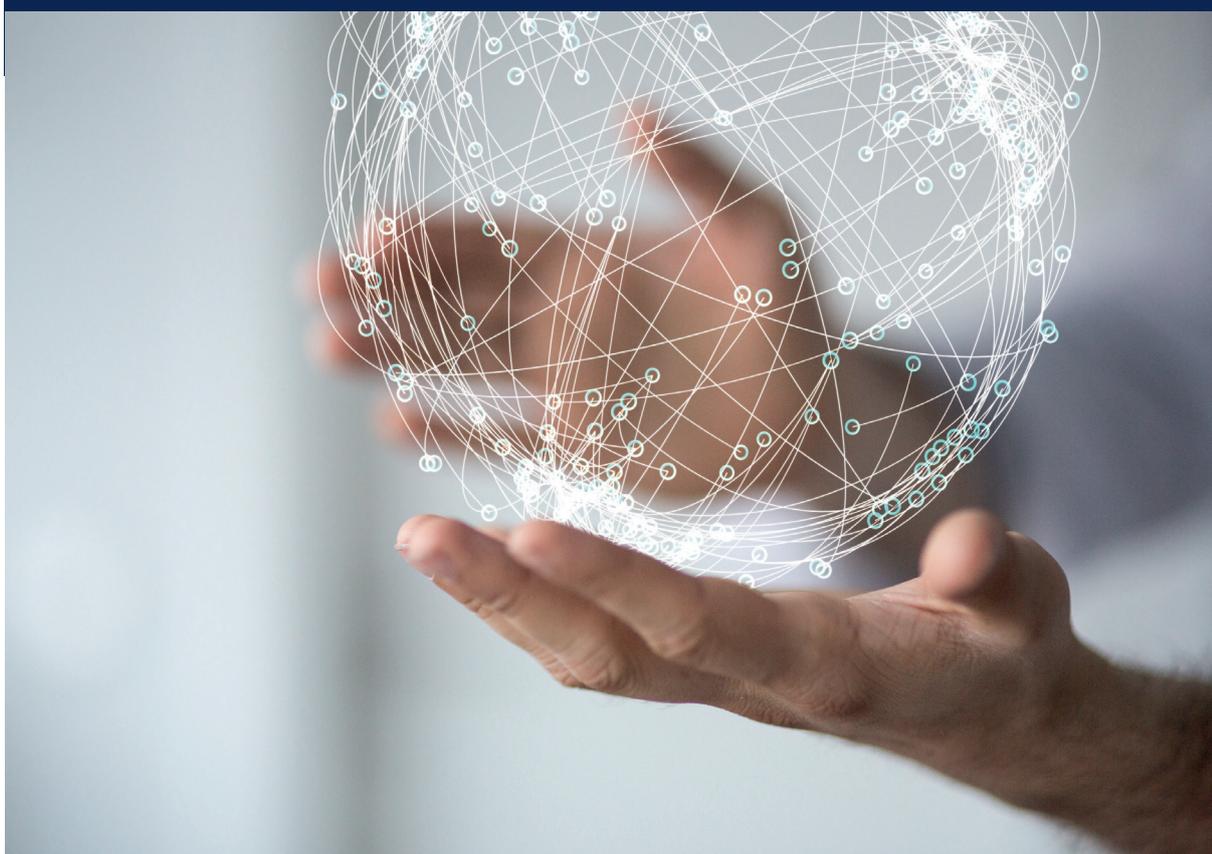


**SGI** Sustainable  
Governance  
Indicators

## 2014 United States Report

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## Executive Summary

The period from 2011 to 2013 in the United States has been marked by signs of progress, in particular with regard to the slow but increasing strength of economic recovery, but also by widespread frustration with the failure to address serious long-term budget problems or simply avoid costly policy deadlock. The state of affairs in U.S. governance is not easily captured in summary by the comparative indicators of the SGI. On most SGI indicators regarding the quality of democracy, the United States continues to receive positive marks, as in past editions of the SGI. Technically, U.S. citizens enjoy the rights of free participation in vigorously contested elections that are governed by generally fair procedures. However, during the 2012 presidential election campaign, Republicans in numerous states made transparent attempts to obstruct or deter blacks and other minorities from voting. But Democratic politicians and advocates for minorities managed to defeat these efforts through judicial appeals and organized mobilization, generating a strong increase in minority turnout.

In terms of the SGI indicators assessing the capacity for good governance, the United States receives satisfactory scores. Specific strong points include congressional staff resources, Congress's ability to scrutinize executive performance, and the executive's internal coordination and direction. U.S. presidents have great resources to exert control over executive agencies. They need such control, however, because unlike the situation in parliamentary systems, Congress competes with the president to control the bureaucracy – often in collaboration with parochial agency constituencies.

But in recent years, the U.S. political system has grown increasingly captive to discrete but powerful social interests. The need to respond to what are often conflicting interests in an increasingly public manner has undermined attempts to pursue thoughtful, long-term oriented policymaking that is built on the deliberations of consensus-building. Indeed, consensus-building efforts within government and across the nation, has grown increasingly untenable in recent years as an increasing number of interest groups have proven capable of blocking change. Thus, the U.S. administration's capacity to govern has been increasingly challenged by the growing intensity of highly polarized and

ideological conflicts between the two key political parties, the Democratic and Republican parties.

There were few important policy developments during the period under consideration. The economic recovery continued slowly, with unemployment falling below 8%, from a 2009 peak that exceeded 10%. President Obama's health care reform was upheld in a divisive decision by the Supreme Court. Both health care and financial regulatory reforms moved toward implementation during the period under review (note: the problems with the health care website did not take place until after the end of the SGI review period and are therefore not included in this report). But Congress did not take up a climate-change measure and immigration reform. The 2012 election, meanwhile, changed very little. The Democrats retained the presidency and gained seats in the House and Senate; but the House (owing to partisan advantages in the current decade's redistricting battles) remained solidly Republican. Apart from a potentially successful bipartisan Senate initiative on immigration reform, the 113th Congress appears to be just as ridden with gridlock as the preceding one.

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## Key Challenges

Despite rigid ideological divides within the United States on how to propel the country forward, nonpartisan U.S. policy experts largely agree on a number of issues. Economically, for the immediate future, the government needs to keep taxes down and spending up – the opposite of the policy direction of the last two years – in order to sustain the historically slow and weak recovery. The austerity policy currently in place puts an unfair burden on the poor, without compensating future advantages. For the long term, the government needs to bring revenue and expenditure into balance. That would require higher taxes, not limited to the wealthiest 2% of taxpayers. It would also require reform of middle-class entitlement programs, Social Security and Medicare, to control costs in the face of an aging population. The actual incidence of the deficit reductions ranges from five to 25 years in the future. But for the sake of confidence in the U.S. economy and the dollar, appropriate policies need to be enacted as soon as possible.

There is a broad consensus among several reputable policy institutes and commentators regarding the general direction in which changes should be made. The U.S. government should act on a number of other compelling problems. It should enact immigration reform, restructure public schools, and adopt a legislative response (such as a cap-and-trade bill) on climate change, to name a few.

Yet none of the above will be possible if the United States fails to overcome the ideologically polarized and partisan gridlock in Congress, which is currently the fundamental challenge for sustainable governance. At the most general level, there are two potential strategies: First, the United States could find ways to elect more moderates and centrists to public office, especially legislative office. Reformed redistricting processes for House seats – touted as a solution by some – would have little effect, as the polarization of the Senate demonstrates. One suggestion is mandatory voting, which would increase turnout among the least engaged and least ideologically-minded voters, but such a measure has little chance of gaining popular support. The adoption of nonpartisan nomination processes, such as the top-two system recently established in California, could favor moderate candidates. But the political circumstances that make such a reform possible are unusual, and it is not yet clear whether it will have a major moderating effect. There thus seems to be no clear and workable path toward electing more moderates, unless voters (despite the increasingly ideological media) tire of ideologues following the experience of governmental failure.

Second, the United States could reform electoral or governing institutions to make them workable with ideologically polarized elected officials. The states could change ballot formats in ways that would encourage straight party-ticket voting and make divided party control of government less likely in the two years after a presidential election. To make divided government rare or impossible, however, would require unattainable constitutional amendments. The Senate should certainly reform the filibuster beyond the banning of filibusters against non-Supreme Court presidential nominations, so that at least each of the three elected policymaking institutions is separately able to act.

The most plausible means to make governing institutions workable, despite polarization, however, would be to rely upon a long-standing tradition in American government: expansion of the president's unilateral power by his own action, justified on the basis of vague constitutional language (such as "the executive power") and necessity. To begin with, the president certainly could discontinue the legally incoherent practice of seeking separate legislative

authorization to implement the arithmetic consequences of taxing and spending laws that Congress has duly enacted – and increase the debt limit, as needed, unilaterally. Beyond that, he could assume new forms of fiscal discretion – impounding appropriated funds, imposing narrow constructions of tax deductions, and the like – as needed to more closely approach acceptable aggregate fiscal outcomes. He could interpret regulatory authority broadly, stretching the terms of existing law. Finally, he could use the leverage provided by all these powers aggressively to induce constructive action by Congress. In short, presidents could seek to realize the possibilities for a so-called Imperial Presidency that lie within the conflicts and ambiguities of the constitutional system.

# Policy Performance

## I. Economic Policies

### Economy

Economic Policy  
Score: 7

Over the long term, the United States has maintained economic policies that have effectively promoted international competitiveness and economic growth. Compared with other developed democracies, the United States has had low taxes, less regulation, lower levels of unionization, and greater openness to foreign trade. Although these policies have had costs with respect to social conditions, the country has enjoyed superior growth, capital formation, and competitiveness over the past two decades.

Obama's economic policy was shaped by the 2008 financial and economic crisis. The Obama administration continued President George W. Bush's expansionary fiscal policy to stimulate the economy. Some economists criticized the stimulus package as too small, but at least the U.S. economy is recovering. By the third quarter of 2009, GDP growth turned positive again and, in March 2010, job losses stopped. Congressional Republicans and some moderate Democrats have strongly and effectively opposed further stimulation. To prevent a similar crisis in the future, Obama initiated several regulatory reforms. In July 2010, for example, the Dodd-Frank Wall Street Reform Act, designed to improve regulations of eight areas that led to the financial crisis, became law. Additionally, the Consumer Financial Protection Agency improved regulations of credit cards and mortgages. Furthermore, health care reform was partly implemented to control the costs and reduce the federal deficit.

From a long-term standpoint, the U.S. government has been unable to implement a combination of spending cuts (especially reforms of the middle-class entitlement programs, Medicare and Social Security) and tax increases that would produce declining budget deficits and stabilization of the federal

debt over a 10 year period. In the context of the ongoing polarization in Congress, Democrats and Republicans have been unable to agree on an appropriate policy to reduce the federal deficit, as the negotiations surrounding the “fiscal cliff” and the resulting sequester have demonstrated. The long-term debt picture has serious implications for monetary stability, and it reduces business confidence. In 2011, for the first time, U.S. treasury bonds lost their historic AAA rating from the rating agency Standard & Poor’s, although the bond market appeared to ignore the change.

### Labor Markets

Labor Market Policy  
Score: 6

The United States continues to have one of the least regulated and least unionized labor markets in the OECD world, with union membership at less than 6.6% of private sector workers and 35.9% of public sector workers in 2012. Apart from the relatively difficult conditions for labor unions – which provide some boost to employment – the U.S. government plays a minimal role in promoting labor mobility and providing support for training and placement.

The central feature of the last three years, with regard to labor market policy, has been an attack on public employees’ unions in a number of states with Republican governors and legislatures elected in the 2010 mid-term elections. Several states (Maine, Alabama, Ohio, Arizona, and Wisconsin) weakened public employee union rights to collective bargaining. Notably, Michigan, long a bastion of union power, became the 24th state with a “right-to-work” law, prohibiting a requirement of union membership as a condition for employment (in effect, making union dues voluntary for employees).

Meanwhile, federal policies have done little to address a growing problem of long-term unemployment. As of May 2013, 4.1% of the labor force had been unemployed for at least 27 weeks. The number of people who receive disability benefits has increased by 100% since 1995 – a trend that partly reflects the ability of some discouraged workers to obtain a secure, though reduced income by qualifying as disabled. Overall, the employment benefits of relatively free labor markets with low levels of unionization are balanced against a lack of positive governmental measures to promote labor mobility, enhance training, or deal with long-term unemployment. The result has been a middling level of unemployment, by OECD standards, though with much more severe levels among racial minorities and among older workers who lost jobs during the recession.

Tax Policy  
Score: 5

## Taxes

The U.S. tax system is distinctive in several important respects. Specifically, it does not produce enough revenue to reduce the deficit, tax policy is highly responsive to special interests (resulting in extreme complexity and differing treatment of different categories of income) and the redistributive effect of the tax system is very low. The tax system has performed poorly with respect to equity, both horizontally and vertically. Certain industries, such as the oil industry, receive special benefits worth billions of dollars. More specifically, a “percentage depletion allowance” compensates firms merely for selling a natural resource. Additionally, certain kinds of consumption are favored: for example, a mortgage interest tax deduction favors homeowners over renters. And many high-income earners pay an effective tax rate that, after deductions, is lower than the rate for middle-class earners. Despite these shortcomings, the U.S. tax system performs very well with respect to competitiveness, since the overall tax burden ranks near the bottom of the OECD rankings.

In the 2012 year-end negotiations to prevent the so-called “fiscal-cliff” tax increases and spending cuts, Congress and the president agreed on limited increases in revenues. They modified the alternative minimum tax, permanently limiting its impact on high-income taxpayers, and made permanent the otherwise expiring Bush-era reductions in tax rates for most brackets. Increased revenues came mainly from raising the top rate to 39.6% for individuals earning more than \$400,000 and families earning more than \$450,000, though the president had sought to raise rates on individuals earning more than \$250,000. Still, with increased revenues expected from the economic recovery, the Congressional Budget Office estimated that the budget deficit will decline to 5.3% of GDP in 2013, down from 8.7% in 2011 and 7.0% in 2012.

Citation:

Congressional Budget Office, The Budget and Economic Outlook: Fiscal Years 2010 to 2020, February 5, 2013. Accessed on May 5, 2013. <http://www.cbo.gov/sites/default/files/cbofiles/attachments/43907-BudgetOutlook.pdf>

## Budgets

Budgetary Policy  
Score: 3

The condition of budget policy in the United States is quite complex and raises different concerns depending on the time perspective of the assessment. In the depths of the 2008 –2009 recession, the budget deficit, enlarged by the fiscal stimulus, reached \$1.4 trillion, or 9.9% of GDP. While the deficit shrunk to 7% of GDP in 2012, recovery has been too slow to stimulate economic growth. At the same time, long-term deficits are by all accounts seriously beyond acceptable levels. As the Congressional Budget Office testified in 2013, “Under current law, federal debt appears to be on an unsustainable path.” The primary cause of this condition, in addition to the severe limits on revenues, is the growth of the elderly population and the generous terms of Medicare and Social Security – health care for the aged and retirement benefits. Faced with such challenges, lawmakers of all political persuasions are calling for reform.

Yet since the mid-term election in 2010, Republicans and Democrats have failed to find a budget policy compromise. The president and congressional Democrats have defended entitlement programs against even modest reductions in spending, almost as rigidly as Republicans have opposed increased taxes. In short, U.S. budget policy provides too little current stimulus to promote robust growth; seriously fails to balance revenues and spending over a 10-20 year period; and yet underfunds most government services– from infrastructure and border security to environmental regulation and R&D.

## Research and Innovation

R&I Policy  
Score: 8

The United States has traditionally invested heavily in research and development, but the recent recession and the country’s problematic budget politics seem to be changing that. U.S. innovative capacity is a product of funding from a mix of private and public institutions. Certain public institutions stand out, particularly the National Science Foundation, the various federal laboratories, the National Institute of Health, and various research institutions attached to federal agencies. In addition, there is a vast array of federally supported military research, which often has spillover benefits. In recent years, total U.S. R&D stood at roughly \$400 billion, or 2.75% of GDP, of which about one-third (.3 billion) was direct federal R&D funding. President Obama put forward the goal of raising total R&D spending to 3% of GDP. Unfortunately, these ambitious plans have fallen by the wayside. The recent demands for spending cuts and the across-the-board sequester cuts, if not reversed, will result in stagnating federal R&D spending. Spending on

innovations in health, energy, agriculture, and defense, among other areas, will be affected. Instead of Obama's proposed growth, federal research and development will fall back to 2007 levels and then increase only slowly – declining sharply as a percentage of GDP.

### Global Financial System

Stabilizing Global  
Financial Markets  
Score: 8

The United States has generally promoted prudent financial services regulation at the international level. This includes participation in international reform efforts at the G20, in the Financial Stability Board (FSB), and in the Basel Committee on Banking Supervision (BCSC). U.S. negotiators played a major role in developing the Basel III capital rules, adopted in June 2011, and the liquidity rules, adopted in January 2013. The global nature of the recent financial crisis necessitated a multilateral approach and the promotion of a robust financial policy architecture. The Obama administration took the initiative to make the G-20 into a new enlarged “steering group” for global financial policy. This reconfiguration could not have become reality without strong U.S. engagement. With respect to the national regulatory framework, U.S. regulatory bodies are in the process of developing the rules required by the Dodd-Frank Act. In general, the United States is expected to integrate the international standards from the FSB and the BCSC into the Dodd-Frank rules, although it modifies some of them. U.S. regulators generally prefer stronger rules that international standards require. However, lobbying by the powerful financial services industry will likely weaken the U.S. standards.

## II. Social Policies

### Education

Education Policy  
Score: 7

The performance of primary and secondary education in the United States has long been disappointing. High school graduation rates, although rising from 1996 to 2006, remain low, at about 70%, in an education system that largely lacks vocational alternatives to high school. High school students' performance in science, math and reading is below that in most wealthy OECD countries. Yet the educational system is generously funded. Its shortcomings are the result of several factors, namely the impact of unionization and collective bargaining on assessment practices and teacher performance; deficiencies in the home environments of many children in low-income, minority neighborhoods; and

lack of accountability for outcomes in a fragmented system.

Traditionally, elementary and secondary education were run by local school boards, state boards, and state education departments, with minimal intervention by the federal government. Proposed reforms often encounter intense opposition from teachers' unions, which are among the most powerful lobbies in the United States. Some promising programs introduce more freedom and opportunity in the educational system, yet they do not reach enough children. School vouchers, which are subsidies given to parents for tuition at any school, and which introduce parental choice and competition, play a marginal role. Likewise, charter schools, which entail greater parental involvement and are exempt from some state regulations, enroll only 2% of the student population.

During the George W. Bush and Obama presidencies, the federal role has expanded dramatically. The Bush Administration's No Child Left Behind (NCLB) Act mandated state-run programs of testing, with poor-performing schools to be penalized and ultimately closed. Federal involvement has become more extensive and ambitious during the Obama administration. Under Obama, the economic stimulus program— the American Recovery and Reinvestment Act of 2009 (ARRA)— provided \$73 billion to stabilize state education budgets and support school construction and modernization. Moreover, Obama initiated an ambitious program of competitive grants – the Race to the Top— that has offered states financial inducements to propose and adopt reforms.

### **Social Inclusion**

Social Inclusion  
Policy  
Score: 6

The United States has long had exceptionally high levels of economic inequality, and these levels have been increasing dramatically. In recent years, there has been persistent poverty along with exceptionally large gains for the top 1% and especially the top 0.1% of the income scale. The United States ranks in the top (i.e. worst) five among 41 OECD countries in the proportion of the population (17.3%) that receives less than 50% of the median income. The richest 1% of Americans in 2005 claimed 19% of the nation's income, the most since the beginning of the Great Depression in 1929. Using a variety of relatively recent data sources on sixteen "long-standing democracies in advanced economies," Stepan and Linz show that the United States compared to other developed countries has the highest poverty rate for single mothers (both before and after transfers), the smallest effect of transfers on that poverty rate, the highest poverty rate for individuals over 60 years old, and the highest overall level of economic inequality (Gini index). Poverty has increased as a

result of the recession in 2008, and is especially high among blacks and Hispanics.

Although the Obama administration has not focused specifically on poverty, a number of Obama initiatives especially benefit low-income families. Many elements of the stimulus package (the American Recovery and Reinvestment Act, or ARRA) tried to address the hardship caused by the recession. These included an extension of employment benefits and increases in benefits; transfers to the states for Medicaid, education and housing; increasing benefits for families with children; increasing food stamp benefits and expanding tax credits for the working poor. The Affordable Care Act expands Medicaid health coverage to an enlarged share of the low-income population. The Earned Income Tax Credit was, in the past, a significant factor in lifting families out of poverty while rewarding work. Currently, however, it provides minimal benefit to individuals and families without children.

In general, Obama's major social policy initiatives are just implemented on a temporary basis. All together, the social policy approach of the Obama Administration is to rely heavily on tax policy instruments that benefit working poor households and help the non-working poor to a lesser degree.

Citation:

Stepan, Alfred, and Juan J. Linz (2011). Comparative Perspectives on Inequality and the Quality of Democracy in the United States. *Perspectives on Politics*, 9, pp 841–856 doi:10.1017/S1537592711003756

## Health

Health Policy  
Score: 7

In March 2010, Congress enacted the Patient Protection and Affordable Care Act (ACA), thereby implementing major parts of Obama's reform proposal. The main goals of the legislation are to lower costs in the health care sector and extend health care coverage to more people. The design of the ACA is essentially to fill gaps in the patchwork of financing arrangements that are embodied in the existing health care system. Specifically, it provides a mandate for employers of a given size to provide coverage for employees; it requires individuals (not otherwise covered) to obtain coverage, providing subsidies for individuals who otherwise cannot afford coverage; it expands the state-administered Medicaid program for low-income citizens, raising the income ceiling for eligibility; it requires health insurers to extend coverage of an insured family's children to the age of 25; and it prohibits insurers from denying coverage on the basis of "pre-existing conditions." Although it will not achieve universal coverage, it is projected to increase coverage from 83% to

94% of the population. Many of those not covered will be healthy young people who could afford coverage but who choose to pay the penalty associated with the individual mandate rather than pay out of pocket for insurance. According to calculations by the Congressional Budget Office, the ACA will reduce the federal deficit by \$85 billion.

Health care reform was a highly controversial topic and still is a contested political issue. Republicans in the House voted 37 times to repeal “Obamacare.” Public opinion has been fairly evenly divided on approval versus disapproval of the bill – although a large fraction of those who disapprove believe that the bill did not go far enough. As of 2013, the administration is in the throes of an extraordinarily difficult implementation process, with many provisions going into effect between 2014 and 2019. Some state governments, especially those headed by Republican governors, have so far declined to provide the expanded Medicaid coverage to low-income families, even though the federal government would pay 90% of the cost. Other states are also declining to set up state-level insurance cooperatives for individual purchases of insurance.

Meanwhile, the ACA has no major provisions that will help reduce health care costs. The health care system – accounting for about 17% of GDP in one of the world’s wealthiest economies, and yet producing worse health and longevity results than many other countries experience – will continue to be highly wasteful.

### **Families**

Family Policy  
Score: 8

The United States provides significant support for families (tax benefits; short-term leave) with children for the purpose of enabling mothers to be employed outside the home. The policies have the greatest effect for poor families, especially single mothers. In the end, the United States has a relatively high rate of working mothers, and women have made significant advances into high status and high-income careers.

The Family and Medical Leave Act of 1993 requires employers with at least fifty workers to allow 12 weeks of unpaid leave for childcare – a useful benefit only for a family that can afford to forego the income. In order to make childcare more available to low- and moderate-income families, the Obama administration increased by \$2 billion support through the Child Care and Development Fund (CCDF), a block grant going to state governments. As of 2011, tax benefits for families with children included: a dependent exemption,

a child tax credit, an earned-income tax credit (based on the family's number of children), and a child and dependent care tax credit, as well as two tuition-related tax benefits for postsecondary education. As a result, child care costs as a percentage of income – net of government benefits – is lower in the United States than in most OECD countries, and for low-income, single mothers, much lower. In the period since the Republican takeover of the House, the administration has proposed additional enhancements. In his 2011 budget, Obama proposed to double the child and dependent care tax credit, which would rise to a maximum of \$6,000 per household.

Women in the United States have had advantages for combining family and work apart from support by the federal government. Some state and local programs are designed to help women make work and raising children compatible. In fact, mothers in the United States, both single and with partners, are employed at higher rates – above 75% – than in a majority of OECD countries, including France and Germany. Moreover, the United States has a high birth rate among industrial countries – close to the replacement level – with above-average fertility for native-born as well as immigrant women.

### Pensions

Pension Policy  
Score: 7

The United States has had major difficulties developing sustainable pension policies. The Social Security retirement system is one leg of the pension system, complementing a private system of company-based saving plans (so-called 401k plans) that receive tax subsidies, and a variety of private retirement accounts. Social Security is funded by mandatory employee and employer contributions, totaling 12.4% of wages, on wages up to \$110,000 per year. The wage replacement rate of the public system is on average 45%, below the OECD average – with higher rates for people with lower incomes. Benefits from company-based and private accounts raise the wage-replacement rate to 80% for those who participated in these programs. But 78 million Americans have no access to company-based retirement plans. In addition, the financial crisis has hit the asset base of pension funds, resulting in current or future failure to make full payments. The Social Security funding shortfall has been politically intractable – with Democrats blocking benefit cuts (including reductions of scheduled benefit increases) and Republicans blocking increases in the payroll tax. Along with the related health-care program for the aged, Medicare, the Social Security retirement program is at the center of the country's long-term fiscal difficulties.

With respect to the three goals of pension systems, the U.S. pension system is partially successful in reducing poverty among the elderly. (The elderly poverty rate is high by OECD standards, but not as high as the general U.S. poverty rate.) The system is hard to assess with respect to intergenerational equity. Historically, each succeeding retirement cohort has received generous subsidies from current workers, but the growth of the elderly population threatens coming retirement cohorts with potential losses of expected benefits. The system is currently at risk with respect to financial sustainability.

### Integration

Integration Policy  
Score: 7

According to data of the Migrant Integration Policy Index, the United States ranked ninth out of 31 analyzed countries, but first in terms of its strong anti-discrimination laws and protection. The United States also ranked high in a comparative perspective on the access to citizenship scale because it encourages immigrants to become citizens. Legal immigrants enjoy good (but often low-paid) employment opportunities and educational opportunities. The United States is doing less well, however, with regard to family reunification. Many legal permanent residents cannot apply for visas for their families and during the review period, no one in the United States has the right to apply for a visa to sponsor their foreign homosexual partner. Several states are taking the lead on immigration integration. Despite efforts, complex integration laws, limited visa availability, high fees, and long backlogs make it challenging for immigrants to integrate.

A large fraction of the immigration to the United States has consisted of illegal immigrants, most of whom have crossed the border from Mexico, and who may live, work, and pay taxes in the United States for their entire adult lives without ever becoming legal residents. These illegal immigrants account for nearly one-third of the immigrant population, 12-15 million individuals and 3%-4% of the population of the country. These illegal immigrants have been in effect tolerated, and even virtually invited by the ease of illegal entry, for their economic contributions – often as agricultural workers or in low-paying service occupations. Children of illegal immigrants have attended public schools, and businesses that employed illegal immigrants have not been subjected to effective sanctions. As of May 2013, congressional leaders of both parties are seeking to develop a major immigration reform bill that would improve border security, reduce illegal entry, and define a path toward legal residence and citizenship for long-term illegal immigrants. However, given its record, the ability of Congress to reach an agreement on reform measures is in doubt.

## Citation:

Immigration Policy Center, The Migrant Integration Policy Index (MIPEX III). What the result mean for the U.S., <http://www.mipex.eu/usa>, accessed June, 17, 2013.

**Safe Living**

Safe Living  
Conditions  
Score: 6

The United States invests massively in efforts to protect citizens against security risks such as crime and terrorism, and for the most part, it is successful. The degree of success varies, however, depending on the kind of security threat. In the years after 9/11, the United States built an extraordinarily large security establishment centered in the Department of Homeland Security, the Federal Bureau of Investigation, the Central Intelligence Agency and the National Security Agency – the latter which specializes in intercepting and monitoring telephone communications. The United States has assumed that international terrorist groups, such as Al Qaeda, regard the country and its citizens as their primary targets, and that efforts to attack the United States are always underway. It views homegrown terrorists, sympathetic to radical Islamist or other terrorist groups, but not trained or directed by them, as an additional threat.

The federal government has, therefore, invested heavily in a wide range of measures and resources, such as heightened airport security procedures and equipment, equipment for inspecting cargo coming through ports, training for first-responders, and capability for monitoring international communication, among other things. These efforts have been successful in preventing attacks in the United States beyond any reasonable expectation. Indeed, from September 2001 until April 2013, there were no major, successful terrorist attacks on American territory. Security officials successfully blocked a number of attempts.

It is hard to assess the degree to which this success reflects extraordinary intelligence and detection capability, an unexpected lack of resources or organization on the part of terrorists, or both. Nevertheless, the Boston Marathon bombings – which resulted in three deaths and 246 hospitalized with injuries – demonstrated that the anti-terrorist security establishment is not impregnable. Subsequent investigation indicated that the two bombers had planned their attack alone, using information from the Internet and equipment and materials that are readily available. The Boston attacks suggest, therefore, that there are limits to feasible prevention of attacks.

The government has had less success dealing with two other kinds of violence. First, large cities are plagued by homicides, primarily in inner city black and Latino neighborhoods. New Orleans, St. Louis, Baltimore, and Detroit are all among the world's 50 cities with the highest homicide rates. While gun violence in the United States is high compared with other OECD countries, the firearm homicide rate is down 49% from its peak in 1993. Second, deranged individuals (without political or religious motives) have used semi-automatic weapons with large ammunition clips to kill large numbers of people at movie theaters, college campuses, religious temples, schools and other sites. In December 2012, a shooter killed twenty children and six adult staff members at an elementary school in Sandy Hook, Connecticut. Under pressure from the National Rifle Association and its mass membership, Congress failed to pass legislation imposing background checks for the purchase of a gun or limiting the size of ammunition magazines – measures with overwhelming public support.

### **Global Inequalities**

Global Social Policy  
Score: 7

The United States is an important player in global social policy because it provides a large share of the world's development assistance. Relative to the size of its economy, however, its efforts lag behind all of the other wealthy OECD democracies except Italy and Japan. For most of the postwar era, U.S. foreign aid, though very large in absolute terms, has had four features that have reduced its impact on economic development and welfare in poor countries. One, it has been modest in amount, relative to national income. Secondly, U.S. aid has been heavily skewed toward military assistance. Thirdly, The United States has not always coordinated its assistance with international organizations. In 2010, only 7% of U.S. aid was channeled through international development banks, although U.S. contributions amounted to 23% of the funding for such banks. And lastly, U.S. food assistance has been designed to benefit U.S. agricultural, shipping, and commercial interests along with the aid recipients.

Presidents Bush and Obama have both made major efforts to reorient U.S. foreign aid. The Bush administration accomplished a transformation of aid policy by reducing the emphasis on military spending, increasing health assistance (especially, and effectively, for AIDS prevention and treatment through the President's Emergency Plan for AIDS Relief, or PEPFAR), and focusing economic assistance on countries with stable democratic political systems and commitment to long-term, pro-business development strategies. President Obama has continued in this direction and in his 2014 budget has

proposed both a major increase in overall funding and a dramatic shift toward regional, rather than U.S. domestic, purchases of food. With the current partisan division of Congress, however, and the strong interest-group opposition, the proposal does not have strong prospects for adoption.

Citation:

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Gibler, Douglas M. and Steve V. Miller, Comparing the Foreign Aid Policies of Presidents Bush and Obama. *Social Science Quarterly* 93, 5, 2012, 1202-1217

### III. Environmental Policies

#### Environment

Environmental  
Policy  
Score: 6

The United States has had ambitious environmental programs since the early 1970s. By the 1990s, major enactments covered the entire range of significant environmental concerns— including water resources, wetlands, endangered species, and protection of forests. In some areas, such as hazardous waste management and new sources of air pollution, environmental controls have imposed excessive costs. The issue of climate change, however, is unlike any previous environmental issue. Effective action requires imposing costly controls for the sake of benefits that will occur years or even decades in the future and that will affect the rest of the world as much as the United States itself. In this context, the public has responded to objections that developing countries, especially China and India, are not doing their fair share in reducing the growth of greenhouse gas (GHG) emissions. In spring 2013, only 42% of the American public said that average temperatures on earth have been getting warmer for the past few decades and that it has been mostly because of human activity.

President Obama, in both his 2008 and his 2012 election campaigns, promised to make effective action on climate change a major priority. In 2009 – 2010, when he enjoyed Democratic majorities (and for a short period a filibuster-proof majority in the Senate), he pushed for a major cap-and-trade bill, but the measure failed in the Senate. Nevertheless, a number of constructive developments have occurred. The Environmental Protection Agency has imposed several major measures – including increased fuel-economy standards

for cars and light trucks, and carbon standards for new coal plants. At the same time, about 30 states have passed laws requiring greater use of renewable energy by electric power plants. In addition, California has established its own cap-and-trade policy. Most importantly, recent sharp declines in the cost of natural gas have reduced the use of coal, with significant reduction in GHG emissions. Remarkably, despite the failure to enact cap-and-trade, the United States is on pace to cut carbon emissions an estimated 16.3% by 2020, consistent with international expectations.

### **Global Environmental Protection**

Global  
Environmental  
Policy  
Score: 5

From the late 1960s to the early 1990s, the United States exercised leadership on a wide range of international environmental issues. The European Union was often a reluctant participant, although it eventually ratified all the significant international agreements during the period. The 1997 Kyoto Protocol on greenhouse gases (GHGs), however, was a turning point, as the Clinton administration signed the protocol, committing the United States to a schedule of emission reductions, but abandoned an evidently doomed effort to win Senate ratification. In 2001 the Bush administration formally withdrew the U.S.'s endorsement of the protocol. Like most other countries, the United States has failed to achieve the GHG reductions it called for. In the 2000s, the EU has led most efforts to negotiate multilateral environmental agreements. Especially during the Bush administration from 2001 – 2008, the United States has most often called for weaker provisions. The Obama administration has sharply reversed Bush's policy direction on environmental issues, especially climate change, for the executive branch. But limited support from Congress and the public have constrained U.S. positions in international negotiations. Although the United States rejoined the United Nations process on climate change at Copenhagen in 2009 and Cancun in 2010, it has taken a hard line on the developing countries, and resisted ambitious commitments for its own emission reductions – partly accounting for the failure of the negotiations to establish firm targets to succeed the 2008 –2012 Kyoto targets.

# Quality of Democracy

## Electoral Processes

Candidacy  
Procedures  
Score: 10

Procedures for registering parties and candidates are fair and nondiscriminatory. State governments determine the requirements for ballot access, so the details vary across states. All states, however, require a party or candidate to collect signatures on a petition and to file the petition by a specified deadline. Parties and candidates who meet the requirements are included on the ballots. In addition to the dominant Democratic and Republican parties, several minor parties or independent candidates are often included. In some cases, the requirements may be a burden for smaller parties or independent candidates in primary elections. Candidates who get a late start, or who lack organization or financial support, may fail to qualify. In fact, in the 2012 Republican presidential nomination contest, several major candidates did not qualify for the Virginia primary, and one of them, former Speaker of the House Newt Gingrich, criticized the complexity of the signature requirements. But, in general, ballot access has not been controversial, and no major problems were reported in the last election cycle.

Media Access  
Score: 7

In a formal and legal sense, media access is fair, although the U.S. media exhibit some significant biases. There are only modest publicly funded media: the Public Broadcasting System (PBS, for television); National Public Radio (NPR); and C-SPAN (live television coverage of congressional hearings and debates, academic conferences, and other events). Most media organizations are privately owned, for-profit enterprises. Private media organizations are formally independent of the political parties and the government and at least nominally have independent editorial policies. Nevertheless, media content reflects several biases. Minor parties are rarely covered in news stories because they do not hold office and rarely have the leverage in policy debates that would make their positions newsworthy. In this respect, the media merely reflect the reality of the two-party system. In election campaigns, media coverage of candidates and parties generally reflects the strength and popularity of the competing campaigns – with more favorable coverage going to the leading candidate, regardless of party.

Finally, in election campaigns, media messages are dominated by paid advertising. Such advertising can reflect massive imbalances in the fund-raising capabilities of the opposing candidates or parties – with a modest, inconsistent advantage for the Republicans. The overwhelming volume of paid advertising certainly reduces the benefit of the major parties’ relatively free and equal access to news coverage.

Citation:

Iyengar, Shanto, and Kyu S. Hahn, Red media, blue media: Evidence of ideological selectivity in media use, *Journal of Communication*, 59 (2009) 19–39.

Voting and  
Registrations Rights  
Score: 8

Voter registration is subject to regulation by the federal government, but it is administered by the states, which vary in how they administer it. Most discriminatory practices have been eliminated through federal regulation and enforcement in the last 50 years. It is important to note that in most states, voters have to apply to be added to the rolls. The provisions for registration vary a lot between the states, making the process complex and hard to understand. Some scholars link complex procedures in registration to lower voter turnout rates.

Moreover, during the 2011 legislative sessions, Republicans pushed forward measures that made it harder for some groups to vote. The Republican lawmakers argued better voter identification laws were needed to prevent voter fraud and abuse, but Democrats pointed out that such abuse occurs on an insignificant level. Critics accused Republicans of simply trying to make it harder for some Americans – particularly typically Democratic voters such as African-Americans, the elderly, students and people with disabilities – to exercise their fundamental right to cast a ballot. By October 2012, the month before the presidential election, 24 states either had passed or were considering legislation that would tend to restrict opportunities for voting. Some of the measures were delayed by the U.S. Department of Justice, under the Voting Rights Act, or had been repealed after popular protest or through citizen-initiated referendums.

On a different front, the U.S. Supreme Court decided with a 5:4 majority not to uphold Congress’s 2006 25-year extension of the section of the Voting Rights Act that requires specified states or counties with a history of discrimination to pre-clear changes in voting laws with the U.S. Justice Department.

Citation:

Brennan Center for Justice, 2012 voting law changes: Passed and pending legislation that has the potential to suppress the vote, October 3, 2012. Accessed on April 30, 2013. [http://www.brennancenter.org/sites/default/files/legacy/Democracy/VRE/Passed\\_Pending\\_Legislation.pdf](http://www.brennancenter.org/sites/default/files/legacy/Democracy/VRE/Passed_Pending_Legislation.pdf)

Party Financing  
Score: 7

At the federal level, campaign finance law is enacted by Congress and enforced by the Federal Election Commission (FEC). The Federal Election Campaign Act of 1974 and the Bipartisan Campaign Reform Act of 2002 (McCain Feingold Act) made the system of contributions to candidate campaigns and political parties very transparent and strictly regulated. Although private contributions to parties and candidates are effectively controlled, so-called “independent expenditures” – where supporters spend funds for candidates’ benefit, usually by sponsoring campaign advertisements, without coordinating with them – have been subject to fewer, and steadily diminishing, constraints. More significantly, in the 2010 Supreme Court ruling, *Citizens United v. Federal Election Commission*, the court rejected any limits on private advertising in election campaigns. As a consequence, corporations and unions may raise and spend unlimited amounts of money on political advertising.

As a result, the 2010 and 2012 elections saw the rise of so-called Super PACs – political action committees able both to make unlimited contributions on behalf of parties or candidates, and to receive unlimited contributions from individuals, corporations or other entities. In short, a business firm, trade association, wealthy individual, or other entity can contribute literally any amount of money for campaigning on behalf of a party or candidate; they just cannot give it directly to the party or candidate. Neither the contributor nor the candidate or party can be held accountable, unless (as often occurs) the contributor wants to take the credit.

The 2012 presidential and congressional elections witnessed truly vast amounts of unaccountable private spending, in both primary and general elections, for both Congress and the presidency. “More than 400 super PACs spent more than \$600 million directly supporting or opposing candidates.” To date, empirical research has not demonstrated consistent or dramatic effects of private campaign contributions on policy decisions by senators or representatives – whose individual roll call votes provide convenient opportunity to test for such effects.

Citation:

Garrett, R. Sam, Super PACs in federal elections: Overview and issues for Congress, Congressional Research Service, April 4, 2013. Accessed on May 1, 2013. [http://www.fas.org/sgp/crs/misc/R42\\_042.pdf](http://www.fas.org/sgp/crs/misc/R42_042.pdf)

Popular Decision-  
Making  
Score: 7

Popular decision making in the United States is weak at the federal level, but rather strong at the state and local level. The federal government does not have any provision for citizen initiatives or referendums. Citizens cannot, therefore, make binding policy decisions, or even advisory decisions through formal

mechanisms at the federal level. Yet, 24 state governments (especially in the western United States), and many local ones, provide rules for some forms of direct democracy. Ballot measures provide citizens the opportunity to discuss and vote on policy issues at the local level and state level. There are three basic types of ballot measures: initiatives, referendums and recalls. A ballot initiative is a proposal to change or create a law at the local or state level. Instead of relying on the legislature to make all of the laws, citizens can use the ballot initiative process to implement laws on their own. A referendum places a law that has already been passed by the legislature to a popular vote. Similar to a ballot initiative, it is a citizen led effort and a predetermined number of signatures is required to get the measure on the ballot. A recall is a process in which voter can remove an elected official from office before his or her term expires. Similar to other measures, a specified number or percentage of signatures is required for a recall election.

Since 2011, there have been some successful and unsuccessful recalls of mayors, state senators and governors in various cities and states. In the 2012 elections, Maine, Maryland and Washington approved same-sex marriage by popular vote. In Minnesota, a proposed constitutional amendment to ban same-sex marriage was defeated, the first time such an amendment has not passed, although Minnesota still maintains statutes that prohibit recognition of same-sex marriage. A measure in Massachusetts resulted in that state becoming the 18th U.S. state to allow medical cannabis. Voters in the states of Colorado and Washington chose by ballot measure to legalize cannabis outright, the first states to do so, whereas voters in Oregon chose to reject it.

While there are no ballot initiatives or referendums at the federal level, the Obama administration in 2011 opened a new website called “We the people,” giving people the chance to articulate petitions online. The White House originally required petitioners to gather 5,000 signatures within 30 days, after which time policy officials in the administration would review the petition and issue an official response. However, as of October 3, 2011, petitioners must gather 25,000 signatures in 30 days in order to get reviewed by administration officials.

### **Access to Information**

The United States maintains an unusually rigorous version of media freedom, based on the language of the First Amendment to the U.S. Constitution. The Obama White House briefly attempted to punish the blatantly biased Fox News cable channel as an “illegitimate” news organization by limiting the channel’s

access to the president. But in general, government interference in the media sector has been nearly non-existent. News organizations are rarely subject to damage suits, even for clearly false accusations against government officials because the Supreme Court has set a severe standard for libel suits in the case of public figures. They are rarely enjoined against publishing information because of court policies virtually prohibiting “prior restraint.”

The United States has tolerated considerable damage to governmental or national interests through the publication of secret information. In 2010, newspapers published excerpts from hundreds of classified American diplomatic cables illegally leaked to WikiLeaks, which in some cases embarrassed American officials or close allies. The U.S. government did not prosecute or even attempt to stop the newspapers, including the New York Times, from publishing the leaked information; the newspaper had not acted illegally in obtaining the documents. However, the member of the U.S. military that illegally provided the documents – Chelsea Manning – was convicted of espionage, theft and fraud.

Media Pluralism  
Score: 8

The media market is characterized by pluralism in the electronic and broadcast sectors. In recent years, however, an unprecedented consolidation has occurred in the media sector. The number of independent television station owners has dropped by 40% since 1995. During the same period, the number of commercial radio stations has dropped by 36%. Just five big media corporations control nearly 75% of primetime viewing. In addition, there has been a steady decline of competition in print media, especially local newspapers; few cities have more than one newspaper.

The main weakness in the contemporary U.S. news media is not providing access to diverse political perspectives, at least for the large majority of the population that has access to cable television or the Internet. Aggregating services such as Google News and RealClearPolitics.com provide one-stop free access to a wide range of political commentary –from the National Review, the Weekly Standard and Fox News on the right, to Mother Jones, the Nation and MSNBC on the left, as well as international sources such as Al Jazeera and BBC World News.

The main challenge with respect to pluralism is declining financial resources for actual news gathering and reporting, as opposed to commentary. A Pew Foundation study found that newspapers in 2012 had 30% fewer full-time professional employees than they had in 2000, reaching the lowest figure since 1978. The unfortunate consequence is that an increasing proportion of news coverage consists of statements made directly by politicians or public officials,

often without filtering or analysis by reporters. Essentially, reporters have been serving as “megaphones” rather than as investigators and objective analysts. In the 2012 election campaign, most statements about candidates or their records came from partisan pundits rather than reporters.

Citation:

Mitchell, Amy (eds.), “The State of the News Media 2013,” Pew Research Center, Project for Excellence in Journalism, March 18, 2013. Accessed on May 6, 2013. <http://stateofthemedias.org>

Access to  
Government  
Information  
Score: 9

The Freedom of Information Act (FOIA) allows citizens a high degree of access to documents and files held by federal agencies. Various categories of information are exempt, such as information related to national defense, personnel rules and practices, ongoing criminal investigations, and participation in legal cases. Citizens must file a formal request to receive documents. If the request is denied, the applicant can bring the case to the courts. Agency administrators and the presidential administration have considerable discretion about how easily to permit access, as citizens and researchers have difficulty knowing when relevant information has been upheld. According to a late 2011 report by the National Journal, the Obama administration has been far more open than the preceding George W. Bush administration with respect sharing documents. It has released “reams of data, in formats that are useful to citizens and researchers alike.” Obama issued new instructions that require more forthcoming responses to FOIA requests. As a result, the White House says it has reduced FOIA request backlogs and denied fewer requests than the preceding administration. Moreover, the Obama administration has generally responded to requests from Congress for internal documents, making claims of “executive privilege” to withhold information less readily than the previous administration.

Citation:

Ambinder, M. (2011). Government Transparency, Obama’s Secret Problem. National Journal, 17.

### **Civil Rights and Political Liberties**

Civil Rights  
Score: 7

The emphasis on protections from intrusion by the state has been compromised significantly as a result of the anti-terrorism measures following the attacks of 9/11. The Patriot Act, widely reviled by civil liberties advocates, has taken a more balanced approach than is generally recognized, although some surveillance and investigative procedures have opened the way for abuse. The more significant compromises of privacy protections resulted from actions of the Bush administration, notably the ordering of widespread wiretapping and

Internet surveillance by the National Security Agency, which was entirely without statutory authority. The Obama administration has not produced a sweeping change to these actions, however. Obama's intention to close the detention center at Guantanamo Bay and provide trials to detainees in civil courts has been blocked by congressional opposition. Guantanamo Bay remains open, with approximately 166 detainees as of May 2013. Congress has also authorized the National Security Agency's (NSA) wiretapping program, at least as it pertains to foreign suspects.

The Obama administration has actually pushed anti-terrorism policies into new territory. It has, for example, argued that the president has the right, in limited circumstances, to use drones to attack and kill U.S. citizens without trial. It has also continued to hold detainees at Guantanamo indefinitely, under the rules of war. Although the U.S. government's strong protections of civil liberties remain in place for most investigative and criminal purposes, the relaxation of established constraints in the case of anti-terrorism investigations may affect thousands of U.S. citizens, who become targets of investigation for one reason or another. Furthermore, it has produced precedents that could lead to the further erosion of established protections.

Political Liberties  
Score: 10

The United States generally has a strong record of protecting political liberties. The protections cover all of the recognized political freedoms of speech, association, voting, and pursuit of public office, and extend even to extreme groups such as neo-Nazis. Religious freedoms are protected even for religious fringe groups. Moreover, First Amendment rights provide robust protection for severe (and even inaccurate or irresponsible) criticism of public figures – such as the popular conspiracy theory that President Obama was not born in the United States (and thus is not legitimately eligible to be president). In contrast with most developed democracies, the right of freedom of speech has even invalidated laws proscribing hate speech.

In one significant limitation of political rights, convicted felons are barred from voting in nearly all states, although usually not permanently. Additionally, while the government allows protest demonstrations for all kinds of causes, even when they may become disruptive or disorderly, local police have sometimes confined demonstrators to locations far removed from the target events (e.g., G-8, G-20, or WTO meetings) – arguably an infringement of freedoms of speech and assembly. But these episodes have been irregular and fairly marginal, and are connected with genuine risks of property damage, disruption of international meetings, and the like.

Non-discrimination  
Score: 9

The U.S. federal and state governments have enacted many laws prohibiting discrimination. At the federal level, enforcement is centered in a Civil Rights

Division of the Justice Department and an independent Equal Employment Opportunity Commission. While the origins of these policies are found in the Civil Rights Movement of the 1960s, the framework of protection has been extended from racial minorities to women, the aged and disabled, and in some state and local contexts, homosexuals.

The federal government has not aggressively pushed affirmative action policies – such as preferential treatment for disadvantaged groups – since the Clinton administration. And despite being the first black president, President Obama has not made civil rights a major focus of his administration. Many of Obama’s priorities – including health care and economic stimulus– benefit racial minorities disproportionately, however. Nevertheless, the Congressional Black Caucus has severely criticized his perceived lack of attention to racial issues. With regard to gender equality, the Obama administration has made progress. In addition, the Lilly Ledbetter Fair Pay Act amends the Civil Rights Act of 1964. The new act states that the 180-day statute of limitations for filing an equal-pay lawsuit regarding pay discrimination resets with each new paycheck affected by that discriminatory action.

### **Rule of Law**

Legal Certainty  
Score: 7

In the United States there is little arbitrary exercise of authority, but the rule of law in the United States does not necessarily provide a great deal of legal certainty either. Some uncertainty arises as a consequence of the adversarial nature of law in the United States. Policy implementation is one area that suffers. Adversarial tendencies have several negative effects, such as supplanting the authority of elective policymaking institutions, reducing administrative discretion, causing delay in decision-making, and increasing reliance on courts and judges to design policies and/or administrative arrangements. On important issues – for example, a significant environmental regulation – a government agency will undertake a lengthy, highly formalized hearing before issuing a decision. The resulting action will be appealed (often by multiple affected parties) to at least one level of the federal courts, and firms will not know their obligations under the new regulation for at least several years.

In recent years, certain constitutional issues have increased uncertainty across a range of issues. President Obama has continued, for example, to issue signing statements – comments issued by a president after signing a new bill into law – but has limited his use of them. Still, persons or organizations affected by statutory provisions that were the subject of presidential nullification through

signing statements will not know where they stand legally, potentially for many years. On another front, the five conservative members of the Supreme Court have signaled a serious inclination to reverse eight decades of constitutional interpretation by returning to a much narrower reading of federal authority under the Commerce Clause of the constitution (granting Congress the authority to regulate interstate commerce). Indeed, in the Court's 2012 ruling upholding Obama's health care reform, all five of the conservatives held that the program would have failed the constitutional challenge if it had rested only on that authority. (Chief Justice Roberts upheld the most controversial feature of the reform – an individual mandate to purchase health insurance – as an exercise of the taxing power.)

Judicial Review  
Score: 8

The United States is essentially the originator of expansive, efficacious judicial review of legislative and executive decisions in democratic government. The Supreme Court's authority to overrule legislative or executive decisions at the state or federal level is virtually never questioned, although the Court does appear to avoid offending large majorities of the citizenry or officeholders too often or too severely. It would be simplistic, however, to conclude that judicial review ensures that legislative and executive decisions comply with "law." It certainly does preclude blatant violations of law with adverse consequences for citizens, groups, or state or local governmental bodies that are capable of bringing lawsuits. But the direction of judicial decisions depends heavily on the ideological tendency of the courts at the given time.

Appointment of  
Justices  
Score: 8

Federal judges, including Supreme Court justices, are appointed for life by the president, with advice and consent (endorsement by a majority vote) by the Senate. Although judges are likely to reflect the political views of the presidents who appointed them, they are not obliged to remain faithful to the legal or ideological positions for which the president selected them. In any case, the justices certainly do not necessarily represent the views of the current presidential administration. Nor can the president or Congress provide rewards, penalties, or side payments to influence judicial decisions. Despite this independence, appointments have become highly politicized. Supreme Court decisions have always reflected the political and ideological views of the justices and had profound importance for the direction of policy. The severe polarization of Congress in the 2000s has made judicial confirmation processes even less deliberative and more conflicted. Furthermore, the Senate minority has been increasingly willing to filibuster confirmations for federal judgeships at all levels.

Citation:

Joel B. Grossman, Paths to the bench: Selecting Supreme Court Justices in a "juristocratic" world, in Kermit L. Hal/Kevin T. Mcguire (eds.), *The Judicial Branch*, Oxford, New York 2005, 142-173.

Corruption  
Prevention  
Score: 9

The U.S. federal government has elaborate and extensive mechanisms for auditing financial transactions, investigating potential abuses, and prosecuting criminal misconduct. The Federal Bureau of Investigation (FBI) has an ongoing, major focus on official corruption. Auditing of federal spending programs occurs through congressional oversight as well as through independent control agencies such as the General Accountability Office (GAO) – which reports to Congress, rather than to the executive branch. The GAO also oversees federal public procurement. With all of the controls, executive branch officials are effectively deterred from using their authority for private gain, and prosecutions for such offenses are rare. Still, both Congress and state governments are occasionally subject to financial corruption. With 100 senators and 435 representatives, there are occasional prosecutions of members for bribery or misuse of campaign funds, particularly use of campaign donations as personal income. In 2011, former Illinois governor Rod Blagojevich was convicted on multiple corruption charges and sentenced to 14 years in federal prison.

# Governance

## I. Executive Capacity

### Strategic Capacity

Strategic Planning  
Score: 8

The U.S. government has multiple units that analyze policy issues, and that make long-term projections as part of the assessment of current options. The Executive Office of the President has multiple staffs and analytic agencies (e.g. White House Staff, Office of Management and Budget, Council of Economic Advisers, National Security Council). On the legislative side, the Congressional Budget Office analyzes the 10-year fiscal impact of all bills with budget implications. Additionally, departments and agencies have analytic units with responsibilities for planning and evaluation, staffed with appropriately trained expert personnel. Expertise about long-term considerations is available in abundance, in the agencies, Congress, and the White House. Policymakers may enact policies that incorporate a long-term schedule of changes. But any such schedule is highly subject to change. One needs to recognize that the main barrier to coherent long-term planning is the separation of powers between the legislative and executive branches, along with frequent elections. By design, no coherent actor controls policy for a period of several years.

Scholarly Advice  
Score: 7

U.S. policymaking incorporates scholarly and expert advice in an informal and unsystematic manner. Along with university-based experts and analytic agency staffs, there are literally a few hundred think tanks – nongovernmental organizations that specialize in policy research and commentary. The Obama administration made extensive use of tapping the scholarly talent pool in its first term, less so in its second term. Most think tanks specialize in drawing on existing knowledge to produce partisan, ideologically oriented commentary and recommendations on policy issues. None of this analysis has official or authoritative status in the manner it would coming from an official expert panel. Rather, the two parties and even individual politicians make independent choices on which experts to pay attention to and cite in policy debate. The lack

of formal, representative panels that make authoritative consensus assessments of research findings probably permits policy analysis to be more partisan and tendentious than it would be otherwise. The Obama administration, for example, has seized on a few studies that show large benefits of pre-school programs, even though most research shows small effects. In short, the flow of policy-relevant research is voluminous, but the policymaking process is relatively open to severely biased or unreliable analysis. The lack of officially endorsed consensus assessments may also account for the prominence of climate-change denial in U.S. politics.

### Interministerial Coordination

GO Expertise  
Score: 10

The closest comparison to a government office or prime minister's office in the U.S. system is the White House staff, along with other units of the executive office, such as the Council of Economic Advisers, the Office of Management and Budget, and the National Security Council, among others. But the U.S. context is significantly different. Because of the separation of powers, Congress or particular congressional committees sometimes compete with the president to shape policymaking in executive agencies. In response to these challenges, presidents, beginning with Franklin Roosevelt in the 1930s, have gradually built up a large executive office establishment designed to help assert presidential control over the departments and agencies, and to enable the independence of presidential policy decisions. The total professional staff in the presidential bureaucracy vastly exceeds the GO or PMO in a parliamentary system, with roughly 2,500 professionals, and a budget of \$300–0 million.

Indeed, the issue is not whether the White House has the expertise to evaluate ministerial draft bills. It is whether the White House allows the departments and agencies to play a major substantive role in drafting bills. In recent presidencies, the White House has increasingly dominated executive branch policymaking. President Obama has gone even further than previous presidents, appointing a number of high-level presidential advisors, or so-called "czars," (the media created the shorthand term to refer to these advisors, who have long convoluted titles) to oversee executive branch policymaking in specific areas. The problem with the trend toward increasing White House control is the potential for policymakers to overlook important agency perspectives, information and experience.

GO Gatekeeping  
Score: 10

The comparable issue for the U.S. system concerns the ability of White House staff to control the presentation of issues, proposals, policy papers, and decision memoranda to the White House- or cabinet-based presidential advisory committees. In fact, the president allocates the responsibility for

coordinating decision processes, and may choose to emphasize White House or cabinet responsibility in varying degrees, in organizing the White House and establishing his advisory arrangements. In recent presidencies, a strong and consistent trend has favored White House control, and President Obama has pushed White House preeminence to a new level – with a new set of White House “czars” coordinating specific areas of policy. So in the Obama administration, the White House controls policy management and thus the presentation of decision materials, almost completely, with cabinet officials in subordinate roles. We note again that the context of this arrangement is one in which the departments and agencies may have agendas and interests that conflict with the president’s, motivating the president’s strong efforts to exert control.

Line Ministries  
Score: 10

In the U.S. system, the comparable issue is how the executive departments and agencies involve the president and the White House. The president and the White House are dominant within the executive branch, and therefore, they can prioritize issues they see as important to the president’s agenda. There are two main kinds of such cases. If a department or agency is engaged in seeking significant legislation, then, as we have noted (see “GO gatekeeping”), the White House is essentially in charge of policy development. It may allow a cabinet official to have major influence or even appoint him or her to chair a committee tasked with formulating options for the president, or it may relegate the relevant cabinet officials to secondary roles.

Secondly, if the agency is developing an important administrative regulation or other policy that does not require legislation, then the administration’s political appointees in the agency – there are roughly 700 such appointees in the executive branch, including the heads of most agencies – will respond to White House direction. If the matter is judged important for the president, the relevant White House experts may make the main decisions. In the Obama administration, one of the White House “czars” is likely to become involved. If the matter is not judged important for the president, the agency – mainly the political appointees, with advice from career bureaucrats – may act on their own.

Citation:

Colin Campbell, “The Complex Organization of the Executive Branch”, in: Joel D. Aberbach/Mark A. Peterson (eds.), *The Executive Branch*, New York: Oxford UP, 2005, 243-282.

Cabinet Committees  
Score: 8

The comparable question for the U.S. system is whether, on major issues, White House advisory processes prepare issues thoroughly for the president, and on lesser issues with interagency implications, whether interagency committees prepare them thoroughly for decision by the relevant cabinet

members. The U.S. system of advisory processes varies across the presidential administration, as it is coordinated from the White House. The process is to a great extent ad hoc – with organizational practices varying over time and from one issue area to another, based largely on the personnel involved (for example, the degree of White House confidence in various cabinet officials). Typically, important decisions are “staffed out,” with some organized committee process. However, the ad hoc character of organization (compared with a parliamentary cabinet secretariat), along with the short-term service of political appointees – resulting in what one scholar has called “a government of strangers” – makes the quality of these advisory processes unreliable.

It is difficult to assess the overall performance of a presidential administration in committee-based advisory processes. In general, although many of Obama’s decisions and strategies have been controversial, the general quality his administration’s decision-making appears above average in a U.S. context.

Ministerial  
Bureaucracy  
Score: 8

In general, there is an expectation of interagency coordination at various levels of the bureaucracy. The quality of this coordination varies, and as with cabinet level coordination, it is adversely affected by the short-term service of political appointees, which results in underdeveloped working relationships across agencies. The overall or average performance has not been systematically evaluated, however.

Informal  
Coordination  
Score: 9

The U.S. government is highly prone to informal coordination, relying on personal networks, constituency relationships, and other means. As with more formal processes, the effectiveness of such coordination is adversely affected by underdeveloped working relationships, resulting from the short-term service of political appointees. The overall or average performance of informal coordination mechanisms has not been systematically evaluated either.

### **Evidence-based Instruments**

RIA Application  
Score: 10

The U.S. government provides for extensive analysis of major decisions, within both the legislative and executive branches, and for administrative or regulatory decisions as well as legislation. Regulatory impact assessment for agency regulations is supervised by the Office of Management and Budget (OMB). Under an executive order from the early 1980s, the OMB has a mandate to assess all regulations that executive agencies seek to promulgate. For significant regulations, it must approve impact assessments conducted by the agencies as a condition for issuing the regulations. In addition, the Government Accountability Office, which reports to Congress, conducts assessments on an ad hoc basis, mostly in response to requests by Congress (including committees or individual members). The Congressional Budget Office (CBO) conducts analysis of proposed bills, including cost estimates over

a 10-year period. In fact, the most ambitious recent projects in policy analysis were studies by the CBO on health care reform and climate change. These were not limited to the budgetary impact, but addressed the wider policy consequences, including distributional and employment effects of climate change legislation, as well as a study on the regional impact of global warming in the United States.

The Congressional Research Service also conducted several notable studies on climate change. The CBO study on health care focused primarily on issues of budgetary impact, but it did touch on many other issues, including coverage. In 2011, President Obama ordered all agencies to put a system in place within 120 days for reviewing existing regulations to determine whether they can be amended or repealed, in order to reduce burdens on businesses. With respect to the volume and coverage of impact assessment, the U.S. government is exemplary.

Citation:

White House, Regulatory impact analysis: A primer, Office of Information and Regulatory Affairs, August 15, 2011. Accessed on May 20, 2013. [http://www.whitehouse.gov/sites/default/files/omb/inforeg/regpol/circu\\_lar-a-4\\_regulatory-impact-analysis-a-primer.pdf](http://www.whitehouse.gov/sites/default/files/omb/inforeg/regpol/circu_lar-a-4_regulatory-impact-analysis-a-primer.pdf)

Quality of RIA  
Process  
Score: 8

Regulatory impact assessment is a highly political process, with a strong tendency for results to reflect the preferences and expectations of the agency or political official that controls the process. Under Republican presidents, the process was frequently directed toward containing or curtailing environmental and work safety regulations put out by the Environmental Protection Agency and the Occupational Health and Safety Agency. Under Obama (as in the Clinton administration), the process is more biased toward issuing new regulations. Indeed, a 2011 study of regulatory impact assessments by the George W. Bush and Obama administrations demonstrates the biasing effect of political priorities. The Obama administration has issued new rules at a rate 40% higher than either Clinton or Bush. But while Obama's regulators report costs triple those of Bush's, they report benefits eight times higher. Some of the difference is in the Obama administration's methods, which take account of various co-benefits and impute private benefits (through cost savings) that have not elicited a market response.

In any case, the differences in overall results between administrations suggests that many or most proposed regulations would receive opposite assessments from the Bush and Obama administrations, rendering the value of the assessments questionable at best.

Regulatory assessment will thus be of limited value until the government adopts clearer standards and best practices for the conduct of the analyses, presumably under the auspices of a nonpartisan institution such as the Congressional Budget Office.

Citation:

Harrinton, Winston, Lisa Heinzerling and Richard D. Morgenstern (eds.), *Reforming the Regulatory Impact Analysis*, Washington D.C. 2009, [http://www.rff.org/RFF/Documents/RFF.RIA.V4.low\\_res.pdf](http://www.rff.org/RFF/Documents/RFF.RIA.V4.low_res.pdf)  
 The Economist, *The Rule of More: Measuring the impact of regulation*, February 18, 2012. Accessed on May 9, 2013. <http://www.economist.com/node/21547772>

Sustainability  
 Check  
 Score: 8

There is no separate check required for “sustainability” per se. Since that term refers to an indefinite variety of context-specific normative standards, however, one could argue the U.S. regulatory impact assessment process does include a sustainability check. After all, assessments are expected to consider all important costs and benefits.

### Societal Consultation

Negotiating Public  
 Support  
 Score: 8

The U.S. political system is outstanding in the degree to which it elicits opinions and preferences from societal actors at all stages of the policy process, and enables such actors to shape policy outcomes. Unlike in a parliamentary system, the legislative support needed for policy change is not automatic, and does not come about simply as the consequence of an election and the installation of a government. In the U.S. system, the president and congressional leaders must build congressional support for each measure. Interest groups, ideological activists, experts, and ordinary citizens – at the national level, and within each state and congressional district – have extensive opportunity to influence policymakers before decisions have been made. Societal responses are elicited in a variety of ways. The White House maintains direct relationships with several interest groups. Congressional committees also hold hearings on most legislative initiatives and on general policy issues. Furthermore, the president, party leaders, and major interest groups use media-based strategies to mobilize public opinion, often using targeting strategies to reach sympathetic groups.

Presidents use different strategies to influence public opinion on policy matters. The Bush administration usually pursued a strategy of sharp polarization that precluded consensus-based strategies. The Obama administration, in contrast at least during its first term in office, has gone out of this way to reach a consensus, in the sense of bipartisanship. The health care reform process is a good example here. The Obama administration communicated with different

interest groups, including service providers, employers and religious groups, to formulate the law.

### **Policy Communication**

Coherent  
Communication  
Score: 9

With politically appointed leadership in every agency, executive agencies and departments carefully coordinate their messages with the White House communications strategy. Agency press releases and statements on politically salient matters are often specifically cleared with the White House. During 2012 and 2013, a minor scandal developed over the administration's formulation of a public response to a terrorist attack on U.S. diplomatic offices in Benghazi, Libya. Eventually, the White House released 100 pages of e-mails detailing discussions between the State Department, the Central Intelligence Agency (CIA), and the White House. Specifically, the emails revealed discussion between agencies over the set of talking points to be used to explain the attacks to the public. In the end, it appeared that most of the revisions were prompted by the State Department and CIA, rather than the White House, and were motivated more by concerns for accuracy than political effect. Regardless, the episode indicated the extensive involvement of the White House public communications.

### **Implementation**

Government  
Efficiency  
Score: 5

When assessing implementation in the separation of powers system, one must consider the potentially conflicting goals of the legislative and executive branches, not to mention of the two political parties. In its current, highly conflicted, polarized state, the success of the executive in implementing its proposed policies depends on the majorities in Congress. Under the condition of "unified government" the chances are very high (presidential success rate of Obama in his first year: 96.7%), though under the condition of "divided government" the situation worsened for the president (success rates in his fourth year in office: 53.6%). From 2011 to 2013, in President Obama's words, the U.S. government "lurched from one self-induced crisis to another," unable to reach agreements on long-term deficit reduction. It barely avoided a so-called "fiscal cliff," a series of scheduled spending cuts and tax increases that would have severely hampered the recovery. Later, while it did allow automatic across-the-board spending cuts to go into effect (the so-called sequester, designed for the very purpose of being unacceptable), it has repeatedly approached failure to increase the federal debt limit. Such a failure would result in the federal government defaulting on its bonds, producing nothing less than financial calamity.

Ministerial  
Compliance  
Score: 10

The president has a high level of control over his appointments, such as agency and department heads. They serve at the president's discretion, and need support of the White House for their success, both in terms of agency missions and individual careers. Conflicts between the department heads and the White House occasionally emerge, but they are usually limited to a speech or remark that conflicts with presidential policy. Conflicts were expected to arise under the Obama administration between Secretary of State Hillary Clinton and the White House, due to Clinton's rivalry with Obama for the 2008 Democratic presidential nomination. But Clinton proved reliably responsive to the administration. Historically, the executive branch was notoriously decentralized, with individual agencies responsive to interest group constituencies or congressional committees. As recent presidents have upgraded their ability to monitor agency activities and to draw major issues into the White House, conflicts between the agencies and the White House have largely disappeared.

Monitoring  
Ministries  
Score: 9

The president and the White House monitor activities in departments and agencies to widely varying degrees, depending on the centrality of the activities to the president's political agenda. Agencies and programs that are not the focus of presidential policy initiatives and are not politically controversial may get little attention from the White House, and in fact, may receive most of their political direction from Congress. Accordingly, the lack of presidential attention to an agency does not indicate a lack of democratic control, but rather reliance on Congress for such control. Occasionally the president may receive a rude surprise, learning that an agency has deviated from the administration's goals or expectations. For example, the White House – and the public – learned in 2013 that the Internal Revenue Service, when enforcing requirements for tax exemption for political contributions, had targeted Tea Party organizations and other conservative groups by subjecting them to closer scrutiny. The revelation produced a major scandal, with serious embarrassment for the president.

Monitoring  
Agencies,  
Bureaucracies  
Score: 8

There are no semi-autonomous agencies in the U.S. administrative system. Independent regulatory commissions are headed by bipartisan commissions with fixed terms of office, and are, in some respects, outside the executive branch. The White House and certain executive agencies, such as the Antitrust Division of the Justice Department, monitor their activities, despite lacking formal authority to impose changes. Federal departments have central units, attached to the secretary's office, that monitor the activities of the agencies that comprise them. In late 2012, the Transportation Security Administration – part of the Department of Homeland Security – announced that it planned to remove the ban on passengers carrying small knives aboard airlines, a decision that likely was not reviewed by departmental leadership or the White House. Strong public criticism led to a reversal of the decision. Overall, such episodes

of failed control over implementing agencies are quite unusual – with a few major cases, among dozens of agencies and hundreds of programs, in each presidency. There is not enough data available, however, to make comparisons with other countries.

Task Funding  
Score: 8

The United States has a federal system, in which the 50 states are independent sovereign governments, although the federal constitution is “the supreme law of the land.” States have unrestricted power to raise their own revenue, although the federal government takes full advantage of their more productive sources, such as the income tax. There is no general presumption of uniform standards for public services. Rather, the federal government imposes standards or seeks to induce certain levels of performance in varying degrees on different issues.

State officials often used to complain that federal mandates required substantial expenditures without providing the necessary funds. In 1995, the Republican Congress passed the Unfunded Mandates Reform Act. The act provides incentives for Congress and regulatory agencies to identify potential unfunded mandates in the legislative or rule-making process, but does not prevent them from setting mandates. The act has not done away with mandates, but has curbed direct orders and drawn attention to the issue. As a result, complaints from state officials have subsided. The Obama health care reform seeks to expand coverage of low-income individuals by raising the income ceiling for eligibility for Medicaid, a program administered and large funded by the states. According to the law, the federal government will pay 90% of the cost of the expanded coverage if states pay 10% of the cost of health coverage for the new beneficiaries. However, many states with Republican leadership have been opting out of the Medicaid expansion. Another recent area of federal expansion is education, where the Race-to-the-Top grants have induced states to adopt various reforms – especially enhanced teacher assessment – in order to qualify for new federal grants. Thus the federal government has covered most of the costs of new expectations, made participation voluntary or both.

Constitutional  
Discretion  
Score: 8

Whether the federal government permits the states to exercise their constitutional authority without undue interference is one of the central constitutional controversies in U.S. politics. In one sense, there is no such thing as the federal government depriving states of their constitutional discretion. Whatever decisions the federal government imposes on the states can be appealed to the federal courts. Given the availability of appeals, one can assume that states are able to exercise their constitutional jurisdiction as it is currently interpreted. In 2012, the Supreme Court, supporting the Obama administration, invalidated most of an Arizona law that provided for aggressive state level investigation and prosecution of illegal aliens. On the other hand,

National Standards  
Score: 5

while upholding most of Obama's health care reform as an exercise of the taxing power, the Court's conservative majority pronounced the act not sustainable under the Commerce Clause – an interpretation virtually no commentators foresaw until months after the law was passed.

Due to the dual nature of the U.S. federal system, the issue of national standards applies mostly to co-financed federal programs, where the federal government asserts its right to set and monitor compliance with these standards. The bulk of public services are delivered by local and state agencies with minimal intervention by the federal government. The question of enforcing federal standards arises in specific areas where federal policymakers have sought to impose such standards, sometimes to enforce citizens' rights under the federal constitution, and other times for policy reasons. The Civil Rights Division of the Justice Department, for example, applies close scrutiny to Southern states that are subject to preclearance of election changes under the Voting Rights Act. As another example, the Environmental Protection Agency requires states to meet air quality standards under the Clean Air Act. On the other hand, states exercise wide discretion in setting standards of eligibility for Medicaid coverage or with regard to unemployment insurance. The Obama administration has granted waivers that allow individual states to relax work requirements for welfare recipients (under Temporary Assistance for Needy Families).

### **Adaptability**

Domestic  
Adaptability  
Score: 8

As a world power and as the initiator of many international organizations, the United States has developed institutional structures – from the National Security Council to the United States Trade Representative – that are able to respond to its international obligations. Climate change negotiations, for example, have been firmly institutionalized in the Office of Global Affairs in the State Department. Similarly, the creation of the Department of Homeland Security was a domestic structural response to the challenges of international terrorism. Whether the policies of these units and agencies have been successful or have facilitated multilateral cooperation has depended on the policy choices of each administration and the disposition of Congress.

The Obama administration, for its part, has continued to develop new institutional structures to adapt to policy challenges. In 2008, for example, President Obama established the White House Office of Energy and Climate Change Policy. The Obama administration has also emphasized multilateralism, although this has led to only minor structural changes. Congress does not adapt institutionally, because the committee system gives

International  
Coordination  
Score: 8

individual members large stakes in maintaining existing jurisdictions. Multilateralism is, therefore, more a matter of policy direction than of structural change. The United States has been less prone to adapt domestic policymaking structures to the requirements of the international trade regime, in some cases resisting compliance with fully adjudicated obligations under the WTO and the North American Free Trade Agreement. Given the domestic political orientation of most members, Congress has placed low priority on compliance with international trade agreements and regimes.

As a historically preeminent world power, the United States sometimes leads international efforts to pursue collective goods – sometimes, indeed, effectively controlling those efforts – and sometimes prefers unilateral approaches, withholding support from international forums. Its institutional structures and political traditions – especially the role of presidential leadership – accommodate all of these approaches. But the United States often cannot act effectively unless a national consensus or one-party control enables the president and Congress to agree on a strategy.

President Obama’s strategy in the Middle East, for example, has been hampered by conflict with Congress over support for Israel. Most often, the United States not only collaborates in reform initiatives promoted by international forums, but actively works to shape their agenda. Examples include reform of the U.N. Security Council and the U.N. Human Rights Commission, as well as reforms of the IMF and World Bank – and most recently the reform of the international financial system. The United States is also an effective participant in the G-7/8 process. The most notable change under the Obama administration is the move toward broader international forums such as the G-20 that include emerging market countries such as China, Brazil and India. This trend is also visible in the Major Economies Forum for Climate Change. Altogether, this signals a departure from the focus on Europe and the transatlantic arena, and may also imply a reduced reliance on NATO.

### **Organizational Reform**

Self-monitoring  
Score: 7

On one hand, presidential advisory and administrative arrangements in and around the White House are reconfigured in important respects by each president. As a result of this fluidity, presidents, their staffs, and commentators discuss the effectiveness of the given arrangements of the president’s senior aides almost constantly. In contrast, most other organizational structures are rigid: the basic separation-of-powers system; the structure of Congress, including the structure of committee jurisdictions, and floor procedures in the Senate; and the structure of departments and major agencies of the executive

branch. None of these is subject to change by executive decision or ordinary legislative majority. They are only evaluated in extreme circumstances.

Yet from 2011 – 2013, just such extreme circumstances have occurred. A series of self-induced crises in economic policy – driven by fundamental conflicts over long-term budget policy – commentators began to question the more fixed and intractable features of the political system. The unprecedented levels of a partisan conflict in the legislative process, the increasingly routine resort to filibusters in the Senate, and the tendency toward partisan deadlock and inaction have particularly alarmed analysts, not to mention the American public. In the lead in to the new Congress in January 2013, there was considerable debate in the Senate about the value of the filibuster rule.

Institutional Reform  
Score: 4

The U.S. government is exceptionally resistant to constructive institutional reform. There are several major sources of rigidity. Firstly, and most fundamentally, the requirements for amendment of the constitution (two-thirds majorities in both the House and Senate, plus ratification by three-fourths of the states) are virtually impossible to meet on institutional issues. Second, statutory institutional change requires agreement between the president, the Senate, and the House, which may have conflicting interests on institutional matters. Third, the committee system in Congress gives members large personal career stakes in the existing division of jurisdictions, a barrier to change not only in congressional committees themselves but in the organization of the executive branch agencies that the committees oversee. Fourth, the Senate operates with a super-majority requirement (the requirement of 60 votes, a three-fifths majority, to invoke “cloture” and end a filibuster), and changes in Senate procedures themselves are normally subject to the same procedures. Fifth, as often occurs, and certainly occurred during the review period, the president and Congress represent different political parties with competing institutional interests, and one party is highly inclined to obstruct the other.

The constraints on other forms of institutional change have been highly evident in recent years. A major reform of financial regulation failed to consolidate regulatory responsibility over all segments of the financial services industries. President Obama in 2011 and 2012 declined to assert presidential authority to increase the debt limit without action by Congress. The Senate had declined to reform the filibuster at the beginning of the 113th Congress in January 2013. On 21 November 2013 (outside the review period), the Senate used the so-called “nuclear option,” voting 52-48, with all Republicans and 3 Democrats voting against, to eliminate the use of the filibuster on executive branch nominees and judicial nominees other than to the Supreme Court.

## II. Executive Accountability

### Citizens' Participatory Competence

Policy Knowledge  
Score: 5

The U.S. public is generally severely uninformed, not only by the standards of academic elites, but also according to empirical data. While comparing citizens' level of governmental knowledge across political systems is an imperfect science, as one knowledgeable observer recently put it: "The political ignorance of the American voter is one of the best-documented findings in political science."

Two examples illustrate this: In spring 2013, nearly 90% of the public favored legislation requiring background checks for the purchase of guns. Republicans in Congress blocked Democratic proposals for such a measure. Yet, when asked whose approach to gun control they preferred, the public split almost evenly between President Obama and congressional Republicans. At the same time, about 40% of the public believed that Obama's health care reform had in fact been repealed. Republican politicians have been promising to repeal it, but with Democratic control of the presidency and the Senate, it has never been a realistic prospect. Political scientists debate the issue of whether and how a generally uninformed public can discharge the tasks of citizenship effectively. Many would argue the U.S. public's lack of informed attention has significant adverse consequences for policymaking. In any case, the widespread lack of information is not in doubt.

### Legislative Actors' Resources

Parliamentary  
Resources  
Score: 10

The resources of the U.S. Congress substantially surpass those of any other national legislature. First of all, there are three large congressional agencies that perform research and analysis, independently of the executive branch: the Congressional Budget Office (CBO); the Congressional Research Service (CRS); and the Government Accountability Office (GAO). The CBO, a nonpartisan body, is the most credible source of budget analysis in the government. Secondly, each congressional committee has a sizable staff, divided between the majority and the minority parties. In addition, each member of Congress has personal staff, ranging from about 14 personnel,

including at least one or two legislative specialists for a member of the House, to more than 50, with several legislative specialists, for a senator from a large state.

The magnitude of Congress's resources reflects three features: One, Congress is constitutionally independent of the executive, and thus seeks to avoid depending on it entirely for information and analysis. Secondly, Congress's own structure has traditionally been decentralized, with much of the legislative work done in committee. And thirdly, individual members are politically independent of the parties, and use staff both for participating in policymaking and for providing electorally beneficial services to constituents. In many cases, legislative decisions are a product of staff-only negotiations.

Obtaining  
Documents  
Score: 10

The legislature's right to obtain government documents is well established in the U.S. system of government and congressional committees have subpoena power to request documents. However, this power is sometimes limited by claims of executive privilege – a constitutionally recognized entitlement that protects White House and agency internal communications in limited circumstances. In 2013, the White House supplied congressional investigators with more than 100 pages of email messages that had been exchanged between the White House, the State Department, and the CIA, in a controversy over allegedly misleading White House statements about the terrorist attack in Benghazi, Libya. Although the executive branch often withholds classified information from general release to members of Congress, the members of the House and Senate Intelligence Committees have top-secret clearance to sensitive secrets. In any case, for most issues, the information that Congress needs for policymaking or oversight of administration does not fall under any plausible claim of executive privilege or security restriction. In these cases, Congress can obtain almost any information that exists. Within very broad limits, Congress can also ask departments and agencies to gather data or perform studies when it finds existing information insufficient.

Summoning  
Ministers  
Score: 10

Executive officials do not appear on the House or Senate floor. However, department secretaries and other high level officials of the executive branch appear with great frequency and regularity, essentially on request, before legislative committees and subcommittees. In the context of an investigation, committees sometimes subpoena executive branch members to make an appearance. Most appearances are voluntary, however, motivated by the desire to maintain strong relationships with the congressional committee. The resulting burdens on high-level executives become considerable, with congressional appearances and the required preparation taking up a significant share of executives' time. Congress uses testimony from executive officials both in evaluating proposals for new legislation and in "oversight," that is, the

reviewing and evaluation of administrative performance. In recent years, however, the oversight has been highly partisan. Indeed, executive performance has generally been subject to serious inquiry and evaluation when one or both chambers of Congress have been controlled by the president's opposition party.

Summoning Experts  
Score: 10

The invitation of outside experts to testify at committee hearings is an established, highly routine practice in the legislative process. The transcripts of hearings are published, and testimony from a variety of qualified witnesses is expected in a competent committee process. Although congressional norms call for permitting both parties to select witnesses, some committee chairs in the current era severely limit the minority-party witnesses, resulting in a selection of witnesses strongly biased in favor of the majority-party position.

Task Area  
Congruence  
Score: 9

The structure of committees in the House and Senate largely reflects the structure of the executive branch. When deviations occur, the adverse effect on the ability of the House and Senate to monitor executive activities and performance is modest. But there are also effects on the burdens of oversight for the agencies. Agencies will sometimes face hearings and investigations from several committees from both chambers that have jurisdiction over an agency or program,. Indeed, committees compete for the publicity that comes with investigating a highly salient topic. Because members of Congress develop large stakes in monitoring and influencing particular programs, however, the structure of the congressional committee system often functions as a serious barrier to appropriate reorganization of the executive branch.

Members of Congress oppose reorganizations that would disrupt their committee- and subcommittee-based relationships with particular programs and their constituencies, and such resistance is frequently a fatal obstacle to reorganization. In the example of financial regulatory reform, committee jurisdiction stood in the way of organizational reform because the proposed abolition of the Office of Thrift Supervision would have resulted in a committee losing its jurisdiction. Earlier, committee jurisdiction was a barrier to creating the Department of Homeland Security. Both chambers created Homeland Security Committees. In the end, the department's collection of programs assembled from several different organizational locations has faced hearings and investigations from dozens of congressional committees and subcommittees.

Audit Office  
Score: 10

The General Accountability Office (GAO) is the independent nonpartisan agency of the U.S. Congress charged with auditing activities. It is responsive to Congress alone. The GAO undertakes audits and investigations upon the request of congressional committees or subcommittees, or if it is mandated by

public laws or committee reports. The GAO also undertakes research under the authority of the Comptroller General. In addition to auditing agency operations, the GAO analyzes how well government programs and policies are meeting their objectives. It performs policy analyses and outlines options for congressional consideration. It also has a judicial function in deciding bid protests in federal procurement cases. In many ways, the GAO can be considered a policy analysis arm of Congress. The executive branch also has significant audit functions. The Office of Management and Budget (OMB) handles routine, detailed auditing of budget implementation. In addition, there are 73 offices of Inspector General (IG), assigned to various departments and agencies. The IGs have auditing functions and operate with significant independence from their agencies. Thus, there is an auditing office that is responsible exclusively to the legislature, plus additional auditors with other forms of independence from the executive.

Ombuds Office  
Score: 6

Congress does not have an ombuds office, as such. Its members, who cultivate close ties with their state or district constituencies, effectively function as a collective ombuds office. Members of Congress each have several staff members – some located in Washington, D.C., and some in their respective state or district – who deal full-time with constituents' requests for service. The total number of staffers engaged in constituency service is at least in the range of 2,000-3,000 individuals. A weakness of this arrangement is that it is somewhat informal and the coordination and management of staffers is left up to the individual congressional office. Government agencies do not suggest that clients encountering difficulties contact their senator or representative for assistance, and the constituency service staff does not develop specialized expertise, except for the most common categories of request (e.g., social security payments, visas for relatives). In addition, because the acquisition of experience is massively disaggregated, without systematic collating of information from 535 congressional offices, congressional staff are less able to identify general problems with policy or administration than an actual ombuds office would be.

### Media

Media Reporting  
Score: 6

For the interested citizen, it is easy to find a large volume of serious, high-quality reporting on government and policy, with balanced, reasonably objective treatment of issues – in print, on the Internet, or on television. But such qualities do not describe the majority of major news outlets, nor the outlets used by the largest audiences. A majority of citizens obtain most of their news from television rather than newspapers or the Internet, and the quality of the national news broadcasts has been declining. The major networks

emphasize human interest stories and entertainment, while, not coincidentally, cutting the resources for news gathering. When serious policy issues are discussed on these networks the emphasis is on an adversarial dialogue. Reputable news reporting and news analysis programs are available on radio and TV networks, however. The information quality of talk shows varies, ranging from “infotainment” to the serious discussion of policy issues with reputable experts. C-Span 1-2 offers in-depth coverage of political proceedings in Congress and of political events in the wider sense, including proceedings at think tanks and academic institutions.

The most damaging trend for public understanding is the decline of journalistic standards, especially in right-leaning media such as Fox News and some radio stations. These media exhibit pervasive ideological bias and often reckless inaccuracy – tendencies that are not confined to identifiable commentary or opinion segments, but also affect news reporting. Their broadcasts amount to outright, polemical campaigning for or against certain political positions and their advocates, without regard for professional standards.

Of course, the United States has had polarized, partisan media before (especially in the 19th century) and there are counterweights to the hardline conservative media, such as the left-leaning MSNBC. The polarization of the media both reflects and reinforces the general polarization of American political discourse. It may tend to enhance citizens’ attention to and participation in politics, but at the cost of creating deeper, more severe divides. It is certainly not conducive to consensus building and deliberation.

### **Parties and Interest Associations**

Intra-party  
Democracy  
Score: 8

There are two major parties, the Democratic and Republican Parties, operating at the local, state, and federal levels in nearly all areas of the country. Unlike in parties in parliamentary systems, individual office holders (for example, members of Congress) decide their own positions on policy issues, subject to informal influence from party leaders. Thus, party programs or platforms, amounting to collective statements of party policies, do not exist. A national party platform is written every fourth year at each party’s presidential nominating convention, but it is mostly a campaign document of the presidential candidate, albeit with some features designed to rally the support of influential interest groups. The occasion for intra-party democracy is, therefore, the nomination of party candidates for office. Party nominations are determined mostly in primary elections, conducted by the states. The presidential primaries and caucuses run from January to June of the election

year in every state, leading to the formal selection of the winning candidate in July or August. Primary elections are very open. Any candidate can enter a primary contest in either party for any office – on the basis of collecting signatures and filing papers. Party organizations have no formal role in the selection, and may or may not have influence through endorsements, recommendations to financial contributors, and the like. Any citizen can vote – with differences between states in whether registration as a party supporter is required.

Association  
Competence  
(Business)  
Score: 9

A vast number of business associations are active in the United States, which has come about because of the size and complexity of the American economy and a political culture that fosters participation, but also because of the opportunities for lobbying influence in a decentralized political system. The associations themselves range from peak associations, such as the Business Roundtable and the National Federation of Independent Business; to trade associations of major industries like the American Trucking Association or the Grocery Manufacturers Association; to groups representing narrow segments of industries, such as the Flexible Packaging Institute. The larger, wealthier associations have sizable professional staffs and can produce not only credible policy proposals, but also substantial supporting documentation. Given the large numbers of very small associations, it is not true that “most” business associations can present credible proposals. There are certainly several hundred business associations, however, that can draft bills or amendments and present articulate, sophisticated arguments for their positions.

Association  
Competence  
(Others)  
Score: 7

Citizens’ or public interest associations’ competence in proposing reasonable policy initiatives is unusually high in the United States. This high level of competence is in part due associations’ ability to attract highly qualified professional staff, and part due to their media and communication skills. This holds true for groups such as the Environmental Defense Fund, Common Cause and the American Conservative Union. From the standpoint of developing credible policies, these associations have the advantage of focusing on broad interests, rather than self-interested ones, as their central mission. They are subject, however, to ideological biases and membership demands that tend to favor extreme views. An exception is the Tea Party. A populist conservative movement that rose to prominence in 2010 and influenced elections in 2010 and 2012, Tea Party groups have not demonstrated the ability to offer well-researched policy proposals. With respect to low-income people, recent studies have pointed out a severe shortage of organized representation for this group. The dwindling lobbying resources of American labor unions have resulted in significantly reduced capabilities to present credible proposals on their behalf.

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