

American Democracy and the Policymaking Process
Prof. Steve Jackson
Syllabus
January 9, 2012

This is a course on the policy making processes in the United States Government. It will serve as a window through which to view basic issues in American democracy from macro-explanatory questions (such as, What are the factors which cause issues to arise on the institutional agendas of Congress, executive Agencies, and the Supreme Court?) to micro-normative questions (such as, What ought to be the limits on the behavior and obligations for action of legislators, regulators, lobbyists and other participants in the policy-making process?). Policymaking proceeds through predictable stages starting with agenda-setting, proceeding through legitimation, moving to implementation, entering into evaluation, and culminating in a possible return to agenda-setting.

In general, we will proceed through the stages of the policymaking process, asking three questions at each stage: What happens? Why does it happen? And what should happen? In addressing each of these questions, we will be setting contemporary answers to these questions in historical context, and examining systematic differences across policy types.

In elaborating these questions and searching for answers, we will develop two fundamental themes:

- 1) "Where you stand depends on where you sit." Credited to Robert McNamara who, as Defense Secretary during the Cuban Missile Crisis, sought to make sense of the different views brought to the table by the EXCOM assembled by the President to manage the crisis. In the context of understanding the policy process, there are two dimensions of location whose impact on perspective we will explore. On the one hand, participants in the process in Washington, DC systematically differ in their descriptions, explanations, and normative evaluations from scholars studying the process, and of course, different kinds of participants differ from other kinds (e.g., legislators from lobbyists). On the other hand, scholars from different disciplines also differ systematically in their descriptions and explanations and, usually implicitly, in their normative evaluations (political scientists vs. economists vs. legal analysts).
- 2) "The devil is in the details." Originating, perhaps, in Flaubert's "The good God is in the details." the Satanic variant suggests the possibility of a fundamental misunderstanding if details are not scrutinized sufficiently. We will examine details in the policy-making process in three ways which will distinguish this course from a typical public policy course. a) First, we will recognize that the final product of the policy-making process is often a written document, whether it is a law, a regulation, an Executive Order, or a decision of the Court. We will take the words in those documents seriously, relating them to the process which produced the document. b) Second, by taking the question of normative evaluations as the third, rather than the first, question, we will find that the normative questions – both systemic and individual – are more complicated than often portrayed. And c) Third, students interning within or near the world of policy will bring their own observations as participants to the discussion, as well. As we probe the details of those views, we will find utility in drawing upon multiple perspectives in understanding the process.

*****The textbook: read for important background information, not for every date and detail;**

+++Readings providing theoretical, analytical, or empirical research on aspects of the process; read for main arguments and results;

^^^Illustrative material – histories or cases: read for main line of story and for consistency or inconsistency with expectations based on scholarly research.

Session 1: The Puzzling Path from Issue to Law: Health Care Reform as Illustration

^^^"Health Care Reform: Overview," New York Times, January 3, 2011

http://topics.nytimes.com/top/news/health/diseasesconditionsandhealthtopics/health_insurance_and_managed_care/health_care_reform/index.html [optional]

Session 2: Values, Historical Lessons and the Creation of the American System

***James Madison, *The Federalist Papers*, #51 (#10 is optional),

<http://www.ourdocuments.gov/doc.php?flash=true&doc=10&page=transcript>

***Alexis de Tocqueville, *Democracy in America*, Chapter XIV: What The Real Advantages Are Which American Society Derives From The Government Of The Democracy,

<http://etext.lib.virginia.edu/etcbin/toccer-new2?id=TocDem1.sgm&images=images/modeng&data=/texts/english/modeng/parsed&tag=public&part=15&division=div1>

***Letter from Thomas Jefferson to George Washington on the Unconstitutionality of a National Bank, FOCUS on Highlighted Portions

***Letter from Alexander Hamilton to George Washington on the Constitutionality of a National Bank, FOCUS on Highlighted Portions

Session 3: Systemic Agenda Setting and Issue Types

***B. Guy Peters, *American Public Policy: Promise and Performance*, Eighth Edition, Chapter 1-4, pp. 3 – 91.

+++Jeffrey E. Cohen, "Presidential Rhetoric and the Public Agenda," *American Journal of Political Science*, Vol. 39, #1, pp. 87 – 107.

+++James W. Stoutenborough, Donald P. Haider-Markel and Mahalley D. Allen, "Reassessing the Impact of Supreme Court Decisions on Public Opinion: Gay Civil Rights Cases," *Political Research Quarterly* (2006), Vol. 59, #3, pp. 419 – 433.

+++Theodore J. Lowi, "American Business, Public Policy, Case-Studies, and Political Theory," *World Politics*, Vol. 16, No. 4 (Jul., 1964), FOCUS on pp. 690 – 715.

Session 4: Institutions in the Policy Process

***B. Guy Peters, *American Public Policy: Promise and Performance*, Eighth Edition, Chapters 5 - 6, pp. 93 – 140.

****Mr. Smith Goes to Washington* (1939) [Watch in Class]

+++Lee Hamilton, "What I Wish Political Scientists Would Teach about Congress," *PS: Political Science and Politics*, (2000), Vol. 33, #4, pp. 757 – 764.

+++Kathleen Clark, "Congress's Right to Counsel in Intelligence Oversight," *University of Illinois Law Review*, Volume 2011, Number 3, pp. 915-960.

Session 5: Institutional Agenda-Setting

+++Kenneth J. Arrow, "A Difficulty in the Concept of Social Welfare," *The Journal of Political Economy*, Vol. 58, #4, pp. 328 – 346.

+++Vanessa A. Baird, "The Effect of Politically Salient Decisions on the U.S. Supreme Court's Agenda," *The Journal of Politics*, Vol. 66, #3, pp. 755 – 772.

+++Andrew J. Taylor, "Domestic Agenda Setting: 1947 – 1994," *Legislative Studies Quarterly*, Vol. 23, #3, pp. 373 – 397.

+++Glenn S. Krutz, "Winnowing" in the U.S. Congress," *American Journal of Political Science*, (2005), Vol. 49, #2, pp. 313 – 326.

^^^Richard A. Barton, *Postal Reorganization Legislation*, Ph.D. Thesis (2010), "Chapter 5: The Postal Service Accountability and Enhancement Act of 2006," (pp. 74–121 of text; 81-128 of pdf) [http://digilib.gmu.edu:8080/bitstream/1920/5857/1/Dissertation - Barton-formatted%20%282%29.pdf](http://digilib.gmu.edu:8080/bitstream/1920/5857/1/Dissertation%20-%20Barton-formatted%20%282%29.pdf)

Session 6: Lobbying , Media and Public Opinion

+++Hall, Richard L., and Frank W. Wayman. "Buying time: Moneyed interests and the mobilization of bias in congressional committees." *American Political Science Review* 84 (1990): 797-820.

+++Jeffrey E. Cohen, "If the News is so Bad, Why Are Presidential Polls so High? Presidents, the News Media, and the Mass Public in an Era of New Media," *Presidential Studies Quarterly* (2004), Vol. 34, #3, pp. 493 – 515.

+++Stimson, James A., Michael B. MacKuen, and Robert S. Erikson. "Dynamic Representation." *American Political Science Review*, (1995): 543-565.

+++Ryan L. Claassen and Benjamin Highton, "Does Policy Debate Reduce Information Effects in Public Opinion? Analyzing the Evolution of Public Opinion on Health Care," *The Journal of Politics* (2006), Vol. 68, #2, pp. 410 – 420.

^^^Gerald C. DiCerbo, "Legislative History of the Youth Conservation Corps," *Journal of Forest History* (1988), Vol. 32, #1, pp. 22-31.

Session 7: Congress: Committees, Voting, and Representation

+++Aldrich, John H., and David W. Rohde. "The Republican Revolution and the House Appropriations Committee." *Journal of Politics* 62 (2000): 1-33.

+++Gilligan, Thomas W., and Keith Krehbiel. "Collective Decisionmaking and Standing Committees: An informational rationale for restrictive amendment procedures." *Journal of Law, Economics, and Organization* 3 (1987): 287-335.

+++Shepsle, Kenneth A., and Barry R. Weingast. "The institutional foundations of committee power." *American Political Science Review* 81 (1987): 85-104.

+++Abby Wright, "For All Intents and Purposes: What Collective Intention Tells Us about Congress and Statutory Interpretation," *University of Pennsylvania Law Review*, (2006) Vol. 154, #4, pp. 983 – 1024.

^^^David F. Cavers, "The Food, Drug, and Cosmetic Act of 1938," *Law and Contemporary Problems* (1939), Vol. 6, #1, Introduction and Section I, pp. 2-22.

Session 8: Budget Politics

***B. Guy Peters, *American Public Policy: Promise and Performance*, Eighth Edition, Chapter 7, pp. 141 – 178.

***Roy Myers, “The Return of Budget Deficits in the US,” *Public Administration Review*, March/April 2006, pp. 294-297.

+++Edward C. Banfield, “Congress and the Budget: A Planner’s Criticism,” *The American Political Science Review* (1949), Vol. 43, #6, pp. 1217 – 1228.

+++Charles E. Lindblom, “The Science of Muddling Through,” *Public Administration Review* (1959), Vol. 19, #2, pp. 79 – 88.

Session 9: The Supreme Court

+++Stephen L. Carter, “Constitutional Improprieties: Reflections on Mistretta, Morrison, and Administrative Government,” *The University of Chicago Law Review* (1990), Vol 57, #2, pp. 357 – 406.

+++Tom R. Tyler and Kenneth Rasinski, “Procedural Justice, Institutional Legitimacy, and the Acceptance of Unpopular U.S. Supreme Court Decisions: A Reply to Gibson,” *Law & Society Review* (1991), Vol. 25, #3, pp. 621 – 630.

^^^Mistretta v. United States (1989), majority opinion by Justice Blackmun and dissent by Justice Scalia: pp. 1-50. Focus on the Majority Opinion’s Section IV and V, pp. 13-30, and the dissent, pp. 41-49.

Session 10: Foreign Policy and National Security Processes

+++Graham T. Allison, “Conceptual Models and the Cuban Missile Crisis,” *The American Political Science Review* (1969), Vol. 63, #3, pp. 689 – 718.

+++Kiki Caruson and Victoria A. Farrar-Myers, “Promoting the President’s Foreign Policy Agenda: Presidential Use of Executive Agreements as Policy Vehicles,” *Political Research Quarterly* (2007), Vol. 60, #4, pp. 631 – 644.

+++Robert Malley and Peter Harling, “Beyond Moderates and Militants,” *Foreign Affairs* (2010), Vol. 89, #5, pp. 18 – 29.

+++Mark Souva and David Rohde, “Elite Opinion Differences and Partisanship in Congressional Foreign Policy, 1975 – 1996,” *Political Research Quarterly* (2007), Vol. 60, #1, pp. 113 – 123.

+++Patrick J. Haney, “Foreign Policy Advising: Models and Mysteries from the Bush Administration,” *Presidential Studies Quarterly* (2005), Vol. 35, #2, pp. 289 – 302.

Session 11: Bureaucracy, Regulation and Implementation

+++Calvert, Randal L., Mathew D. McCubbins, and Barry R. Weingast. “A Theory of Political Control and Agency Discretion.” (1989): 588-611.

+++David H. Rosenbloom, “„Whose Bureaucracy Is This, Anyway?“ Congress“ 1946 Answer,” *PS: Political Science and Politics* (2001), Vol. 34, #4, pp. 773 – 777.

+++Morris P. Fiorina, “The Case of the Vanishing Marginals: The Bureaucracy Did It,” *The American Political Science Review* (1977), Vol. 71, #1, pp. 177 – 181.

Session 12: Federalism, Urban Issues, and Washington, DC

+++Meagan Cahill, Samantha Lowry, P. Mitchell Downey, “Movin’ Out: Crime Displacement and HUD’s Hope VI Initiative,” Urban Institute, Justice Policy Center, Research Report, August 2011.

<http://www.urban.org/uploadedpdf/412385-movin-out.pdf>

+++”Challenges and Policy Options for Creating and Preserving Affordable Housing near Transit and in Other Location-Efficient Areas,” the Urban Institute:

<http://www.urban.org/uploadedpdf/1001489-Affordable-Housing.pdf>

+++”Expanding Health Coverage in Washington, DC,” Brookings Institution and the Rockefeller Foundation:

http://www.brookings.edu/~media/Files/rc/papers/2010/1210_dc_healthcare/1210_dc_healthcare.pdf

Session 13: Evaluation of Process and Product

***B. Guy Peters, *American Public Policy: Promise and Performance*, Eighth Edition, Chapter 8, pp. 179 – 198.

+++John Rawls, “Justice as Fairness: Political not Metaphysical,” *Philosophy and Public Affairs*, (1985) Vol. 14, #3, pp. 223 – 251.

Session 14: Constraints on and Obligations of Participants

+++Nelson Lund, “The President as Client and the Ethics of the President’s Lawyers,” *Law and Contemporary Problems* (1998), Vol. 61, #2, pp. 65 – 81.

+++Kathleen Clark, “The Ethics of Representing Elected Representatives,” *Law and Contemporary Problems* (1998), Vol. 61, #2, pp. 31 – 45.

+++Dennis F. Thompson, “Paradoxes of Government Ethics,” *Public Administration Review* (1992), Vol. 52, #3, pp. 254 – 259.

+++Leonard Silk, “Ethics in Economics,” *The American Economic Review* (1977), Vol. 67, #1, pp. 316 – 320.

+++Martin Reuss, “Government and Professional Ethics: The Case of Federal Historians,” *The Public Historian* (1999), Vol. 21, #3, pp. 135 – 142.

+++Andrew Rehfeld, “Representation ReThought: On Trustees, Delegates and Gyroscopes in the Study of Political Representation and Democracy,” *American Political Science Review* (2009), Vol. 103, #2, pp. 214 – 230.

How will we organize and conduct the course?

1) By dividing each class into two segments. In the first segment, I will lecture (with some discussion) on the main points in the reading, on history, on context, on generalizing and linking issues. In the second segment, I will ask students to relate issues from the readings to a law or regulation on which they will focus their research for the semester, and/or to their internship experience.

2) By requiring each student to pick a federal law or regulation or policy decision passed within the last five years (approximately), and, focusing in on particular provisions as the semester progresses, to write a research paper on the policy process which produced that legislation or regulation. The paper will be completed in parts, with writing assignments during the semester which ask the student to apply the facts, ideas, concepts which we are discussing in class to the particular law or regulation.

Requirements of the course:

A) completion of all reading assignments prior to the class for which they are assigned;

B) active participation in class discussions;

C) a final exam on the lectures and readings for the course;

D) completion of:

i) a one page writing assignment describing a piece of law or regulation or policy decision on which the student wishes to focus;

ii) three four-five page writing assignments (agenda-setting, formulation, and legitimation), applying the concepts and findings we have discussed in class to their own topic and drawing upon the material in the relevant chapter in the Peters text; and

iii) one final paper, consisting of an edited compilation of the four prior writing assignments, and an additional eight-ten pages of evaluation and assessment of both the process and the resulting law or regulation.

More specifically, elements in the final evaluation will be:

**Class participation, Law Students (35 points)

**Class participation, Undergraduates (20 points)

**Final Exam (15 points, Undergraduates only)

**Choice of a Law or Regulation (0 points) Due by time of class, Session 3 (1-2 pages)

**Agenda-Setting (10 points) Due by time of class, Session 6 (4-5 pages)

**Policy Formulation (10 points) Due by time of class, Session 9 (4-5 pages)

** Legitimation (10 points) Due by time of class, Session 12 (4-5 pages)

**Final Paper (35 points) Due by April 20th

(8 – 10 pages of new material; 13 – 17 pages of revised material)