

SGI Sustainable
Governance
Indicators

2015 United States Report

Paul J. Quirk, Christian Lammert,
Martin Thunert (Coordinator)



Executive Summary

The period from 2013 to 2014 in the United States was marked by continuing progress in recovering from the 2008 – 2009 economic crisis, as well as by continuing frustration with the failure of the president and Congress to address long-term budget problems or overcome deadlock on issues such as climate-change mitigation, among others. The 113th Congress (2013 – 2014) was the least productive Congress in the modern era. In the November 2014 midterm elections, the Republican Party captured majority control of the Senate, while also making gains in the House of Representatives and many state governments. In the days after the election, President Obama and the House and Senate Republican leaders promised to seek common ground and work together to solve problems; however, the prospects for effective action were not promising.

On most SGI indicators regarding the quality of democracy, the United States continues to receive positive marks. U.S. citizens enjoy the right of free participation in vigorously contested elections that are governed by generally fair procedures. However, in the period leading up to the 2014 midterm elections, as during the 2012 presidential campaign, Republican governors and legislatures in several states imposed new electoral laws that – with the ostensible purpose of preventing election fraud – made voting more difficult for many blacks and other minorities. At the same time, the U.S. Supreme Court narrowed the authority of the federal government to supervise election practices in Southern states that have histories of racial discrimination with regard to voting access.

With respect to SGI indicators assessing 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 – all features emphasized in a separation-of-powers system. For example, U.S. presidents have extremely extensive resources to exert control over executive agencies. But they need those resources. Unlike the situation in parliamentary systems, Congress competes with the president to control the bureaucracy, often in collaboration with parochial agency constituencies.

There were no major policy developments during the period under consideration. The economic recovery continued slowly, with the unemployment rate falling below 6% in September 2014. However, many discouraged workers have left the labor force, the proportion of low-paid and part-time jobs is rising, and incomes have been stagnant for a decade. In October 2013, President Obama's health care program opened for signups by individual users, with the program's Healthcare.gov website experiencing calamitous failures. This undermined confidence in the already-controversial program. Over the next year, however, the website problems were largely fixed; several million individuals signed up for health insurance; the growth of health care costs subsided; and many Republicans quietly set aside the project of repealing the law. However, the U.S. government exhibited several additional disastrous failures in administrative performance, including a scandal regarding widespread, potentially criminal neglect of many patients in Veterans hospitals; sexual misconduct, misuse of funds, and operating failures in the Secret Service (the agency that protects the president and other top officials); revelations of massive violations of privacy by the National Security Administration; a scandal involving political bias in the Internal Revenue Service's treatment of Tea Party-affiliated organizations; and ineffective preparation for the management of the Ebola outbreak. In foreign and military affairs, the United States became involved in a new war in Iraq, against the Islamic State in Iraq and Syria (ISIS). The 113th Congress failed to act on gun control, immigration reform, and climate change. At the time of the 2014 election, only one-quarter of the population believed that the country's children would have better living conditions than their parents. Without doubt, the major challenge for the United States over the next two years will be achieving sufficient cooperation between the Democratic president and Republican Congress to permit constructive policy change.

Key Challenges

Despite rigid ideological divides within the United States on how to move the country forward, 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 four years – in order to sustain the weak recovery. The austerity policy currently in place imposes hardships primarily on low-income people, without providing significant compensations. At the same time, the government needs to bring projected long-term revenue and expenditure more nearly into balance. That will require higher taxes that reach beyond simply the wealthiest 2% of

taxpayers. It will also require reform of middle-class entitlement programs, especially Social Security and Medicare, in order to control costs in the face of an aging population. The actual deficit reductions would occur from five to 25 years in the future. But for the sake of current confidence in the U.S. economy, the policies need to be enacted in the near term.

Experts also maintain that the U.S. government should act on a number of other compelling problems including immigration policy, public-school reform, and climate change (with a legislative response such as a cap-and-trade bill), among others. Meanwhile, there is no consensus on strategies for overcoming the lack of growth in middle-class and working-class incomes, or on moderating the trend toward increasingly severe inequality of income and wealth. In any case, none of these policy challenges can be met if the United States fails to overcome the ideologically polarized and partisan gridlock in Congress – clearly the country’s most fundamental challenge with regard to achieving sustainable governance.

At the most general level, there are two potential strategies for overcoming the gridlock currently paralyzing U.S. politics: First, reformers 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 the introduction of mandatory voting, which would increase turnout among the least engaged and least ideologically minded voters. However, 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 in fact have a major moderating effect.

Second, the United States could change electoral or governing institutions to make them function more effectively with ideologically polarized elected officials. For example, states could change ballot formats in ways that would encourage straight party-ticket voting and make divided party control of government less likely, at least 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 rule, 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. But even improving the efficiency of the Senate would not overcome the difficulties of ideologically polarized divided government.

The most plausible means of make governing institutions more workable, at least in certain areas, relies on a long-standing tradition in American government: expansion of the president's unilateral power by his own peremptory action. To begin with, the president could certainly discontinue the practice of seeking separate legislative authorization to increase the debt limit; the debt increases are already mandated by duly enacted taxing and spending measures. More generally, presidents can interpret regulatory authority expansively, and they can use the leverage provided by threatening such potential action to induce constructive action by Congress. In a major step in this direction, President Obama has stated his intention to grant permanent residence to several million long-term undocumented immigrants if Congress does not act on immigration reform. In the long run, this strategy of expanding presidential power would depend on permissive statutory and constitutional interpretations by the federal courts.

Policy Performance

I. Economic Policies

Economy

Economic Policy
Score: 8

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 generally low taxes, less regulation, lower levels of unionization, and greater openness to foreign trade. Although its pro-business 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 formed in response to the 2008 financial and economic crisis. The administration continued an expansionary fiscal policy to stimulate the economy. Some economists criticized the stimulus package as too small, and in subsequent years, congressional Republicans and some Democrats have effectively blocked further stimulation. However, the Federal Reserve has also held interest rates at historically low levels and reinforced the effect with large-scale bond purchases. As a result, the U.S. economy has been slowly recovering. By the third quarter of 2009, GDP growth turned positive, and job losses stopped in March 2010. Projected growth in 2014 briefly reached a healthy 3% before being revised downward to 1.5%, and the unemployment rate fell below 6%, among the lowest such levels in the OECD.

To prevent a similar crisis in the future, Obama initiated several regulatory reforms (Dodd-Frank Wall Street Reform Act; Consumer Financial Protection Agency). However, as a result of resistance to strong regulatory measures on the part of conservative politicians and the financial industries, Wall Street has resumed some of the practices that increase systemic risk, and which could cause yet another financial collapse. Health care reform has been partly implemented with the aim of controlling health care costs and reducing the federal deficit.

Austerity policies reduced the federal budget deficit to below 3% of GDP in fiscal 2014. However, policymakers have been unable to implement a combination of spending cuts (especially reforms of the middle-class entitlement programs, Medicare and Social Security) and tax increases able to produce declining or even steady budget deficits and stabilization of the federal debt over a 10-year period and beyond. The long-term debt picture has serious implications for monetary stability, and reduces business confidence. U.S. treasury bonds have not regained their AAA rating from the Standard & Poor's rating agency, although the bond market has not shared the agency's alarm.

Labor Markets

Labor Market
Policy
Score: 7

The United States continues to have one of the least regulated and least unionized labor markets in the OECD, with less than 7% of private-sector workers and 40% of public-sector workers holding union membership. Although barriers to unionization promote employment, the U.S. government otherwise plays a minimal role in promoting labor mobility and providing support for training and placement. However, as of 2014, an increasing number of states are playing an active role in preparing unemployed individuals for the job market. The central feature of the last four 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. Several states (Maine, Alabama, Ohio, Arizona, and Wisconsin) have weakened the rights of public-employee unions to engage in collective bargaining. Notably, Michigan, long a bastion of union power, became the 24th state to pass a "right-to-work" law, prohibiting policies requiring union membership as a condition of employment.

Although federal policies have done little to address long-term unemployment, the improving labor market has cut the percentage unemployed to 6%, and the share of those unemployed for at least 27 weeks to under 2%. On the other hand, the number of individuals who have had to settle for part-time work remains historically high at 7%. 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.

Taxes

Tax Policy
Score: 5

The U.S. tax system 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. 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 3% of GDP in 2014, down from 8.7% in 2011.

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 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 a projected 3% of GDP in 2014, recovery has been too slow to stimulate vigorous 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. According to a late-2013 International Monetary Fund (IMF) estimate, the U.S. will need a fiscal adjustment amounting to almost 12% of GDP by 2030 in order to accommodate projected age-related spending without accumulating excessive debt.

Yet since the mid-term elections in 2010, Republicans and Democrats have failed to find a budget policy compromise. The president and congressional Democrats have generally defended entitlement programs against reductions in spending, while 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 to 20 year period; and yet underfunds most government services – from infrastructure and border security to environmental regulation and R&D.

Citation:

Congressional Budget Office. An Update to the Budget and Economic Outlook: 2014 to 2024, (2014, Aug 4). <https://www.cbo.gov/publication/45653>.

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 have compromised this support. 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 several federal laboratories, the National Institute of Health, and 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 has set a goal of raising total R&D spending to 3% of GDP. But these ambitious plans have fallen by the wayside. The recent demands for spending cuts and the across-the-board sequester cuts have resulted in stagnating federal R&D spending, including in the area of basic science. U.S. government R&D spending has declined as a share of GDP and in comparison both to spending by other countries and by the private sector.

Citation:

Greenemeier, L. (2014, May 8). What Makes Congress's Latest Effort to Curb Science Funding So Dangerous? Scientific American. Retrieved from <http://www.scientificamerican.com>

Stabilizing
Global Financial
Markets
Score: 8

Global Financial System

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. The United States encounters significant resistance in international forums regarding its efforts to establish effective financial regulation.

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, with some modifications. U.S. regulators generally prefer stronger rules than international standards require. However, lobbying by the powerful financial-services industry has weakened the U.S. standards.

Citation:

NORRIS, FLOYD. “Financial Crisis, Over and Already Forgotten.” *The New York Times*. (May 23, 2014 Friday)

You break it, you own it; global banking. (2013, Nov 23). *The Economist*, 409, 20.

No respite; global banks. (September 27, 2014). *The Economist*, 412, 69-70.

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 showing some improvement between 1996 and 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 seen in most wealthy OECD countries. Yet the educational system is generously funded. Its shortcomings are the result of several factors, including

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 a 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. More positively, teachers' unions also help secure higher pay for teachers, who are often underpaid in the United States. Some promising programs introduce more freedom and opportunity in the educational system, yet they do not reach most 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, serve only 2% of the overall student population.

During the George W. Bush and Obama presidencies, the federal government's role in education has expanded dramatically. The Bush Administration's No Child Left Behind (NCLB) Act mandated the creation of state-run testing programs, 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.

Citation:

Ehrenfreund, Max, "Teacher Tenure." *The Washington Post*. Sep 2014. ???

Goldstein Dana, "Back against Blackboard: education in America," *The Economist*. Oct 2014.

Social Inclusion

Social Inclusion
Policy
Score: 6

The United States has long had high levels of economic inequality, and these levels have been increasing. 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 the 41 OECD countries with regard to the proportion of the population (17.3%) that receives less than 50% of the median income. In 2005, the richest 1% of Americans claimed 19% of the nation's income, the highest such share since the beginning of the Great Depression in 1929. Compared to other developed countries, the United States 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.

A number of Obama-administration initiatives benefit low-income families in particular. 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.

In general, Obama's major social-policy initiatives have been implemented on a temporary basis. In sum, the Obama administration's social-policy approach is to rely heavily on tax-policy instruments that benefit working-poor households and help the non-working poor to a lesser degree. Deficit politics and Republican resistance to social spending led to cuts in the food-stamp program as a part of the 2014 farm bill. Twenty-three Republican-led states have declined to expand Medicaid health care for the poor as provided for under Obama's health care reform. On the other hand, Obama's promotion of minimum-wage increases has led to such increases in several states and a few cities. Nevertheless, the number of children living in poverty has risen, with 1.3 million children homeless.

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

Hiltzik, Michael. "Census Data on Poverty Show Results of Economic Policy Gone Wrong." *Los Angeles Times* 20 Sept. 2014, The Economy Hub sec. Web. <http://www.latimes.com/business/hiltzik/la-fi-hiltzik-20140921-column.html#page=1>.

Health

Health Policy
Score: 7

In March 2010, Congress enacted the Patient Protection and Affordable Care Act (ACA). 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 could not 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 through the age of 25; and it prohibits insurers from denying coverage on the basis of "pre-existing conditions." It is projected to increase coverage from 83% to 94% of the population. 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 before and during the policy's passage, and remains a contested political issue. Republicans in the House have voted about 40 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. Some state governments 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. As of 2014, the program's results continue to stoke controversy. More than 7 million individuals have signed up for care; but many of these previously had coverage or did not pay premiums. A September 2014 Gallup poll indicates that the number of people without health coverage has declined from 18% to 16%; the approaching second sign-up period may significantly expand coverage. The Supreme Court has accepted a case that challenges some of the program's central financing practices as invalid.

Citation:

Kollipara, Puneet. "Wonkbook: Obamacare, by the Latest Numbers." *Washington Post*. The Washington Post, 25 Sept. 2014. Web. 25 Oct. 2014.

Families

Family Policy
Score: 8

The United States provides significant support for families (tax benefits; short-term leave) with children. The policies have the greatest effect for poor families, especially single mothers, partly because of low governmental tolerance for welfare dependency. The country has a high rate of mothers in employment, 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 50 workers to allow 12 weeks of unpaid leave for childcare. 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, 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 – are 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. From 2011 to 2014, the Obama administration has called for expanded family leave polices and more generous support for child care, but Republican opposition has effectively blocked action. In fact, the United States ranks near the bottom of the developed world on many measures of direct governmental and regulatory support for working mothers.

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 relative to other industrial countries – close to the replacement level – with above-average fertility rates for native-born as well as immigrant women.

Citation:

Schulte, B. (2014, June 23). The U.S. ranks last in every measure when it comes to family policy, in 10 charts. The Washington Post. Retrieved October 27, 2014.

Pensions

Pension Policy
Score: 7

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 \$117,000 per year. The wage replacement rate of the public system is on average 45%, below the OECD average, though with higher rates for people with lower incomes. Benefits from company-based and private accounts raise the wage-replacement rate to 80%. However, 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 failures to make full payments by many private employers. 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 poverty rate among the elderly 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 provided by the Migrant Integration Policy Index, the United States ranked ninth out of 31 analyzed countries with regard to overall integration policy, but first with respect to anti-discrimination laws and protection. The United States also ranked high 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. However, the United States does less well 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 had the right to apply for a visa to sponsor a foreign homosexual partner. Several states are taking the lead on integration policy. 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, numbering 12 million to 15 million individuals or 3% to 4% of the country's overall population. These illegal immigrants have in effect been 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 attend public schools, and businesses that employ illegal immigrants have not been subjected to effective sanctions. In the 113th Congress (2013 – 2014), the Obama administration and congressional leaders pushed for an 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, the effort failed, largely as the result of opposition to legalization by many in the House Republican rank and file. In November 2014, President Obama stated that if Congress does not act, he will take major unilateral action

– adopting an expansive view of his legal authority – and offer a path to legal status to a few million long-term illegal residents.

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: 5

The United States invests massively in efforts to protect citizens against security risks such as crime and terrorism. 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 United States has assumed that international terrorist groups, such as Al Qaeda and the recently emergent Islamic State in Iraq and Syria (ISIS), 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. These efforts have been successful in preventing attacks in the United States beyond any reasonable expectation. Indeed, from October 2001 to November 2014, there were no major, successful terrorist attacks on American territory. Nevertheless, the April 2013 Boston Marathon bombings – which resulted in three deaths and the hospitalization of 246 people with injuries – demonstrated that the anti-terrorist security establishment's shields are not impregnable. In 2013 and 2014, the Snowden leaks revealed massive, largely unauthorized NSA surveillance of Americans' telephone and Internet communications. Although there has been scarce evidence provided on the concrete achievements of this surveillance program, policymakers had not as of the time of writing moved to impose major limitations on surveillance authority.

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 all number among the world's 50 cities with the highest homicide rates. Second, deranged individuals (without political or religious motives) have used semi-automatic weapons with large ammunition clips to kill large numbers of people. Under pressure from the National Rifle Association and its mass membership, Congress has 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. Third, the fatal shooting of an

unarmed black teenager by a police officer in a St. Louis suburb drew attention to a possibly growing phenomenon of excessive police violence, especially against blacks.

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 those of most OECD democracies. For most of the postwar era, U.S. foreign aid has had four features that have reduced its impact on economic development and welfare in poor countries: It has been modest in amount relative to national income; it has been heavily skewed toward military assistance; it has not always been coordinated with assistance with international organizations; and – at least with regard to food assistance – it has often designed to benefit U.S. agricultural, shipping, and commercial interests along with 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-related 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 a commitment to long-term pro-business development strategies. President Obama has continued in this direction, and in his 2014 budget proposed both a major increase in overall funding and a dramatic shift toward regional (rather than U.S. domestic) purchases of food for international-aid purposes. By September 2014, Obama had committed \$175 million plus supporting military troops – the largest commitment of any single country – to the belated effort to fight the Ebola outbreak in West Africa.

Citation:

Tarnoff, Curt, and Marian L. Lawson, Foreign aid: An introduction to U.S. programs and policy, Congressional Research Service, February 10, 2011. Accessed on May 9, 2013. <http://www.fas.org/sgp/crs/misc/R42042.pdf>

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 both his 2008 and 2012 election campaigns, President Obama promised to make effective action on climate change a major priority. In 2009 – 2010 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. Moreover, about 30 states have passed laws requiring greater use of renewable energy by electric power plants, and 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 greenhouse-gas emissions. In 2014, the Environmental Protection Agency proposed regulations that would require reductions in power plants’ carbon emissions of 30% by 2030 – in effect, largely phasing out coal-fired power plants. Despite the failure to enact a cap-and-trade policy, the United States is on pace to cut carbon emissions by an estimated 16.3% by 2020, consistent with international expectations.

Citation:

Brownstein, Ronald, “Time Is Ticking for Obama’s Climate Agenda,” National Journal, 29 June 2013.

Eilperin, Juliet and Mufson, Steven, “Everything you need to know about the EPA’s proposed rule on coal plants,” The Washington Post, 2 June 2014.

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. However, the 1997 Kyoto Protocol on greenhouse gases (GHGs) 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 United States' endorsement of the protocol. Like most other countries, the United States has failed to achieve the GHG reductions it called for.

The Obama administration has sharply reversed Bush's policy direction on environmental issues for the executive branch, especially with regard to climate change. But limited support from Congress and the public have constrained U.S. positions in international negotiations. In 2013, the United States reached an important bilateral agreement with China to limit the use of hydrofluorocarbons. But while the United States rejoined the United Nations process on climate change at Copenhagen in 2007 and Cancun in 2010, it has taken a hard line on developing countries while resisting ambitious commitments for its own emission reductions. This has contributed to the negotiations' failure to establish firm targets to succeed the 2008 –2012 Kyoto targets.

Citation:

"The Shadow of Copenhagen; Towards a Treaty." *The Economist*. 20 Sept. 2014: 24. ProQuest. Web. 23 Oct. 2014.

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 ballot-access requirements may be a burden for smaller parties or independent candidates. But the single-member-district, plurality-election system essentially precludes victory by such participants anyway. 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. In the 2014 election cycle, a long-serving Democratic House member, John Conyers, was nearly excluded from the primary-election ballot because of technical problems with his petition signatures. But in general, ballot access has not been controversial, and no major problems regarding ballot access have been reported in recent elections.

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. 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. 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 fundraising 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: 7

Voter registration is subject to regulation by the federal government, but it is administered by the states. Most discriminatory practices have been eliminated through federal regulation and enforcement over the last 50 years. Convicted felons are ineligible to vote in many states; non-citizen residents are not permitted to vote, although permanent residents are encouraged to become citizens.

Between 2011 and 2014, Republicans in at least 24 states have enacted or considered measures that have made it harder for some groups to vote – mostly by upgrading the identification requirements for voter registration, or by reducing opportunities for mail-in and early voting. The obstacles they have imposed would not prevent voting by anyone willing to invest effort to vote; nevertheless, the measures may have significant effects on voter turnout. Some of the measures were delayed by the U.S. Department of Justice under the Voting Rights Act or have been repealed after popular protest or through citizen-initiated referendums. As of 2014, the constitutional validity of these vote-suppressing measures has not been settled. Federal courts have struck down or delayed implementation of several state measures, but also have declined to delay others. Measures that on their face are defensible requirements of general application may ultimately be upheld, regardless of their discriminatory intent. In 2013, the U.S. Supreme Court struck down a 2006 congressional 25-year extension of the section of the Voting Rights Act that required specified states or counties with a history of discrimination to pre-clear changes in voting laws with the U.S. Justice Department. In its ruling, the court noted that the discriminatory history had in many areas occurred some 50 years earlier. The Justice Department can still challenge discriminatory practices in court, but cannot prevent their initial adoption.

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

Mischief at the polls; voter identification. (2013, Dec 14). *The Economist*, 409, 41.

Robinson, Janessa E. "Voting Rights: What You Need to Know and How the Supreme Court Is Failing Us." *Washington Post* 13 Oct. 2014.

Party Financing
Score: 6

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 subject to effective oversight, so-called independent expenditures – in which 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 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, unions or other entities. Neither the contributor nor the candidate or party can be held accountable. In the 2014 *McCutcheon* case, the Supreme Court went further, striking down the limit (then set at \$123,200) on aggregate contributions by an individual directly to political parties or candidates (as opposed to independent groups).

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. According to Sam Garrett, “More than 400 super PACs spent more than \$600 million directly supporting or opposing candidates.” An estimated \$4 billion was spent in the 2014 midterm congressional elections, more than in 2012.

Citation:

Garrett, R. Sam, Super PACs in federal elections: Overview and issues for Congress, Congressional Research Service, April 4, 2013. <https://www.fas.org/sgp/crs/misc/R42042.pdf>

Confessore, Nicholas (2014, April 3). Power Surge for Donors. *The New York Times*. Retrieved from <http://lexisnexis.com>

Hunt, Albert R. (2014, October 13). The Dark Side of Campaign Financing. *The New York Times*. Retrieved from <http://lexisnexis.com>

Popular Decision-
Making
Score: 7

Popular decision-making mechanisms in the United States are 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. A total of 24 state governments 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. A referendum places a law that has already been passed by the legislature to a popular vote. Similar to a ballot initiative, this 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.

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. Petitioners must gather 25,000 signatures in 30 days in order to have the request reviewed by administration officials.

Access to Information

Media Freedom
Score: 9

The United States maintains an unusually rigorous version of media freedom, based on the language of the First Amendment to the U.S. Constitution. 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 some 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. In 2013 and 2014, many U.S. newspapers reported on vast numbers of highly sensitive documents that had been leaked by a National Security Agency contractor, Eric Snowden. According to Reporters without Borders, U.S. journalists were stunned by the Department of Justice’s separate seizure of Associated Press phone records, without warning, in order to identify the source of a CIA leak. This incident served as a reminder of the urgent need for a “shield law” to protect the confidentiality of journalists’ sources at the federal level. However, the revival of the legislative push for such a measure is little consolation for James Risen of The New York Times, who is subject to a court order to testify against a former CIA employee accused of leaking classified information. It is still less comfort for Barrett Brown, a young freelance journalist who as of the time of writing faced 105 years in prison for posting information obtained by hackers from Statfor, a private intelligence company with close ties to the federal government.

Media Pluralism
Score: 8

Citation:

Reporters without Borders, World Press Freedom Index 2014, <http://rsf.org/index2014/en-index2014.php>

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 today have more than one newspaper.

At least for the large majority of the population that has access to cable television or the Internet, a diversity of political perspectives is accessible. Aggregation services such as Google News and RealClearPolitics.com, for example, provide free one-stop access to a wide range of political commentary.

The main challenge with respect to pluralism is the decline in financial resources available for actual news gathering and reporting, as opposed to commentary. A Pew Foundation study found in 2012 that newspapers had 30% fewer full-time professional employees than they had in 2000, the lowest such employment figures since 1978. As an unfortunate consequence, an increasing proportion of news coverage consists of statements made directly by politicians or public officials, often without filtering or analysis by 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 with regard to permitting access, as citizens and researchers have difficulty knowing when relevant information has been withheld.

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 to 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” in order to withhold information less readily than the previous administration. In 2013 – 2014, the Obama administration denied or delayed a record number of FOIA requests. However, data indicates a 138% increase in national-security-related requests, an apparent byproduct of the Snowden leaks.

Citation:

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

Civil Rights and Political Liberties

Civil Rights
Score: 6

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. Congress also authorized parts of 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. For example, it has 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. The fatal 2014 shooting of an unarmed black teenager by a police officer in a St. Louis suburb, and the frequently threatening and violent police handling of the resulting demonstrations, drew national attention to an arguably widespread pattern of police violence, militarized methods and discrimination against black citizens. Evidence suggests that black males in particular are frequently subject to arbitrary harassment, searches and physical abuse at the hands of police.

Citation:

“Armed and dangerous; law enforcement in the United States.” (2014, Mar 22). *The Economist*, 410, 14-16.

Political Liberties
Score: 9

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. In contrast with most developed democracies, the right to freedom of speech has even invalidated laws proscribing hate speech.

In one significant limitation to 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). In the protests following the fatal 2014 police shooting of an unarmed black teenager in a St. Louis suburb, a military-style police response effectively threatened and sought to intimidate protestors – although the objective was mainly to prevent crowd violence rather than to silence the protest.

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 Obama administration has made progress with regard to gender equality. 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.

The federal government has not actively pushed affirmative-action policies – such as preferential treatment for disadvantaged groups – since the Clinton administration. The U.S. Supreme Court has imposed restrictions on state university practices that favored black or Hispanic students in admissions, while upholding state policies that barred race or ethnicity as considerations in admission. In general, liberals and conservatives disagree about whether the persistence of unfavorable outcomes for blacks in educational achievement, employment status, income, incarceration and other areas is a consequence of ongoing discrimination despite existing legal protections.

The period of the Obama administration has been one of extraordinarily rapid progress in the rights accorded to homosexuals. Laws prohibiting homosexual

activity have been ruled unconstitutional. Most jurisdictions now prohibit employment discrimination against homosexuals. Same-sex marriage, along with associated rights (such as spousal benefits under pension and insurance policies), has been advanced through a cascade of state- and federal-court decisions, legislative enactments and referenda. Although many states still bar same-sex marriage, it appears that resistance to it is in virtual collapse.

Rule of Law

Legal Certainty
Score: 7

There is little arbitrary exercise of authority in the United States, but the legal process does not necessarily provide a great deal of certainty either. Some uncertainty arises as a consequence of the country's adversarial legal system. 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 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 – though he has limited his use of them. Nevertheless, 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. In 2014, Obama stated his intention to act unilaterally on immigration reform if Congress fails to enact legislation. He claims to have sufficient authority under existing statutes, but these claims are quite extravagant in relation to prior discussion in this policy area.

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.

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 have 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. In many states, judges are elected (under a variety of specific arrangements) and raise funds from private contributors for reelection campaigns. Although this practice may compromise judges’ independence with respect to contributors, it does not generally reduce their independence from the legislative or executive branches.

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, incidents of financial corruption occasionally emerge both in the congressional and state-government spheres.

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. On the legislative side, the Congressional Budget Office analyzes the 10-year fiscal impact of all bills with budget implications. 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 a few hundred think tanks – nongovernmental organizations that specialize in policy research and commentary. The Obama administration made extensive use of the scholarly talent pool in its first term, but 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 the official or authoritative status that might derive 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 debates. 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. 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 (Council of Economic Advisers, the Office of Management and Budget, and the National Security Council). 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 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 to \$400 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, to oversee executive-branch policymaking in specific areas.

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 as he or she organizes the White House and establishes advisory arrangements. In recent presidencies, a strong and consistent trend has favored White House control. In the Obama administration, for example, the White House controls policy management and thus the presentation of decision materials almost completely, with cabinet officials in subordinate roles.

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 can therefore prioritize issues they see as important to the president's agenda. This tends to happen in two general ways. If a department or agency is seeking significant legislation, then 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.

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" through an organized committee process. However, the ad hoc character of organization (compared with a parliamentary cabinet secretariat), along with the typically 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.

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.

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). 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. The Congressional Budget Office (CBO) conducts analysis of proposed bills, including cost estimates over a 10-year period.

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

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, 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.

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
 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 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.

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. 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 in public communications. However, such communication was less effective during the 2013 Internal Revenue Service (IRS) scandal, which involved evidence that the IRS had used political criteria in choosing to investigate the tax-exempt status of a large number of ideologically conservative groups.

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. In the system's current highly polarized state, the success of the executive in implementing its proposed policies depends on the majorities in Congress. From 2011 to 2013, the U.S. government was 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. Later, while it did allow automatic across-the-board spending cuts to go into effect (the so-called sequester), it has repeatedly approached failure with regard to increasing the federal debt limit.

In recent years, government has shown poor implementation performance on several matters. Most importantly, the rollout of the Affordable Care Act website was disastrous, delaying sign-ups for millions of potential clients for many months. Separately, a condition of gross neglect affecting patients in Veterans Administration hospitals persisted for a disturbingly long period of time. With the sharply divided and polarized control of government after the 2014 elections, is unlikely that the American government will have much success in defining policy goals, or in effectively pursuing those that it defines.

Ministerial
Compliance
Score: 10

The president has a high level of control over appointments such as agency and department heads. They serve at the president's discretion, and need the 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 has been notoriously decentralized, with individual agencies responsive to interest-group constituencies or congressional committees. However, as recent presidents have upgraded their ability to monitor agency activities and to draw major

Monitoring
Ministries
Score: 9

issues into the White House, conflicts between the agencies and the White House have largely disappeared.

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.

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 relevant secretary's office that monitor the activities of subordinate agencies. 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 only a few major cases among the dozens of agencies and hundreds of programs emerging in each presidency.

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.

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, 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.

National
Standards
Score: 5

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 Environmental Protection Agency, for example, requires states to meet air-quality standards under the Clean Air Act. On the other hand, states exercise broad 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

The United States has developed institutional structures that are able to respond to its international obligations. Climate change negotiations, for

Score: 8

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 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 United States has been less prone to adapt domestic-policy-making 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.

International
Coordination
Score: 8

The United States sometimes leads international efforts to pursue collective goods – sometimes, indeed, effectively controlling those efforts – while sometimes preferring unilateral approaches that withhold 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 single-party control of the government 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. The United States is also an effective participant in the G-7/8 process. The most notable change under the Obama administration has been the move toward participation in 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. By contrast, most other organizational structures – including the basic separation-of-powers system; the structure of Congress; and the structure of departments and major agencies of the executive branch – are rigid. None of these is subject to change by executive decision or ordinary legislative majority, and are evaluated only in extreme circumstances.

Yet from 2011 – 2013, just such extreme circumstances have emerged. A series of self-induced crises in economic policy – driven by fundamental conflicts over long-term budget policy – led commentators to question even the fixed and intractable features of the political system. The unprecedented levels of 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 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 amending the constitution to change core institutions are virtually impossible to meet. Second, statutory institutional change requires agreement between the president, the Senate and the House, all of which may have conflicting interests on institutional matters. Third, the committee system in Congress gives members significant 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 supermajority 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 certainly occurred during the review period, the president and Congress often 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. In 2011 and 2012, President Obama declined to assert presidential authority to increase the debt limit without action by Congress. The Senate declined to reform the filibuster rule significantly at the beginning of the 113th Congress in January 2013.

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. A 2014 Ipsos MORI cross-national survey found U.S. citizens to show the second-highest level of inaccuracy among 14 countries with regard to factual knowledge about a variety of social issues.

Citation:

<https://www.ipsos-mori.com/researchpublications/researcharchive/3466/Perceptions-are-not-reality-10-things-the-world-gets-wrong.aspx>

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: 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.

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 enabling them access 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 to be 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.

Summoning
Experts
Score: 10

The invitation of outside experts to testify at committee hearings is an established, highly routine practice in the legislative process. Hearing transcripts 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

Task Area
Congruence
Score: 9

the current era severely limit the minority-party witnesses, resulting in a selection of witnesses strongly biased in favor of the majority-party position.

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.

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.

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 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 to 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. In addition, because the acquisition of experience is massively disaggregated, without any

systematic collation of information from the 535 congressional offices, congressional staff are less able to identify general policy or administration problems 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. However, reputable news reporting and news analysis programs are available on radio and TV networks. 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. Some media exhibit pervasive ideological biases 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.

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.

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, 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, simply by 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 regarding whether registration as a party supporter is required in order to vote in a specific party's primaries.

Association
Competence
(Business)
Score: 9

A vast number of business associations are active in the United States. This is a reflection of the size and complexity of the American economy and of a political culture that fosters participation, but also of the opportunities for lobbying influence in a decentralized political system. The associations themselves range from peak associations such as the Business Roundtable to trade associations of major industries such as the American Trucking Association, and further to groups representing narrow industry segments. 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. However, there are certainly several hundred business associations 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 to 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. However, they are subject to ideological biases and membership demands that tend to favor extreme views.

This country report is part of the Sustainable Governance Indicators 2015 project.

© 2015 Bertelsmann Stiftung

Contact:

Bertelsmann Stiftung
Carl-Bertelsmann-Straße 256
33311 Gütersloh

Dr. Daniel Schraad-Tischler
daniel.schraad-tischler@bertelsmann-stiftung.de

Dr. Christian Kroll
christian.kroll@bertelsmann-stiftung.de