearings to take testimony about the issue from interested or affected individuals and organizations, and to consider evidence presented. If the public policy is to promote a desirable activity such as healthy diets and conservation, then lobbying efforts focus on increasing support for government subsidizing the behavior. The U.S. system of government is an
open system in the sense that there are many points and stages where supporters and opponents can participate in the process.

The policy adoption stage culminates with the passage of a law or administrative regulation that identifies the official purposes of the policy. Elected officials often publicly appear at the signing of a popular law, for example, and bureaucratic officials may support a public policy that increases the agency’s budget or rule making authority over their area of expertise.

13.32 | Implementation and Evaluation

Implementation is what happens after a policy is adopted. A policy may not be implemented as intended due to problems with ambiguity, communication, and resistance. The ambiguity problem is caused by language that is vague or general. When a statute or regulation is vague or imprecise, those who are responsible for implementing the policy may not know what it requires. This problem is fairly common when Congress passes a general law that describes its goals only in very general terms, and then requires the experts or specialists in the bureaucracy to actually define what the law requires or to determine the best way to implement it.

Two examples of ambiguity are the Clean Air Act and the Clean Water Act. These federal statutes declare that it is federal policy to support clean air and clean water. But clean air and clean water are general goals that require precise definitions. The EPA is left the job of determining standards and methods of achieving them. This is why so much of the politics of environmental policy implementation and evaluation stages. The counterterrorism debates about the use of “enhanced interrogation” are another example of ambiguity. Torture is illegal. But there are differences of opinion about what is torture. Individuals who are conducting field interrogations are sometimes left to define what treatment is torture and what is not. In fact, police officers, military police, or the FBI and CIA interrogators may not even know what the legal policy is concerning legal methods of interrogation.

Having an official or general policy against torture does not eliminate the need to define what is, and what is not, torture. All large organizations need clear communication of instructions throughout all levels in the organizational chain of command—from the policy makers to the policy followers—if policies are to be implemented as intended.

The third problem is resistance. If the individuals who are responsible for implementing the policy do not support it, the policy is unlikely to be implemented as intended. Police officers may oppose a Supreme Court ruling that the Constitution
requires that individuals who are suspected of committing a crime must be notified of their rights before being questioned by the police. A public school teacher may oppose a Supreme Court ruling that that prohibits organized, spoken prayer in public schools or at school events. The political appointee on the Consumer Products Safety Commission may be opposed to further government regulation of business. The head of the Food and Drug Administration may claim that the FDA has the authority to regulate nicotine despite the tobacco lobby successfully stopped efforts to get Congress to pass a law that specifically authorized the FDA to regulate nicotine as a drug.\(^1\) The head of the Environmental Protection Agency may be a strong critic of the agency and environmental regulatory policy. President Trump’s head of the EPA, Scott Pruitt, was a strong critic of the EPA’s activist agenda and sued the agency 13 times. Strongly identified with the oil and gas industry and utility companies, he sued the EPA on behalf of Oklahoma utilities challenging the increased costs of complying with the Clean Power Plan and the Waters of the U.S. rule. He also rejects the scientific consensus on human causes of climate change.

**Think About It!**

Compare the above description of EPA Administrator Scott Pruitt public policy actions with his [official EPA biography](https://www.epa.gov/).

Federalism and the separation of powers further complicate policy implementation: Congress creates immigration statutes, but presidents implement them; Congress passes environmental laws to protect clean air and water, and health policies such as the Affordable Care Act, but relies heavily on the states to implement the laws.

13.33 | *Budgeting*

Funding is essential for the implementation of most policies. Republicans continued to fight the Affordable Care Act after it was enacted into law by challenging the constitutionality of its funding and by reducing funding for it. Gun rights groups successfully lobbied Congress to effectively prohibit agencies from using health care funding to study gun violence as a public health problem. Both Congress and the president use funding to control the actions and priorities of administrative agencies. Cutting the Environmental Protection Agency’s budget is one way to reduce business costs of complying with environmental regulations without actually repealing the environmental regulations or the statutes.

13.34 | *Policy Evaluation*

Politics does not start with government decision-making, and it does not stop with policy adoption. Politics includes what happens after a bill has become a law. **Policy evaluation** is determining whether a policy is working as intended. This can be difficult because the subject can be complex (e.g., determining the cause of crime) and because of politics. Some evaluation is based on **anecdotal evidence**. Anecdotal evidence is stories from a
few people that make their way to the ears of an evaluator. Politicians often cite compelling personal stories as evidence that a policy they support is working, or as evidence that a policy they support is not working. Sometimes horror stories and success stories are cherry-picked from the data. Evaluation also sometimes relies on public opinion. The political assumption is that a popular policy must be a good policy and an unpopular policy must be a bad policy. But public opinion—conventional wisdom—can be mistaken. Social scientists value evaluation that is based on empirical evidence: the systematic analysis of data. However, policies are assessed by a variety of individuals from a variety of perspectives and with a variety of goals in mind so it is not surprising that different methods of evaluation are used.

13.35 Unintended Results

Public policies frequently have unintended (unexpected) or even counterintuitive (apparently not logical) results because they apply to complex adaptive systems. Policies apply to complex systems such as state governments, national governments, and international governing bodies; large companies or major sectors of the economy; and even entire countries. Public policies apply to systems that are adaptive in the sense that the targets of a policy adjust (or adapt) their behavior in anticipation of public policy or as a result of the policy. Tax policy provides an example of counterintuitive adaptive behavior. Raising taxes may increase tax revenue or, depending on the size of the tax increase, may reduce tax revenue by causing capital flight or by raising the tax rate so high that people have incentives to NOT work to earn money that will be heavily taxed, or to NOT purchase a good or service. In the U.S., increasing taxes can actually reduce tax revenue because there are so many units of government. A city or a state that raises taxes can shift economic activity to another city or state where taxes are lower.

Unintended consequences happen. A good policy formulation process takes into consideration a broad range of information in order to minimize the likelihood of unintended consequences. But democratic societies and governments are complex adaptive systems so it is not possible to consider all possible effects of a particular policy. Policies are intended to affect human behavior. It makes sense to think about motivations when formulating policies intended to get people to do something. Money is a familiar motivator: individuals or companies can be paid to do things the government wants them to do (e.g., work), and fined for doing things the government does not want them to do (e.g., breaking traffic laws). But money is an imperfect motivator.²

A good example of unintended consequences is the public policy supporting wearing a helmet while riding a bicycle. The National Highway Traffic Safety Administration recommends that bicyclists wear helmets as a safety measure to protect against head injuries. Parents often require children to wear bicycle helmets. Should local governments require bicyclists to wear helmets while riding on bike paths? The intended result is fewer head injuries; the unintended result could be increased rates of obesity, heart disease, and diabetes if requiring helmets reduces bicycle riding (exercise). Helmet laws also present problems for the cities that adopt bike-sharing programs to increase the use of bicycles for urban transportation. When considering a law requiring bicyclists to wear helmets, the benefits of reduced head injuries should be considered against the costs of decreased bicycling.
Types of Policy

Public policies are intended to affect 1) the conditions under which people live and work; and 2), the human behavior of individuals and organization. Policies affect conditions by creating safe streets, economic security, national security, and health care, for instance. Policies affect behavior by creating incentives that encourage desirable behavior and disincentives to discourage undesirable behavior. Governments accomplish these goals using distributive policy and regulatory policy.

**Distributive policies** provide goods and services. Distributive policies include government spending programs that provide welfare, public education, transportation systems, public safety, or other benefits as well as tax policies that provide deductions and credits. The most politically controversial distributive policies are those that redistribute income. Redistributive policy takes resources from one group of individuals or states—for example, the wealthier, the younger, the employed, or the urban—and redistributes the resources or transfers them to another group of individuals or states—for example, the poorer, older, unemployed, or rural). Social welfare programs are the most common type of redistributive policy. Money or in-kind services such as food stamps or health care (under Medicaid) are provided to individuals who cannot adequately support themselves or their families. Tax policies, particularly progressive income taxes, are redistributive policies that transfer money from wealthier to poorer individuals, states, or regions. The federal tax law that allows for deducting home mortgage interest is also redistributive. A married couple can deduct up to $1 million worth of home mortgage interest each year. This approximately $70 billion dollar tax deduction primarily benefits middle and upper income individuals and families. One of the most important social welfare policies is Social Security. The Social Security Administration (SSA) Web site provides historical information about the creation of the program and its funding, as well as current information about social security rules, regulations, and policies. The fiscal stability of Social Security has become part of contemporary political debates about entitlements in an era where the aging or greying of the American public means increased dependence on the program for income security in old age.

**Think about it!**
Should the government take from one group of people (or states) and give to others?

**Regulatory policies** are intended to change the behavior of individuals or organizations. Regulatory policies are usually used where there is broad consensus about what good behavior is and what bad behavior is. Regulatory policy can discourage bad behavior or encourage good behavior. Regulatory policy commonly uses fines, taxes, or sanctions to discourage bad behavior. Traffic laws enforced by fines; “sin” taxes on alcohol, tobacco, marijuana, or gambling; and even tax credits for consumers who buy hybrid vehicles or energy efficient appliances to discourage the bad behavior of consumers who buy high energy use products are all examples of regulatory policy. Most countries also have population policies that are intended to either encourage people...
to have more children, or to discourage people from having more children. Regulating fertility is a public policy because population policies are important components of a country’s national identity—most countries want to increase the fertility rates of native residents—and national economic policy. Demographics are an important factor linked to, among other things, a country’s economic development. Demographics include the age distribution of a country’s population. Having a larger or smaller percentage of younger or older people has great implications for public policies. China’s one-child policy is an example of a national population policy whose primary objective was to control population increase. However, policies intended to solve one problem often have other, unintended consequences. China’s one-child policy has controlled population growth, but it has created other problems that are just now emerging. Limiting births has serious long-term implications for a country’s demographics because it affects the ratio of working age individuals to the young, elderly, and retired. Countries with aging populations such as the U.S., the Scandinavian countries, and France and Germany have used a variety of public policies to increase fertility. They have not been very effective—which is why the countries relied on immigration to import a supply of labor.

The Great Recession put government regulation of the financial services sector of the economy on the government agenda. The Obama administration proposed the creation of a Consumer Financial Protection Bureau. President Obama appointed Elizabeth Warren as a special assistant to create a Consumer Financial Protection Bureau. Her testimony (May 24, 2011) before the House of Representatives Subcommittee on TARP and Financial Services of the Committee on Oversight and Government Reform revealed the sharp partisan differences on government regulation of financial services. Democrats generally support government regulation of business to protect consumers. Republicans generally oppose such public policies because they believe the competition of the marketplace is sufficient to protect against the bad behavior that produce the economic crisis. In 2012, Warren was elected as a U.S. Senator from Massachusetts.

President Obama with Elizabeth Warren, a Harvard Law Professor who participated in crafting legislation to regulate the financial industry.
Social policy includes a broad range of both redistributive and regulatory policies: social welfare policy (income or service support), health care, and education. Social policy is often distributive policy insofar as it entails taking resources from one group and providing them to another groups, or from a general population to a particular population. Because of the relationship between economic resources (income or wealth) and opportunity, social scientists study the impact of economic inequality. The relationship between income/wealth and education is particularly important because so much emphasis is placed on education as the key to economic opportunity and political equality. Studies of performance on standardized tests that are used to determine admission to colleges, for example, reveal consistent correlations between family income and performance on standardized tests.3

State compulsory schooling laws, testing, and taxes supporting public education are evidence of the importance of education. Is education a private good or a public good? Primary and secondary education is considered a public good because the benefits are not limited to the individual student who receives the education. The economy benefits from a trained work force; democracy benefits from having an educated citizenry. College is more complicated. Receiving a college degree is a private good in the sense that it provides an individual with certain benefits. But college is also a public good in the sense that higher education is often part of a state’s economic development strategy. Recent trends in state funding of higher education, specifically reductions in tax support, reflect a nationwide shift toward thinking of college education as a private good rather than a public good. This education policy shift reflects new thinking about how to provide a trained work force for today’s economy, and the wisdom of assuming that everyone should go to college. Is there an education bubble similar to the real estate bubble that played an important role in the Great Recession? Both sectors of the economy benefited from and relied on the perception that values—properties and degrees—would continue to increase? Are sub-prime mortgages, which played an important role in bringing about the Great Recession, analogous to sub-prime college degrees?

Think About It!

What is the value of a college degree?
See the Public Broadcasting story “Assessing the Value of College Education” at http://video.pbs.org/video/1954954225

13.4 | Health Care Policy

Health care is important for individuals, families, and for the economy. It is an important component of social welfare policy and it is an important sector of the economy. Health care accounts for around 18% of the U.S. Gross Domestic Product (GDP). The governments of all the major industrial democracies play a role in providing health care. In the U.S., government plays a smaller and different role than the governments in other countries with similar economic and political systems. The high cost of health care in the
U.S., measured as a percentage of a family’s budget and as a percentage of the GDP, has put health care reform on the government agenda. However, the ideological and partisan differences of opinion about the best solution to the problems of health care have kept health care on the government agenda without consensus on policy solutions.

President Obama signed the Patient Protection and Affordable Care Act (commonly called the Affordable Care Act or Obamacare) into law in 2010. Republicans in Congress repeatedly tried to repeal the Act, and Republican governors filed lawsuits challenging the constitutionality of the Act. The Supreme Court upheld the Act in National Federation of Independent Businesses (2012). But provisions of the law were still being challenged when President Trump and the Republican majority in Congress worked on repeal and replacement with the American Health Care Act in 2017.

13.41 Evaluating Health Care

Public policy analysis requires evaluating the status quo and proposed solutions. How would you diagnose the health of the U.S. health care system? Doctors routinely ask patients about pain levels and the state of their health. You be the doctor! Put a check mark in the box indicating what you think describes the health of the health care system:
The health care system is in Good Health.

The health care system is in Fair Health.

The health care system is in Poor Health.

What did you use to evaluate (or diagnose) the health care system?

- Cost. Is health care affordable? The share of a person’s income, a family’s income, or a country’s Gross Domestic Product that is spent on health care is one measure of affordability.
- Access. One measure of access is the percentage of people who have access to health care because they have, for example, insurance coverage.
- Performance. This is the measure of the bang for the health care buck! What do individuals and the national as a whole get for spending on health care? Health care performance measures include infant mortality rates, life expectancy, and quality of life.

One complication in formulating national health care policy is federalism. The states play an important role in the design and delivery of health care. The federal government cannot mandate state actions. For example, 26 Republican governors filed lawsuits challenging the constitutionality of the Affordable Care Act.

How is the health of your state’s health care policy? The Kaiser Family Foundation provides data and analysis of the health care in the U.S. and other countries. It measures health care spending, quality, access and affordability, health and wellbeing. The Commonwealth Fund in an organization that promotes the creation of a more effective health care system. It provides a great deal of useful data on health care. Its State Scorecard 2014 provides an interactive map that enables a reader to quickly see where the state in which they reside ranks in terms of health care on various measures and by overall rank. It also provides Surveys and Data from states, regions, and countries.

13.42 | COMPARATIVE APPROACHES

Asking whether the U.S. has a good health care system often prompts not an answer but another question: Compared to what? Comparison is valuable because it provides benchmarks for evaluating policy. Health care can be studied from a number of comparative perspectives. One comparison is historical: comparing the current system with the past system. A second approach is comparative: comparing states or countries. A third way is to compare the health care sector of the American economy with other sectors of the economy.
Comparative Health Care Policy

T. R. Reid compares the health care systems in countries with political and economic systems that are similar to the U.S. and countries with different systems. The results provide valuable benchmarks for determining the performance of different health care systems:


The comparative costs of health care are examined in this PBS story:
http://www.pbs.org/newshour/rundown/2012/10/health-costs-how-the-us-compares-with-other-countries.html

The comparisons of health care systems include the ways that health care is delivered—including the reliance on medical technology. The American practice of medicine is noted for its advanced technology. Medical technology is a mixed blessing: it produces amazing health care outcomes for some individuals but it is very expensive. The American practice of medicine’s reliance on technology has made the old-fashioned physical exam—which is a low-cost diagnosis—a “dying art.” Dr. Abraham Verghese, a physician at the Stanford Medical School, described the problem in a semi-serious way: “I sometimes joke that if you come to our hospital missing a finger, no one will believe you until we get a CAT scan, an MRI, and an orthopedic consult. We don’t trust our senses.” Dr. Verghese’s comment criticizes the modern medical profession for becoming so dependent on machines to tell them about the patient (the “I-patient”) that doctors do not pay very much attention to the actual patient in the hospital bed.4

A final comparison looks at health care relative to other sectors of the economy. The U.S. economy has various sectors: hospitality, manufacturing, agri-business, education, criminal justice, telecommunications, and even a fast food sector. Comparing the health care and fast food sectors may seem inappropriate because they are so different. But the fast food industry has developed and applied cost and quality control measures, as well as other organizational practices that might be applicable to the health care industry. The two sectors might seem so completely different that the one has little to say about the other, but from an organizational perspective, the attention that restaurant chains have paid to delivering a good (fast food) produce may be relevant to the delivery of a service (health care). Americans brought organizational skills to manufacturing, agriculture, and to the service sector (notably, through chain restaurants and lodging). But medicine—doctors and hospitals—have resisted the trend until recently. Doctors were self-employed; now three-quarters are employees. Hospitals are also becoming parts of chains. In “Big Med,” Gawande describes how “[restaurant] chains have managed to combing quality control, cost control, and innovation” and asks whether their organizational principles can do the same for health care.5

In the U.S., health care policy developed as a series of decisions related to the regulation of hospitals, the licensing of health care providers, the creation of employer-based benefits, and the regulation of insurance companies. Health care policy is
surprisingly dependent on taxes to raise money to fund government programs, to
discourage certain activities (e.g., smoking), encourage certain behaviors (e.g., marriage;
child rearing), and to redistribute wealth (progressive income taxes).

Think About It!
Is a tax break the best policy for subsidizing health insurance coverage?
http://www.npr.org/blogs/health/2012/12/04/166434247/the-huge-and-
rarely-discussed-health-insurance-tax-break

13.5 | Environmental Policy

Environmental policy is more complicated than many other areas of public policy
because so many areas of public policy—economics, transportation, energy, and food—
have environmental impacts. So environmental policy includes issues such as air and
pollution and the conservation of water and land and other natural resources. Like other
areas of public policy, there is an environmental policy issue network consisting of
congressional committees, executive agencies including the Environmental Protection
Agency, and interest groups—both environmentalist groups and business groups. The
EPA’s mission includes a broad range of related activities. The states also play important
roles in developing environmental policies and implementing federal priorities and
programs. The American Council for an Energy-Efficient Economy describes what the
states are doing.

For these reasons, federal environmental policy has been described as fragmented
and conflicted. It is fragmented because so many units of government have authority over
some aspect of environmental policy. And it is conflicted because the agency missions
include both protecting natural resources and exploiting them for economic development,
aricultural production, human consumption and recreation, and energy production.
Water policy illustrates these issues.

Water is essential for life. Every language has a word for water. The American
Museum of Natural History’s “H2O=Life” explains the importance of water. Historically,
the major civilizations of the world developed around water, or water was considered an
especially significant natural, religious, or cultural resource: the Tigris and Euphrates; the
Ganges; the Nile; the Jordan. The significance of water is reflected in the central role
that water plays in a country’s history, economics, politics, and religion (e.g., baptism
and cleansing rituals).

Today, we can engineer urban environments to make water available in arid
regions, but providing a sustainable supply of water is essential for most countries. Water
scarcity causes economic problems and political conflicts. In the U.S., states have been
fighting water wars with neighboring states and countries (Canada and Mexico) for
decades. Water is also becoming a national security issue in regions of the world such as
the Middle East. There are three things to keep in mind when studying water policy in the
U.S.: interstate commerce; regionalism; and federal water projects.
Chapter 13: Public Policy

U.S. national security strategy documents now describe water problems as a national security threat. Water scarcity and climate change create political problems that threaten U.S. national security interests.

Interstate Commerce. Water can be an article in interstate commerce just like other goods (cars, clothing, and electronic equipment) and services (e.g., health care or legal services). Water that moves in, involves, or affects interstate commerce comes under Congress’ interstate commerce powers—whether it is lake water, river water, stream water, spring water, or underground (an aquifer). Congress has plenary (that is, total and complete) power over interstate commerce.

The federal government has complete power over interstate commerce. Article I, Sect 8 of the Constitution provides that “The Congress shall have Power To…. regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes….” This means that any use of water that involves more than one state, or another country (e.g., international water agreements with Great Lakes states and Canada) is subject to federal regulation. Intrastate waters, those that are entirely within one state, can be regulated by that state. The federal government approves interstate and international water compacts because they involve interstate commerce in water.

The federal government’s complete power over interstate commerce was established in an early Supreme Court case, Gibbons v. Ogden (1824). The case involved a legal dispute over whether a state or the federal government could license a ferry across the Hudson River between New York City and New Jersey. The Court ruled that Congress has complete power over interstate commerce, defined as any economic activity involving or affecting more than one state. Water that affects more than one state comes under the federal government’s interstate commerce power. A small lake or pond or stream that is entirely within a state is generally considered beyond the interstate commerce power of the federal government.

Regionalism. Most of the United States is blessed with an abundant supply of water for human consumption and use in agriculture, manufacturing, transportation, and the generation of electrical power. However, water is generally abundant in the eastern half of the country and generally scarce in the western half of the country. The politics of federalism requires cooperation to resolve water conflicts, and the Founders anticipated conflicts between states. The Constitution provides that the U.S. Supreme Court has original jurisdiction to hear cases where a state sues another state. These kinds of cases include legal disputes over water. Many state boundaries include rivers. Rivers change their courses, but state boundaries do not change because the river changes course. States also sue other states over the use of water from rivers, lakes, reservoirs, and aquifers.

Federal Water Projects. Federal water projects have played an important role in regional economic development. The Tennessee Valley Authority (TVA) is a major federal water and power project that increased the economic development of Appalachia. The TVA was created in the 1930s to generate electrical power. Today, the TVA website identifies “energy,” “environment,” and “economic development” as its purposes. Federal projects have been essential for western economic development. As the supply of clean water has become an increasingly scarce resource, water has become a contentious
political issue for local, regional, state, and national government. East of the Mississippi River where water was plentiful wasting water meant consuming it needlessly or using too much water. In the arid regions west of the Mississippi River, wasting water meant not using it by allowing river water to flow unimpeded and used until it eventually emptied into the ocean.

Much of western urban development—the Los Angeles, Phoenix, Las Vegas, and San Diego metropolitan area—and agricultural development was made possible by massive dams and irrigation projects that transported water over long distances and even over or around high mountains to where it was needed for thirsty people or thirsty crops. As a result, it has been said that in the American West water flows uphill—toward money. (Reissner 1986) On the Great Plains, the Ogallala (or High Plains) Aquifer that lies beneath much of the country ranging from South Dakota to Texas supports large-scale industrial agriculture. The use of this ground water can be considered mining as much as irrigation for farming. Underground aquifers are mined for their water the way other minerals such as gold, copper, silver, and coal are mined.

13.51 | Water Wars in the Dry West

Western federal water projects have been essential for economic development, agricultural production, and urban life in major cities including Las Vegas NV, Phoenix AZ, and Los Angeles CA. California’s major agricultural areas, the Central Valley and the Imperial Valley, depend on federal water projects. Western water projects have prompted the quip that in most of the world water flows downhill, but in the American West, “Water flows uphill—toward money!” It flows uphill because of projects such as the Hoover Dam, which is part of a massive western water project that is managed by the U.S. Bureau of Reclamation, “the largest wholesaler of water in the United States.” The Bureau is an agency in the U.S. Department of the Interior, the agency that manages the country’s “vast natural and cultural resources.” The Department of Agriculture’s Natural Resources Conservation Service also manages natural resources such as water. And, of course, the EPA is the primary agency responsible for administering various clean water acts. The National Oceanic and Atmospheric Association (NOAA) Centers for Environmental Information provide a map of the major river basins in the contiguous United States. In which river basin do you live?

Check It Out!
The American Geosciences Institute’s Interactive Map of Major Streams and Rivers has a streamer app that allows you to trace any major stream upstream to its source or downstream to where it empties into the sea.
The rivers of the western U.S. have been so extensively engineered and managed that they have been transformed into **outdoor plumbing systems** that have been engineered to move water from where it is, and where it naturally flows, to where it is needed: cities, farms, and reservoirs. The Rio Grande is one such grand outdoor plumbing system. The Rio Grande Compact created in 1937 includes Colorado, New Mexico, and Texas. The Colorado River Compact includes seven states. The federal government tunneled under the Continental Divide to send Colorado River water to the Rio Grande River, which has had so much of its river flow withdrawn from the river that it no longer flows into the ocean. The **Central Arizona Project (CAP)** is one of these massive federal projects.

**California.** William Mulholland (1855-1935) was the head of the Los Angeles Department of Water and Power. He is a famous figure in the western water wars—for instance, the Owens Valley Water Wars). The western water story is told in a series **Cadillac Desert** that describes how important the development of water and waterpower was to California and the entire arid West’s development. **Cadillac Desert** also provides insights into an earlier era of great confidence, the “can-do” attitude, and the belief that the U.S. can find an engineering solution to any of its water problems. After WWII, the U.S. explored peaceful uses of its nuclear bombs. **Project Plowshare** was the Atomic Energy Commission’s (AEC) effort to promote “peaceful nuclear explosions” for a broad range of engineering and construction purposes such as widening the Panama Canal, connecting Arizona’s aquifers, and bringing water through the mountains to California’s Sacramento Valley. In one sense, the AEC was providing a biblical justification for its efforts by referencing the Prophet Isaiah’s belief that people would beat their swords into plowshares and their spears into pruning forks and neither study nor train for war. This also fit well with the religious belief that it was wasteful to allow river water to empty unused into the seas. The American “can-do” attitude is expressed in the Latin saying “Fiat Lux. Fiat Pluvia.” [Let there be light. Let there be rain.] This is the belief that electrical light could be engineered with waterpower just as water for drinking and irrigation could be engineered with water projects.

California water utilities are on the front lines of the scarcity problem. Parkwood, a small community in California’s **Central Valley**, is one of 28 small communities whose water systems are listed as “Critical” because it relies on a single source of water: a stream that is now becoming a dry creek. The state and local agencies that manage water include the California Environmental Protection Agency (ACWA), **State Water Resources Control Board**, and **The Association of California Water Agencies**. The fact that the ACWA was formed in 1910 is an indication of how much earlier California has been formulating water policy than states such as Florida. But California’s history of local control over water resources, and the existence of “historic” water rights claims that give older users priority over newer users, results in a **patchwork of water agencies** that do not uniformly enforce water restrictions despite the historic drought.

The historic five-year drought in California that ended in 2016 prompted state and local rules to enact new regulations but “**Historic Water Claims Mean Special Status, Despite Drought Allocation Rules.**” The California State Water Project is a complex and comprehensive state and local government agency that manages water resources. It includes the **California Department of Water Resources**. The state’s fresh water policy goals include 1) providing enough water for human consumption and agriculture; and 2) preserving ecosystems. It is not easy to reconcile these goals.
The dam problem! In the past, major federal water projects built dams to store and then distribute water. But these dam structures are now aging, and drought and increased water usage have lowered water levels in the reservoirs. The PBS story “Why Dams are at the Heart of California’s Water Problems” explains why One solution to the dam problem is dam repairs and proposals to solve the water shortage by building more dams that increase storage capacity. But “To Build or not to build, that’s the Dam Question in Dry California” because dams are solutions that also create problems.

One alternative is to increase the supply of water by drilling more wells. But wells have already created problems. Irrigated water results in the salinization of the soil. The deeper the wells, the more chemical problems irrigated water causes in the soil and the foods (e.g., fruits and vegetables) that are grown using it. This is a major issue in the agricultural areas of California, for example. The depletion of aquifers has also caused the land to sink. Is California falling off the continental shelf? Or is it just sinking away as the increased mining of aquifers lowers the ground water levels? The “Epic Drought” that California experienced in recent years actually moved mountains—by lowering them—while the increased well drilling was lowering valley floors. In the western water wars, drilling more and deeper wells and pumping ground water at rates that lower aquifers is essentially mining water. It causes the land to subside. Western water comes from rain, snowmelt that fills streams and lakes and reservoirs, canals (the elaborate system water transfers across regions and states) and aquifers—from which underground water is mined.

Think About It!
Sinking land and rising seas?

13.52 | Water Wars in the Southwest

The Red River Water Wars refers to the political and legal fights that Texas, Oklahoma, Arkansas, and Louisiana have had over the rights to use water from the Red River Basin. The Red River Compact specifies rights that are managed by a Commission. Texas and Oklahoma fight over the water from Lake Texoma. The Tarrant Regional Water District sued Oklahoma to get more rights to use water for growing cities in north Texas cities. The U.S. Supreme Court ultimately upheld a state’s power to control its own natural resources rather being forced to sell them (in this case, water) to another state.
13.53 | Water Wars in the Midwest

The Republican River Water Wars refer to the political and legal fights among Colorado, Nebraska, and Kansas over the rights to use Republican River water. The Republican River watershed includes the three states. In 1942, the three states entered into a compact that Congress approved in 1943. The Republican River Compact stipulated each state’s water rights and created the Republican River Water Compact Administration (RRCA) to administer the district. During the 1980s, Kansas began reporting that Nebraska was violating the terms of the compact by permitting groundwater wells to pump water for agricultural uses. The Compact defined the virgin water supply as the multiyear average supply of water in the Basin un-depleted by human activity; estimated the average water supply; and allocated to each state an agreed-upon share for beneficial human use. But the Compact did not provide a dispute resolution process or administrative details beyond saying that each state can appoint an administrator and the three administrators can make regulations. Non-binding arbitration resulted in a finding that Kansas 1) had suffered damages, but 2) failed to adequately prove those damages. Kansas appealed to the U.S. Supreme Court to determine if Nebraska had violated the compact and if so determine the damages. The state fights indicate that when it comes to water, we can’t all just get along. The U.S. Supreme Court appointed a Special Master to gather information and make a recommendation that settled the dispute (for now) when the Supreme Court adopted the recommendations in Kansas v. Nebraska (2015).

These water issues also apply to mid-sized cities in the industrial north. Flint, Michigan’s water woes focused attention on aging infrastructure such as lead pipes leaching into city water supplies. The City of Waukesha, Wisconsin proposed changing from well water sources to water that was piped from Lake Michigan. The city had to apply for an exception to the Great Lakes-St. Laurence River Basin Water Resources Compact and the Great Lakes-St. Laurence River Basin Sustainable Water Resource Agreement, which limited diversion of the water from the basin. The Compact Council, which consists of the governors of the eight Great Lakes states, approved the diversion. One concern with such diversions is the legal precedent that would be set by allowing water to be diverted from the basin.

The increasing value of water has caused water to be described as a kind of “blue gold.” Dayton, Ohio is a Rust Belt city that was hit hard when manufacturing first left for the Sun Belt, then Mexico, and then China. Dayton is now advertising itself as a city with an abundance of fresh water vital for familiar uses such as consumption, agriculture, and manufacturing AND for new uses such as cooling computer server farms.

13.54 | Water Wars in the Southeast

The Tri-State Water Wars refer to the southeastern fights among Florida, Georgia, and Alabama, three fast-growing Sunbelt states over the rights to use water from the Apalachicola, Flint, and Chattahoochee River System. Once again, the U.S. Supreme Court is required to ultimately decide these water wars. The Southern Environmental Law Center reports on the story of this water war.
Think about it!
The “milkshake” speech from There Will Be Blood (2007) (at 7:20) is one of the top ten business speeches in film. What does it have to do with these water cases?
http://www.youtube.com/watch?v=2opI3LI92Vc

13.55 | Solutions to the Scarcity Problem

The belief that taxes can be cut without reducing programs by increasing efficiency is similar to the belief that improved water management is the solution to the water scarcity problem. Killing the Colorado is the story of “Drought and Man in the West.” What about conservation? Population growth in the Southwestern Sun Belt states began raising questions about whether the water scarcity problem was too little water or too many people. Are there too many people for too little water in the arid western states? Conservation has had an impact on behavior. The United States Geological Survey (USGS) reported a 13% decline in water usage across the nation during five-year period 2005–2010. However, little of the decline in consumption was public consumption; most of the reduction was in power plant and agricultural usage. Twelve states account for 50% of the water withdrawn from ground and surface resources: CA (11%); Texas, Idaho, Florida, Illinois, NC, ARK, CO.
Think About It!
In the academy award-winning film *The Graduate* (1967) a college graduate looking for a career is advised to get into plastics because plastics were the future. What about getting into water? The U.S. Geological Survey has a Water Science School. 
https://water.usgs.gov/edu/

The “supply side” solutions—drilling more wells and building more dams, reservoirs, and even de-salinization plants—do not address the “demand side” problem. Conservation attempts to address the demand side, but to date conservation measures have not ended the water wars. In fact, conservation—individuals and businesses lowering their rates of water usage—has not compensated for the higher total water usage resulting from population increases. The new western water wars are **inter-state battles** over access to Colorado River water, **intra-state battles** between urban and agricultural interests, and **regional battles** between northern California and southern California.

There also is a backlash against environmentalists. Critics accuse environmentalists of seeming more interested in protecting small creatures—a bird like the spotted owl, a mammal like a prairie dog, or a fish like the snail darter—than allowing the use of natural resources to provide people with food or water or energy or forestry products for building houses. Are tree-huggers more than people-huggers? This is in essence the point of the PBS story “*Fishermen and Farmers Fight over Water in California.*”

13.56 | The Water Pollution Problem

There is extensive mining in the West. Of the approximately 500,000 abandoned mines in the country, only about 48,000 have been inventoried by the Bureau of Land Management’s Abandoned Mine Lands program. The estimated cost of cleanup ranges from $20–54 billion dollars. The Clean Water Act makes mine owners responsible for controlling discharges, but owners often say that they are not responsible for cleaning up mines that stopped operating long ago. The Gold King Mine in Colorado stopped operating in 1923. In 2015, the EPA contracted with a company to plug the mine’s toxic wastewater holding pond. An accident caused a three million gallon wastewater plume into the Animas River. The wastewater pond cleanup accident that polluted the Animas River was **readily apparent in the color** of the river water.

The alternative to plugging wastewater ponds is building a treatment plant to clean the water. Both local government officials and company officials are reluctant to support federal cleanup plans because they cost money. The Silverton area where Gold King is located was first developed after an 1872 federal mining law encouraged exploitation of western resources by allowing individuals to claim the mineral rights beneath public lands. Toxic wastewater has been left behind at many of the mining operations. The acid rock drainage pollutes watersheds with heavy metals, “stew brews” with sulfuric acid concentrations high enough to dissolve steel and to leach poisons including lead, arsenic, and cadmium out of mountainsides.
The Cuyahoga River Fire (1969) is one of the environmental disaster stories that put the environment on the national government agenda. Why were factories and cities built along waterways? One reason is rivers provided transportation. Another reason is factories and cities could literally flush some of the costs of manufacturing, and some of the costs of treating sewage, downstream or into a big body of water according to the theory that “dilution is the solution to the pollution.” The story is told in an article with curious title: “Why Rivers No Longer Burn.” A lot has been done to rivers. Why was the Chicago River reversed? The Chicago River used to flow eastward into Lake Michigan. Chicago was a growing metropolis that needed a sewer that did not flow right into Lake Michigan because Lake Michigan was its source of drinking water. In 1885, many people died after a heavy rainstorm washed sewage from the river—which was, in a sense, the city’s sewer—into the lake where the city’s water intake pipes were located. So engineers decided to reverse the flow of the river: they connected it into a “Sanitary and Ship Canal” that connects to the Illinois River, the Des Plaines River, and then flows to the Mississippi River. Today, there is a Des Plaines River watershed. The Metropolitan Water Reclamation District of Greater Chicago has authority over the waterway system. The Friends of the Chicago River opposes a plan to reverse engineer the Chicago River so that it once again flows into Lake Michigan because the river is currently “flushed” with fresh water from Lake Michigan that flows to the Mississippi.

The Great Lakes and the Great Lakes Basin are a great freshwater supply. The Great Lakes constitute 84% of North America’s surface fresh water and about 21% of the world’s fresh surface water. The Great Lakes are a natural resource that is subject to state, federal, and international regulation. The Great Lakes Coalition sponsors an annual Great Lakes Restoration Conference with themes such as healing our waters and caring for our drinking water.

Think About It
Where does all the small plastic stuff like microbeads in soap go?

13.57 | Water Treatment

The American public expects an adequate supply of clean water. This is a fairly modern expectation. The Victorian Age is remembered today mostly for being an age when people were worried about dirty books but in the Victorian Age London’s filth included filthy air and water. Water systems are now integral parts of urban utility systems that provide water, electrical power, and disposal of sewage and solid waste. Water works are impressive engineering feats—especially considering the size of the urban populations they serve. But water works are victims of their own success in the sense that they have worked so well for so long that they are often taken for granted. The NPR story “If a Water Main Isn’t Broke, Don’t Fix It (for 300 years?)” describes how years of deferred maintenance have created a stressed system. The American Water Works Association’s Water Utilities Council directs its government affairs staff to sound as “the voice of water.”
What should be flushed down the toilet? Wipes? The fact that Wipes are flushable doesn’t mean they should be flushed. Drugs? We live in a pharmaceutical age. People take lots of drugs. Where do they go? Read the NPR story “Traces of Drugs in Water?” to learn some of the impacts of drug usage. The Swedes take lots of anti-anxiety drugs—which may explain why they seem calm and generally score rather high on happiness measures. Are trace amounts of these drugs in the waters of Sweden making the fish less anxious too—and therefore making it easier for them to be eaten by other fish, and easier to be caught and eaten by people?

Public perceptions limit efforts to reuse or re-cycle water. Cognitive awareness that the wastewater has been cleaned does not completely overcome the psychological feelings about what the water had been used for and where it had been. Recycling cleaned wastewater—particularly recycling sewage water—for human consumption requires addressing the “ick” factor associated with drinking recycled toilet water. The NPR story Water, Water Everywhere but not a Drop to Drink? explains why people think that cleaned wastewater is still too dirty to drink. Non-profit organizations such as the WaterReuse Research Foundation conduct and promote applied research on the science of water reuse, recycling, reclamation, and desalination. Water politics is no longer just about conservation, sustainability, or being green—it is a vital resource that has national security implications.

The EPA’s “History of Drinking Water Treatment” provides an overview of one aspect of water policy and technological developments. The EPA’s Office of Water includes the following offices:

- Immediate Office of the Assistant Administrator for Water
- Office of Ground Water and Drinking Water
- Office of Science and Technology
- Office of Wastewater Management
- Office of Wetlands, Oceans and Watersheds
Think About It! Act on It!

Surf Your Watershed!

This is a civic engagement project:
Find out where your water comes from (not the faucet).
What watershed do you live in? Is there a special government district such as water district?
Contact a local, state, or national government official and ask them what they think is the most important water problem.

13.58 | Climate Change

Climate change—or the more controversial term global warming—presents a new set of regional water problem: rising sea levels. Rising sea level require asking which coastal cities can be defended, how they can be defended, and who should pay for the coastal defense? Hurricane Katrina’s disastrous flooding of New Orleans left some people to think that New Orleans was so vulnerable to flooding that it was not worth it to try to prevent flooding considering the city’s exposure to hurricanes and the high costs of flood protection. But New Orleans is not the only urban center that is vulnerable to flooding. What is the largest estuary on the west coast of the U.S.? Read “About CALFED” to learn about this surprising estuary, which includes Sacramento, a city protected by dams and dikes. Hurricane Sandy made landfall on October 29, 2012 at a barrier island north of Atlantic City. The storm water surge damaged barrier islands up the Atlantic coast and flooded New York City and the surround areas, thereby exposing the vulnerability of the entire New York City metropolitan region.

What should be the public policy goals for vulnerable coastal regions?

- Retreat from the sea? Governments could use zoning laws, flood insurance regulations, and disaster assistance funds to limit new development in flood-prone areas or even to pull back from shorelines.
- Armor the beaches? The coastal regions could be protected with sea walls and other structures as well as beach re-nourishment projects to create man-made barriers. Beach re-nourishment provides temporary protection from storms.

Congress responded to Hurricane Sandy by passing the Disaster Relief Appropriations Act of 2013, which provided around $50 billion for relief projects and programs, some of which was funding for the Army Corps of Engineers—which contracts with The Great Lakes Dredge and Dock, a company that among other things continually re-nourishes the beaches with sand dredged from offshore. Beach re-nourishment is environmentally damaging, but most of the damage is on the ocean floor in a place that is out of sight and therefore mostly out of mind.

Does the U.S. have too many governments or not enough? The argument for more governments is based on the belief that regional governments are needed to address regional environmental problems. Existing political boundaries—city borders, county lines, and state lines—are geographical and political boundaries that are not in most cases
natural boundaries. Environmental problems are increasingly regional problems. Take, for instance, acidification. Air pollution from Midwestern manufacturing plants and electrical power plants is sent up smokestacks and into the jet stream, where the prevailing easterly winds drop acid rain in the northeast. The acidification of lakes and streams in the northeastern states comes from outside the region. Acid rain also causes ocean acidification. Environmentalists believe these regional and even global problems require regional or even global government action.

Libertarians disagree. Libertarians think that more government means less freedom. Therefore they look for private, non-governmental solutions to social and environmental problems. Murray Rothbard is a libertarian who thinks that government caused many of the water use conflicts therefore creating more regional governments is unlikely to be the solution to the environmental problem.

Think About It!
Do you agree with Murray Rothbard’s solution to the water wars as summarized in The American Conservative?
http://www.theamericanconservative.com/articles/texas-water-war/

The U.S. Army Corps of Engineers predicts that sea levels will rise 9–24 inches by 2060. Four Southeastern Florida Counties (Monroe, Miami-Dade, Broward, and Palm Beach) and 30 cities have joined the Southeast Florida Regional Climate Change Compact to coordinate responses to sea level rise, tidal flooding, and saltwater intrusion into drinking water well fields. There are many stories about it raining frogs and fish. Some are apocryphal; some are true. But cephalopods in parking lots?

An Octopus in a Miami Beach Parking Garage (in the Shade)
13.6 | Energy Policy

The U.S. is a high-consuming nation. It is not just that the U.S. uses a lot of energy—it is, after all a country with a large population. The U.S. is a high-consuming country because Americans have a high per capita use of energy. The following World Bank data compares the per capita consumption of energy in various countries.

Energy policy has several goals: producing enough energy, conservation of resources, environmentalism, national security, and economics. The discussion of renewable energy is part of the broader discussion sustainability—whether it is energy resources, fisheries, forestry, mineral deposits, or water supplies. The discussion includes some provocative thoughts about whether modern civilization as we know it is even sustainable.

Think About It!
Is modern civilization sustainable?
Is civilization a bad idea?

For a satirical view on political rhetoric about the importance of U.S. energy independence see The Daily Show’s “An Energy-Independent Future.”
**13.61 | Sustainability**

Sustainability is an important concept in environmental policy. Sustainable forestry practices harvest trees while keeping enough forests and healthy forests—not just tree farms, which are basically monoculture crops. Sustainable agriculture refers to farming practices that incorporate productivity with concern for maintaining water and soil quality. Marine sustainability refers to fishing practices that maintain sustainable stocks of fish and healthy natural fisheries. The Marine Stewardship Council is a global organization that works with fisheries, companies, scientists, conservation groups, and the general public to promote sustainable fisheries by labeling seafood as certified sustainable seafood. Do you care whether the fish you in the market or eat in a restaurant is obtained using sustainable fishing practices? Is the “certified sustainable” label about science or economics?

Think About It!
What Does “Sustainable” Fishing Mean?
http://www.npr.org/2013/02/12/171376617/conditions-allow-for-more-sustainable-labeled-seafood

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**13.7 | Immigration Policy**

What are the ties that bind a people together as a political community? Is national identity based on tribe, ethnicity, race, blood, language, history, culture, religion, geography—or merely economic interests? The meaning of political identity is particularly complicated in the U.S. because Americans take pride in being a country of immigrants, but Americans also take great pride in a distinctive American national identity. The history of immigration policy reflects efforts to reconcile these two ideals. National identity politics is at the core of the tension between the ideal of the U.S. as a republic founded as an immigrant nation—famously symbolized by the Statue of Liberty which welcomes with open arms the huddled masses that come seeking a better life—and the sense that there is a distinctive American national identity that must be protected from foreign influences. Immigration policy reflects the recurring debates about whether the nation’s borders should be open or closed, whether people should be pulled into the country or pushed out of the country, and whether citizenship (naturalization) should be made easier or harder to get. Immigration policy has three main components: admission to the country, removal from the country (deportation), and the rules that determine eligibility for citizenship.

**13.71 | The Legal Foundations of Immigration Policy**

Congress’s constitutional power to enact immigration laws is based on
• Article I Section 8 (the power “To establish an uniform Rule of Naturalization”) and Section 9 (“The Migration or Importation of such Persons as any of the States now existing shall think proper to admit, shall not be prohibited by the Congress prior to the Year one thousand eight hundred and eight, but a Tax or duty may be imposed on such Importation, not exceeding ten dollars for each Person.”)*
  *This referred to slaves.

• Article VI (the Supremacy Clause provides that the Constitution, laws passed under its authority, and treaties shall be the supreme law of the land and judges in the states are bound thereby regardless of state laws.); and the

• The Plenary Power Doctrine. This is a rule that the Supreme Court created to help decide cases about who has power to make immigration policy. According to the Plenary Power Doctrine, Congress has plenary (that is, complete and unqualified) power over immigration policy.

Congress has delegated a great deal of its power to make immigration policy to the president—and the various administrative agencies such as the Department of Homeland Security and the Department of Justice). One early example of legislative delegation to the president is the Alien and Sedition Acts (1789). These were four laws passed during a period of worry about aliens—specifically, the French and British who were still in the country after the Revolutionary War and whose loyalty was suspect. The Naturalization Act increased the residency requirement for American citizenship from 5 to 14 years. The Alien Friends Act allowed the president to imprison or deport aliens that the president considered “dangerous to the peace and safety of the United States” at any time; and the Alien Enemies Act authorized the president to deport any male citizen of a hostile nation, above the age of 14, during times of war.

In fact, most immigration statutes give the president a great deal of executive discretion to decide how to implement them. In 1986 Congress created the Visa Waiver Pilot Program to promote tourism and trade by allowing citizens of certain countries to enter the U.S. without visas, thereby bypassing the in-person interview with U.S. consulates abroad. Most of the countries were European, because Europeans were considered safer and wealthier and therefore less likely to exceed their stay in the U.S. The pilot program was made permanent in 2000, and today 30 of the 38 countries that participate in the visa waiver program are European. The rest are U.S. allies such as Japan, South Korea, and Australia. Twenty million people now travel visa-free after filing out the Department of Homeland Security’s on-line application program known as the Electronic System for Travel Authorization. One response to the 9/11 terrorist attacks on 9/11 was added security measures to the waiver program, including a requirement that participating countries share information about citizens and nationals on terrorist/security lists.

After the Republican majority in Congress stopped supporting bipartisan proposals for comprehensive immigration reform, President Obama took executive action to defer deportation of certain undocumented immigrants. In 2012, he directed the Secretary of the Department of Homeland Security to implement the Deferred Action for Childhood Arrivals (DACA) program. DACA created a process for applying for
temporary deferral of deportation. Then in 2014, the Department of Homeland Security announced the Deferred Action for Parents of Americans and Lawful Permanent Residents (DAPA) program. Republicans challenged provisions of these executive actions in court. Congress also passed the Regulations from the Executive in Need of Scrutiny Act of 2017, which provides for legislative review of targeted executive actions that Republicans wanted to end, such as President Obama’s immigration policies and provisions of Obamacare. These are examples of institutional struggles over control of immigration policy.

13.72 | Early Fears of “The Other”

A large numbers of foreign-born people—primarily British and French—lived in the U.S. in the early years of the republic people. The fear of foreigners as an internal threat to national security during the Undeclared War with France resulted in passage of four laws that were known collectively as the Alien and Sedition Acts of 1798. Threats to national security are called sedition. This early fear of political “others” has periodically made immigration controversial despite the fact that the U.S. is a “settler nation.”

The U.S.—like Canada and Australia and unlike Great Britain—was a settler nation that recruited people from other countries to settle vast frontier lands. (Maloney) The Industrial Revolution then created additional demands for labor so immigrants were pulled into the country to provide a labor supply. But immigration was also considered a threat to the idea of a distinctive American national identity. Therefore understanding immigration policy requires understanding both the push and pull of immigrants. Some immigrants were both pushed out of their home countries and pulled into the U.S. to provide cheap labor. This is the case with the Irish, one of the first groups of immigrants, and Mexicans, one of the largest groups of immigrants. But the experiences of the two groups of immigrants are very different. The U.S. periodically pulled Mexicans into the country, the Mexican government periodically pushed them out of Mexico when the Mexican economy was bad, and the U.S. periodically pushed Mexicans out of the country when they weren’t needed.

Fear of other “Others”

The fear of other “Others” included Native Americans. General and President Andrew Jackson’s Indian Removal Policy also provided a model for how the country responded to perceived threats to the distinctive American national identity. Read the Document Transcript to get a sense of how he saw the removal of “a few savage hunters” a sign of progress, civilization, Christian community. The removal policy of “clearing” areas of the country of Native Americans, free blacks, and fugitive slaves included Florida—the destruction of the “Negro Fort.”

The story of Irish immigration is the story of the first big wave of immigrants who were both pushed out of their native country and pulled into the U.S. The PBS
documentary, “The Irish in America: Long Journey Home” describes the Irish experience in America. Episode #2 “All Across America” describes the early Irish experiences in East coast port cities (notably Boston and New York) and New Orleans. In New Orleans, the relationship between blacks (both slaves and free persons of color) and Irish immigrants was marked by intense competition for jobs. Who fought whom, why, and who won? What do you think about the cartoon images of “the Irish” and “the black?”

Episode #3 Up from City Streets primarily describes how the Irish pulled themselves up from the city streets as economic and political outsiders to become economic and political insiders. They did so by developing strong political organization such as Tammany Hall in New York City that controlled votes and jobs (e.g., jobs as police officers) and government officials. These strong urban political organizations helped the Irish advance—while also raising Protestant worries about political corruption and drinking and other behaviors that were inconsistent with the distinctive American national identity.

The popular press of the day created and reinforced negative stereotypes of the Irish. Examples of these stereotypes are RF Outcault’s Hogan’s Alley cartoon, The Yellow Kid, Irish Playing the Great Game of Golf, and Coaching an Irish Parade. What do you think are the messages conveyed in the different images presented in the scenes below?
The first wave of Irish immigrants was primarily Irish Protestants recruited to fight Native Americans on the frontier. The “second wave” in the 19th Century was the primarily Irish Catholics who worked on the canals and railroads and in the mines and factories that created the foundation for the industrial revolution. These were the Irish that fought their way into the economic, social, and political system because they were not welcomed with open arms by the establishment insiders. The Kensington riots in Philadelphia (1844) illustrate both the outside status of the Irish and their organization to fight nativists. Eventually, urban political machines such as Tammany Hall in New York City began to recruit Irish and provide them social services. The lesson of the Irish experience is that political organization increases effectiveness. Without political organization, individuals like immigrants face struggles alone.

Nativism was one of the earliest reactions to increases in immigration, to increases in the proportion of the population that is foreign-born, and the sense that the American political culture was being threatened by foreign ideas. A positive definition of nativism is advocating for the native born citizens. A negative definition of nativism is advocating against non-natives. In the early years of the 19th Century, the Know-Nothing (or American) Party reflected nativist worries about immigrants changing American character. Anti-immigrant or pro-American movements have periodically been a backlash against immigration.

13.73 Development of National Immigration Policy

Modern immigration policy (in the U.S. and elsewhere) is a function of the modern, industrial state. (Maloney) In the U.S., prior to the industrial revolution, immigration policy was primarily the concern of the cities where immigrants entered the U.S.—New York City and San Francisco—or cities where large numbers of immigrants settled (e.g., Boston). The development of a comprehensive, national immigration policy can be traced to the period 1875-1882, with passage of the 1875 Page Law (which provided for the exclusion of “undesirables”), the Immigration Act of 1882 (which restricted immigration of people “likely to become a public charge”), and the Chinese Exclusion Act of 1882. These laws mark the beginning of Congress creating immigration policy to control the composition of the citizenry: controlling the number of immigrants; restricting eligibility for citizenship; screening for “alien” or un-American ideology; and
determining the composition of the workforce. Congress used immigration policy to sort individuals and groups as a social and political filter to protect American national identity.

The latter part of the 19th Century and early years of the 20th Century were periods of increases in the number of immigrants and changes in the kinds of immigrants. There were more immigrants and different immigrants—immigrants from eastern and southern Europe rather than from the British Isles and Western Europe. The result was a “panic”: a widespread fear that immigration policy threatened to erode “Americanism.” This public worry about American national identity put immigration control on the national government agenda. The need to protect and promote Americanism is the theme of President Theodore Roosevelt’s 2006 State of the Union Address. The Address devotes considerable space to the question of Americanism; the duty to manage the affairs of all the islands (the Philippines, “Porto Rico,” and Hawaii) “under the American flag,” including helping these people to develop so that they would eventually be prepared for citizenship. Roosevelt recommended independence for the Philippines only when (and if) they demonstrated political maturity. He recommended citizenship for residents of “Porto Rico.” He recommended developing statutory immigration rights for residents of Hawaii “whenever the leaders in the various industries of those islands finally adopt our ideals and heartily join our administration in endeavoring to develop a middle class of substantial citizens.”

Roosevelt also provided advice about immigration policy by reminding the nation that “[g]ood Americanism is a matter of heart, of conscience, of lofty aspirations, of sound common sense, but not of birthplace or creed.” Nevertheless, an immigration panic resulted in passage of a broad range of laws intended to protect Americanism by limiting immigration. The Expatriation Act of 1907 required women who were U.S. citizens who married foreigners to take the nationality of their husband. This is one of the most blatantly gender-biased laws ever passed by Congress. And in 1907, Congress responded to worries about immigration by creating the U. S. Immigration Commission (The Dillingham Commission) to study the effects of immigration on American society and culture. The Dillingham Commission Reports (1911) concluded the immigration was a threat and should be greatly reduced, and Congress passed the Emergency Quota Act of 1921 and other laws in 1924 that greatly reduced immigration from eastern and southern Europe.

The Dillingham Commission Report and the subsequent laws restricting immigration were not merely based on racism. They reflected the new science of eugenics—controlled breeding to improve human populations—to sort people; old nativist political ideas about foreigners threatening American national identity; and a general bias against specific immigrant groups (e.g., Catholics; Asians) and races. These restrictive immigration laws created categories such as “poor physique” that were so broadly defined that they could be used to discriminate against individuals or groups. But it is also important to recognize that the Dillingham Commission’s ranking of groups was based on the era’s belief that scientific knowledge provided evidence that not all men, women, races, cultures, religions, or civilizations were created equal. This justified immigration policy that ranked groups in order to sort people so that the better sorts could be allowed in and the worse sorts could be kept out.
Ranking groups to sort them into desirable and undesirable immigrants remained part of immigration policy until the 1960s. The Council on Foreign Relations provides a Timeline on Post-WWII immigration policy. The Immigration and Nationality Act of 1965 fundamentally changed immigration law. Prior to the 1965 Act, most immigrants were Caucasians from Western Europe; after the 1965 Act, most came from southern and eastern Europe, Africa, Asia, and Latin America. The 1965 Act ended the historical racial and cultural assumptions about which groups should be allowed into the country and which should be excluded because they were less desirable. The national origins quota was biased in favor of Western Europe and biased against other regions, religions, races, and cultures. The 1965 Immigration and Nationality Act is a civil rights law that was part of the civil rights movement that produced the more familiar 1964 Civil Rights Act and the 1965 Voting Rights Act. The 1965 Immigration Act increased the number of immigrants admitted annually and greatly increased the country’s racial and demographic diversity. In fact, the current anti-immigration mood can be considered a backlash against the effects of the 1965 immigration act.

13.74 | Current Immigration Policy

Immigration policy is shaped by political, economic, and legal factors. The relative influence of these three factors varies depending on the state of the economy, national security threats, and even thinking about human and civil rights.

How many people get lawful permanent resident (LPR) status every year? The Department of Homeland Security provides data on the number of people who have obtained LPR status each year since 1820. The total number increased in the 1970s and since 2001 the number has averaged just over one million immigrants. The American Immigration Council provides an introductory course Immigration 101 for those who want to know the nuts and bolts of how the immigration process works.
Demography is the study of the structure or composition of a population—particularly vital statistics such as age, gender, race and ethnicity, and education. A country’s demographics is determined by a broad range of factors including fertility rates, infant mortality rates, life expectancy, disease, accidents, and immigration policy. Immigration policy affects the structure of the body politic by determining the number of immigration admitted annually AND by sorting people so that the most desirable people are allowed to become lawful permanent residents (LPR) or naturalized citizens. Desirable has been defined in different ways: religion, race (broadly defined to include religion and culture and ethnicity), ethnicity, class (money), and unique professional skills and abilities (such as software engineers, fashion models, and baseball players). Demography is politically important for a number of reasons including:

- Crime rates. A population with a large share of young males will likely have a higher crime rate than a population with an older and more female population;
- Education policy. Younger populations require more spending on education than older populations;
- Social Welfare policy. Older populations need more health care than younger populations. Anti-immigration politics includes opposition to immigrants using social welfare programs;
- Economic policy. A country’s economic growth rate, unemployment rate, and labor force participation rate are affected by the age distribution of a population.
- National identity. A large number of immigrants and a high percentage of foreign-born in a population change the character of a political community.

The slogan *demography is destiny* reflects the belief that population trends and distributions DETERMINE a nation’s future. Demography includes the total number of immigrants, the characteristics of the immigrants, and the percentage of foreign-born in the country. These demographic factors have organized anti-immigrant movements in the U.S., Britain, and Europe where the white working class and middle class worry about economics and national identity. The economic worries include worries about immigrants taking jobs, lowering wages, and straining limited social welfare programs. The claim that *demography is destiny* is about a country’s *economic destiny*, *political destiny*, and *legal destiny*.

In terms of legal destiny, major human migrations have been associated with social order problems including crime waves. The criminal justice system has been used to respond to problems created by major human migrations. The political response to the crime waves that followed two major human migrations have largely defined the history of crime and punishment in the U.S. (Stuntz) The *first migration* occurred during the 70 years preceding WWI when more than 30 million Europeans came to the U.S. and settled primarily in the industrial cities of the Northeast. The *second migration* was internal. During the first two-thirds of the 20th century, around seven million blacks left the rural south and moved to northern industrial cities. The political response to these two migrations was the use of the criminal justice system to assert control over the new populations of outsiders who were considered threats to the established social order and
local community identity. However, the local political establishments responded to the European immigrants by creating political machines like Tammany Hall, and the local police forces tended to resemble the residents of the community they policed. This is the origin of the stereotype of the Irish cop. It is significant that this did not apply to the southern black migration to northern cities. White police departments were used to control blacks. This remains a problem with police forces today. The Black Lives Matter movement exposed how police departments that are not representative of the community that they are policing create legitimacy problems.

13.76 National Identity: The Latino Americano Dream?

In 2014 there were 55 million Hispanics in the U.S. The large Hispanic or Latino presence in the U.S. is one of the “harvests of empire,” the result of the American military, business, and political presence in Central and South America. The Latino population is, however, a very diverse population. The PEW Research Center Hispanic Trends reports on the numbers and trends. The Latino presence resulted from the following ideas, policies, and military actions:

- Manifest Destiny—the belief that the U.S. had a right to expand all across North America—and even beyond.
- The Monroe Doctrine and the Roosevelt Corollary to the Monroe Doctrine. These doctrines declared that the U.S. had the right to act to protect public order, life, and property in the western hemisphere.
- The Mexican-American War (1846-48).
  http://www.loc.gov/rr/program/bib/mexicanwar/
  http://www.pbs.org/kera/usmexicanwar/index_flash.html
- Managing the labor supply.

The story of Mexican immigration is mostly an economic story about the push and pull of immigrant labor. The Mexican government pushed Mexicans across the U.S. border when the Mexican economy was bad. And during various periods the U.S. government actively pulled Mexicans to work in the U.S., particularly in agriculture and manufacturing. During WWI, the U.S. pulled Mexican workers into the country. But then during the Great Depression of the 1930s the U.S. Program to Repatriate Mexicans used mass roundups to deport Mexican workers. State and local government officials used vagrancy statutes that made it a crime to be idle, homeless, or without visible means of support to deport Mexican migrants. In 2006, California passed The Apology Act for its participation in the Mexican Repatriation Program.

The Mexican Repatriation Program

Then the U.S. government once again pulled in Mexican workers during WWII when there was a labor shortage in agriculture and manufacturing. The Bracero Program was a guest-worker program that began in 1942. It is an infamous example of the U.S. actively
recruiting Mexican labor. The bad treatment of some Mexican migrant labor is one reason why people are today wary of creating a guest worker program.

Learn About The Bracero Program!
http://www.pbs.org/frontlineworld/stories/mexico704/history/timeline.html
http://www.farmworkers.org/bracerop.html
http://braceroarchive.org/
http://www.unco.edu/cohmlp/pdfs/Bracero_Program_PowerPoint.pdf

Patterns of immigration from the Caribbean and Central America also flowed from U.S. military actions. The U.S. Department of State describes how forces from the U.S. and other Western powers “entered” Haiti in 1914—and U.S. troops occupied the country until 1934. The State Department explains the reasons for the invasion. Haitian immigrants are one of the “harvests” of empire in the sense that it created patterns of interaction and a sense of national obligation. For example, the U.S. granted Temporary Protected Status for Haitians after a devastating earthquake in 2010. In 1965, the U.S. sent in the marines to Dominic Republic in “Operation Power Pack.” Is “sent in” a euphemism for invaded? In Bitter Fruit: The Story of the American Coup in Guatemala, Stephen Schlesinger and Stephen Kinzer describe how the 1954 CIA coup in Guatemala produced the bitter fruit of the harvest of empire. The extensive U.S. political, economic, and military engagement with Cuba has had a special impact on immigration policy. The PEW Hispanic Center describes Cuban immigrants as a distinctive subset of Hispanics: Cubans in the U.S. and Hispanics of Cuban Origin in the U.S.

13.77 | Cuba Policy

Why did a professional baseball player eat his fake passport while on an airplane flight from the Dominican Republic to Miami? Smuggling is usually associated with drugs, guns, sex trafficking, or aliens crossing the Mexican border, but it also includes smuggling baseball players into the country. The Chicago White Sox first baseman Jose Abreu left Cuba in 2013 for Haiti, where a “fixer” gave him residency status and a fake U.S. passport. He was then taken to the Dominican Republic where he got on a plane for Miami. He had to get to the U.S. because the Chicago White Sox had an oral commitment to sign him to a $68 million dollar contract if he made it into the country by October 2013. Onboard the plane, Abreu went into the bathroom, ripped out the first page of the fake passport—which had his picture and a fake name—threw away the passport, and returned to his seat where he ordered a beer (a Heineken) that he used to wash down the pieces of the first page of his fake passport as he chewed them and swallowed them. Once the plane landed in Miami, the special status of Cubans under the Cuban American Adjustment Act and the wet foot, dry foot policy meant that he was allowed to stay in the country.

How do we know his story? Because two Floridians—sports agent Bartolo Hernandez and trainer Julio Estrada were recently tried in a federal court in South Florida for smuggling alien Cuban baseball players (and their family and friends) to the U.S.
Abreu testified at trial that he signed a contract to pay Estrada 20% of his earnings and Hernandez 5% of his earnings. Abreu was American League rookie of the year in 2014.

On January 12, 2017, President Obama began the process of normalizing relations with Cuba with an executive action that ended the wet foot, dry foot policy that allowed Cubans who entered the U.S. illegally to stay in the country if they were physically present in the country—that is, if they were able to actually set foot on American soil:

“Effective immediately, Cuban nationals who attempt to enter the United States illegally and do not qualify for humanitarian relief will be subject to removal, consistent with U.S. law and enforcement priorities. By taking this step, we are treating Cuban migrants the same way we treat migrants from other countries.”

Ending wet foot, dry foot did not affect the immigration policy that allows around 20,000 Cuban visas for legal immigration every year, a number that is comparatively high for a country of around 11 million. But it did mean that Cuban migrants would be treated like migrants from other countries. The legislative background for the Cuba immigration policy includes the Cuban Adjustment Act of 1966—a Cold War era law that gave immigrants from Communist-governed Cuba special privileges—and the 1995 U.S.–Cuba Immigration Accord.

The special status of Cubans always created a divide within the Latino community because it provided just one group (Cubans) with special access to the country, social services, and citizenship. The Cuban Adjustment Act allowed Cubans who entered the country illegally to have their status “adjusted” to legal permanent resident (LPR; get green cards), be eligible for citizenship, and eligible for social welfare benefits that American citizens were eligible to receive almost immediately upon entry. President Obama said that ending the wet foot, dry foot policy was for the following reasons:

• **Normalization.** Part of the administration’s normalization of relations with Cuban—including opening the U.S. embassy in Havana;

• **Fairness.** Only Cubans, but not Haitians for example, were eligible for this special status despite the fact that today Cubans are economic migrants not political refugees;

• **Human rights.** Ending the program would limit the human trafficking and risky attempts to reach Florida. The administration also said it was necessary to suddenly announce the ending because Cubans, who expected that normalization would eventually mean the end of their special status, were increasingly trying to enter the U.S. using rickety boats to cross the dangerous Florida Straits or by land transit from Venezuela, through Central American countries.

Obama’s normalization was not particularly controversial because of changed perceptions of the Cuban Adjustment Act of 1966. Specifically, the original Cuban migrants were considered political refugees from Communism whereas recent Cuban migrants were primarily economic refugees. Furthermore a series of investigative reports published in 2015 by a South Florida newspaper, the *Sun-Sentinel*, entitled “Plundering America: The Cuban Criminal Pipeline” described organized crime rings taking
advantage of the special treatment Cubans received. The report weakened support for wet foot dry foot among Cuban-American Republicans including Florida U.S. Senator Marco Rubio. The changing politics of normalization includes changes in Cuban American demographics and Cuban American party identification that have made normalization less controversial.

13.78 Economic and Political Destiny

A country’s economic destiny is measured by economic growth rate, economic development, employment rate, and social welfare policy (dependency ratios). A country’s political destiny is determined by political culture and party identity (partisanship). Studies of immigrant political behavior indicate that a person’s status as an immigrant or a native citizen (nativity status) is related to politics, particularly attitudes toward government, views on public policies, and voting behavior—including party identification and voting patterns. The economic and political destiny arguments make immigration policy political in terms of both ideology and partisanship. This is the primary reason why conservatives and liberals, Republicans and Democrats, were ultimately unable to agree on comprehensive immigration reform despite the fact that all four sides agreed that the immigration system was broken and needed fixing.

The demographic composition of the country is related to the partisan composition of the country therefore proposed changes in immigration policy are likely to change the balance of Republicans and Democrats. Republican worried that large numbers of Mexican immigrants would eventually mean an increase in democratic voters if immigration reform provided a pathway to citizenship! The expectation that immigration reform would benefit one party more than the other impact was reasonable based on experience. Cuban immigrants increased the number of Latino Republicans in Florida, for example. The fear that immigration reform that provided illegal immigrants with a pathway to legal status or even citizenship would convert Latinos into Democratic voters prompted the Republican Party leaders in Congress to oppose immigration reform. The decision was good politics. It anticipated and reinforced the anti-immigration movement. Ironically, this occurred after decades of conservative and Republican support for open immigration policy in order to provide a supply of cheap labor and consistent with a broader deregulation of goods, services, and people across national borders.

The U.S. is no longer a settler nation that pulls immigrants into the country to settle a vast, largely unpopulated frontier. The U.S. is a developed country that uses immigration for other purposes including demographics. Studies of economic policy examine the relationship between two variables: economic development and the Age Dependency Ratio. The Age Dependency Ratio is central to public policy debates about a country’s economic growth rate, wage rates, and social welfare programs. One aspect of immigration policy, admissions, determines the total number and the sorts of people to be allowed into the country every year. Conservatives and Republican have traditionally been most concerned that large numbers of immigrants would 1) change the distinctive American national identity; and 2) increase the number of people who are dependent on social welfare programs. The expansion of social welfare programs—broadly defined to include social security, Medicare, Medicaid, veterans’ benefits, education and job training, food stamps, etc.—increased worries that immigrants—particularly illegal immigrants—were taking advantage of welfare programs. This is what Mitt Romney
meant by his politically ill-advised 47% comment during the 2012 presidential election that 47% of the people in the country were receiving some form of government support and would not vote for him or Republicans.

There are two meanings of entitlement. One meaning is that federal statutes define who is “entitled” to received veteran’s benefits, social security benefits, and food stamps, for example. The other meaning of entitlement is that some people think that they are “entitled” to government social welfare programs—and the expansion of social welfare programs increased government dependency on such programs. Conservatives and Republicans think that the one group is deserving of the government benefits while the other group is undeserving. Anti-immigrant politics includes the belief that immigrants—legal and illegal—rely heavily on social welfare programs that are paid for by taxes paid by citizens, some of whom are already experiencing financial insecurity.

Organizations such as the World Bank consider a country’s dependency ratio an important measure of its economic health. The formula for determining a country’s dependency ratio is to divide the number of people not of working age (young people under 14 and old people 65 and over) by the total number of people of working age (14 to 64), and then multiplying that number times 100:

\[
\text{Dependency Ratio (DR) = } \frac{\text{Total number of people aged under 14 and 65 and older}}{\text{Total number of people 14 to 64}} \times 100
\]

The Bureau of Labor Statistics (BLS) hires economists who measure “Labor Force Participation Rates.” The media and the public generally pay attention to the unemployment rate as a measure of how the economy is doing but the labor force participation may be a better measure of economic performance. The Labor Force Participation Rate measures the percentage of the working age population that is actually employed. The aging of the U.S. population is a major factor in business thinking about economic policy, social welfare policy, and immigration policy. The BLS tables show a decades-long decline in labor force participation rates. The current rate is below 63%—so around 37% of the working age population is not working for one reason or another. The low labor force participation rate means that the American labor force could be more productive if more people were working. Are too many people not working because of social welfare programs such as food stamps and unemployment compensation? The recent decline in white male participation in the labor force is an especially significant development because it is one of the primary reasons for the current populist politics opposing both immigration policy and trade policy.

What is the U.S. age dependency ratio? How does it compare with other countries? The World Bank and the Central Intelligence Agency provide comparative data on the age dependency ratio, fertility rates, and other demographic data relevant to economic development. Compare the U.S. and European countries, for example, with Middle Eastern countries, African countries, or Central and South American countries. Germany used immigration policy, specifically a guest worker program, to solve the problem of a high dependency ratio and a low fertility rate. What is the relationship between economic development (low income versus high income countries) and fertility rates? The current anti-immigration politics in Germany is partly a backlash against the
German policy of using immigration to import labor—economic opposition that was fueled by sudden acceptance of large numbers of refugees fleeing violence in the Middle East. Like the U.S. and France, Germany has an aging population so it was a good economic idea to import foreign labor until suddenly it wasn’t a good political idea. Chancellor Angela Merkel’s Christian Democratic Union Party (a center-right party) supported the policy. But German voters like American voters and French voters, are anxious about the future and angry that economic and immigration policies have primarily benefitted the wealthy and international elites. The populist, anti-immigrant backlash is fueled by worries about both economics and national identity.

Check It Out!
World Bank Data on Dependency Ratios and Fertility Rates:
World Bank Data on Age Dependency Ratio (%of working age population);
Fertility rate, Total (Births per woman)
The Central Intelligence Agency (CIA) World Factbook comparative demographic data: media age/ranks; dependency ratios (both young and old) and ranks; birth rates/infant mortality rates/ranks; and net migration/ranks. Compare countries and regions. Do the data explain European immigration policy and the migration crisis in Europe?

13.79 | Are there too many people, too few people, or just too many……what?

The New York Times series “Demography is Destiny? Teaching about Cause and Effect with Global Population Trends” reviews claims that the human population bomb was going to produce famine and disease and conflict. Were the fears wrong? Kolbert (2013) examines ways of thinking about whether the world has too many people, too few people, or just too many of the wrong kind of people? These are actually old questions. Thomas Malthus was a famous economist (and minister because in the good old days college education was under religious authority) whose 1798 work “An Essay on the Principle of Population” described the natural resource limits that constrained population growth. Over the years, the term “Malthusian” was used to describe economists or anyone else who warns about the drastic consequences of over-population—population growth beyond the limits of natural resources. The Malthusian trap or catastrophe refers to the fact that population growth is likely to outpace natural resources (e.g., food production; water; energy)—thereby resulting in an eventual catastrophe such as famine, disease, or war. Paul Ehrlich’s “The Population Bomb” (1968) is a work in the Malthusian tradition. The environmentalist movement also reflects this Malthusian perspective on the need to control population growth to reduce strain on the environment. The Green Revolution greatly increased food production, thereby enabling population growth without subsistence living. Nitrogen-based fertilizer production greatly increased crops—and today half the world’s population subsists on crops grown with nitrogen-based fertilizer. Are natural resources sufficient to sustain population projections?

Writing in The Weekly Standard, a conservative publication, Jonathan Last describes some of the problems created by a country where the fertility rate is so low that
the population cannot sustain itself without importing people. In “Demography is Destiny: The Perils of Population Loss” (April 23, 2012), Last blames the declining fertility rates in First World countries over the last 40 years for “sputtering economies” where there aren’t enough young and working age people to support the growing percentage of “old geezers.” He wonders whether the First World countries will become like Florida. In “What to Expect When No one’s Expecting: America’s Coming Demographic Disaster,” Last also describes what he considers a problem created by differential fertility rates: black women have a “healthy rate” of 1.96 children; Hispanic women have a rate of 2.35; and white women have a 1.9 rate. Furthermore, he describes the higher birth rates of lower income women as a kind of reverse Darwinism—survival of the least fit rather than the fittest. These are the kinds of “sorting” problems that were part of immigration policy in the 19th and early 20th centuries. Another more religiously-conservative publication, Human Events, worries that Latino immigration is a special problem because “Demography is political/partisan destiny.”

Steven Kramer, a professor at the National Defense University, writes about the other population bomb—the population implosion not an explosion—in “The Other Population Crisis: What Governments Can Do about Falling Birth Rates.” He calls too few children (low native fertility rates) a crisis. Public policy solutions have to recognize that it is seems much easier to reduce a birth rate than to increase it. France has a broad range of pro-natalist policies that are intended to increase native French fertility rates: grants, tax deductions, and paid maternity leave. But these government subsidies seem to have a minimal impact on birth rates. Japan is facing an acute population problem (low rates of increase or even declining population) because Japanese seem uninterested in sex—which is, by the way, related to population. The government of Japan produces an annual white paper discussing ways to increase the low birth rate. Surveys indicate that large and increasing numbers of Japanese men and women are not interested in sex. So what’s a country to do? Some countries use immigration policy to import people to compensate for low native fertility rates. This made political sense during times of economic growth and prosperity. However, the slow-growth economies have created a zero sum way of thinking about economics—and more natives/citizens blame immigrants for taking their jobs, undermining their economic security, and changing the country’s identity. This is what Congressman Steve King (R-IA) meant when he said that the U.S. and white European Christian civilizations, like any other civilization—cannot “rebuild” or restore its civilization by relying on other people’s babies.

13.8 Additional Resources

13.81 Internet Resources

Congress funds the Congressional Research Service, which provides detailed descriptions and analyses of public policy issues. The Web site http://opencrs.com/
The Congressional Budget Office (CBO) Web site offers Congress’s opinions on budget matters including statistics, reports, budget reviews, testimony, and more.
www.cbo.gov/
The American Enterprise Institute is a conservative think tank that addresses a variety of issues. Its website offers information on their calendar of events, a variety of articles, and links: [www.aei.org](http://www.aei.org)

The Brookings Institution is the oldest think tank in America and has the reputation of being fairly moderate. Its website offers policy briefings, articles, books, The Brookings Review, discussion groups, and links. [www.brookings.edu](http://www.brookings.edu)

The Cato Institute is a libertarian think tank promoting free market ideas. Its website offers a variety of articles and links. [www.cato.org](http://www.cato.org)

U.S. Department of Health and Human Services offers information about public policies related to health and other issues under their purview. [www.hhs.gov](http://www.hhs.gov)

Almanac of Policy Issues has a wide array of information about policy related issues and has numerous links to more information. [www.policyalmanac.org/social_welfare/index.shtml](http://www.policyalmanac.org/social_welfare/index.shtml)

### 13.82 | IN THE LIBRARY


**KEY TERMS**

Policy  
Public policy  
Domestic policies  
Foreign policy  
Agenda setting  
Policy adoption  
Policy evaluation  
Distributive policies  
Regulatory policies

**STUDY QUESTIONS**

1. How do issues get on the political and government agendas?
2. What issues are most likely to make it onto these agendas?
3. What are the stages of the policy process?
4. What are the challenges in implementing policy?
5. Describe the problem of unintended consequences.
6. How has policymaking changed over time?

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1 [http://www.fda.gov/safety/recalls/default.htm](http://www.fda.gov/safety/recalls/default.htm)
5 [http://www.npr.org/player/v2/mediaPlayer.html?action=1&t=1&islist=false&id=129931999&m=129984296](http://www.npr.org/player/v2/mediaPlayer.html?action=1&t=1&islist=false&id=129931999&m=129984296)