

Unit 1: Foundations of American Democracy

Topic 1.1: Ideals of Democracy

The U.S. government is built on four democratic ideals — natural rights, the social contract, popular sovereignty, and limited government — that together define who holds power, where it comes from, and what restrains it. This first unit explores how our Founders created the American system of government (including our Constitution and Declaration of Independence) based on these notions.

The Four Core Ideals

Ideal	Definition	Constitutional Expression
Natural rights	All people possess inherent rights — life, liberty, and property — that exist prior to and independent of government authority	Declaration of Independence; Bill of Rights
Social contract	Citizens implicitly agree to surrender some freedoms to government in exchange for protection of their remaining rights and social order	Preamble: 'We the People... do ordain and establish this Constitution'
Popular sovereignty	All governmental power derives from the consent of the governed; the people are the ultimate source of political authority	Elected representatives; amendment process (Article V)
Limited government	Government power is not absolute; it is constrained by law, enumerated grants of authority, and individual rights that the state cannot override	Bill of Rights; separation of powers; judicial review

How Limited Government Is Enforced

Limited government does not enforce itself — the Constitution builds in structural mechanisms called checks and balances to keep any branch (the three branches are the legislative branch [Congress], judicial branch [Supreme Court/SCOTUS], and executive branch [President]) or faction from dominating. Checks and balances give each branch the tools to restrain the others: Congress overrides vetoes, the Senate confirms appointments, the president vetoes legislation, the courts strike unconstitutional acts. Federalism divides authority between the national and state governments, so neither level can fully consolidate power. Republicanism — government by elected representatives rather than direct democracy — filters public passions through deliberative institutions, slowing hasty action.

Foundational Documents

The *Declaration of Independence* (1776), drafted primarily by Thomas Jefferson with input from John Adams and Benjamin Franklin, restates the Lockean philosophy of natural rights and declares that governments derive their just powers from the consent of the governed. When a government becomes destructive of those ends, the people have the right to alter or even abolish it — establishing popular sovereignty as both a philosophical justification and a political right.

The *U.S. Constitution* (1787), drafted at the Constitutional Convention in Philadelphia under the presiding leadership of George Washington and with principal authorship attributed to James Madison, is itself a social contract: the people, acting through ratifying conventions, created the national government, defined its powers, and set the terms under which it operates. The Preamble’s ‘We the People’ is not rhetorical — it locates sovereignty in the citizenry.

THE DECLARATION OF INDEPENDENCE AND THE CONSTITUTION ARE AP U.S. GOV FOUNDATIONAL DOCUMENTS. THIS MEANS YOU MUST KNOW THEIR CONTENTS! We recommend looking up full copies of each document online before the test.

Topic 1.2: Types of Democracy

Democracy takes different structural forms, and the AP exam requires distinguishing between participatory democracy (direct citizen involvement), pluralist democracy (competition among organized groups), and elite democracy (influence concentrated among a small leadership class). The U.S. system incorporates elements of all three, which is why these models generate ongoing debate rather than a settled answer.

Three Models Compared

Model	Core Claim	Mechanism	Strengths	Criticisms
Participatory democracy	Citizens should be directly and continuously involved in political decisions	Town halls, ballot initiatives, referenda, direct primaries	Maximizes citizen voice; increases legitimacy	Impractical at national scale; susceptible to majoritarian excess
Pluralist democracy	Competition among organized interest groups produces policy outcomes that roughly reflect collective preferences	Lobbying, coalition-building, interest group litigation	Aggregates preferences beyond individual voters; prevents single-faction dominance	Wealthy and organized groups have structural advantages; minority interests can be outspent
Elite democracy	Governing is best left to a knowledgeable, experienced leadership class whose decisions are periodically ratified by voters	Elected officials with insulated tenure; independent agencies	Expertise; stability; insulates against short-term passion	Reduces accountability; can entrench privilege; contradicts popular sovereignty

Brutus No. 1 and the Debate Over Scale

Brutus No. 1 (1787), written by an Anti-Federalist author (almost certainly Robert Yates of New York) under the pen name 'Brutus,' argued that a large republic cannot sustain genuine democratic representation. Drawing on Montesquieu's principle that republics function best at small scale, Brutus contended that in a vast national government, elected representatives would be too remote from the people to reflect their true interests. Local governments, Brutus argued, are far more responsive because their representatives live among the people they govern.

Federalist No. 10 (James Madison, 1787) directly rebutted Brutus's argument by turning the scale objection upside down: a large republic is actually *superior* at controlling faction because the greater number of interests makes it harder for any single faction to gain a majority and oppress minorities. In Madison's extended republic, factions cancel each other out; in a small republic, one faction easily dominates.

BRUTUS NO. 1 AND FEDERALIST NO. 10 ARE AP U.S. GOV FOUNDATIONAL DOCUMENTS. THIS MEANS YOU MUST KNOW THEIR CONTENTS! We recommend looking up full copies of each document online before the test.

Topic 1.3: Government Power and Individual Rights

The tension between government authority and individual liberty is the organizing conflict of American constitutional history. Federalists and Anti-Federalists disagreed not on whether to protect rights, but on how — and their disagreement shaped the Constitution's structure and the Bill of Rights that followed.

Federalist Position: Federalist No. 10

James Madison's argument in *Federalist No. 10* is structural: individual rights are protected not primarily by written guarantees, but by the architecture of government itself. Faction — defined as a group pursuing interests adverse to the rights of others or the public good — is the greatest threat to liberty. The extended republic disperses factions so thoroughly that no single one can capture a national majority. The Constitution's separation of powers further prevents any faction that does achieve temporary dominance from entrenching itself. Rights are protected by dividing power, not merely by declaring rights.

Anti-Federalist Position: Brutus No. 1 (again)

Brutus No. 1 rejected the argument. A written declaration of rights is necessary because no structural safeguard is sufficient against a central government with 'supreme, absolute, and uncontrollable' power. Brutus pointed to the Necessary and Proper Clause and the Supremacy Clause as open-ended grants that would allow the national government to expand without limit, swallowing state authority and individual liberty alike. The Anti-Federalists' pressure was decisive: the promise of a Bill of Rights was a principal concession that secured ratification in key states, including New York and Virginia.

What the Debate Produced

Position	Key Document	Main Argument	Outcome
Federalist	<i>Federalist No. 10</i> ; <i>Federalist No. 51</i>	Structural safeguards (separation of powers, large republic) protect rights without explicit enumeration	Secured ratification; Constitution adopted 1788
Anti-Federalist	<i>Brutus No. 1</i> ; Letters from the Federal Farmer	Explicit written rights are essential; strong central government threatens liberty	Bill of Rights added 1791 as First Congress compromise

Topic 1.4: Challenges of the Articles of Confederation

The Articles of Confederation (1781–1789) — the first governing document of the United States — created a league of friendship among sovereign states rather than a national government. Its structural failures generated the political crisis that produced the Constitutional Convention.

Structure Under the Articles

Under the Articles, Congress was unicameral, and each state had one vote regardless of population. Congress could declare war, conduct foreign policy, and issue currency, but it lacked two powers that proved fatal: it could not tax directly and could not regulate interstate commerce. To fund the government or pay the Revolutionary War debt, Congress could only *request* contributions from states — and states routinely refused. Unanimous consent of all thirteen states was required to amend the Articles, making reform nearly impossible.

Specific Failures

Problem	Cause Under the Articles	Consequence
No power to tax	Congress could only requisition funds from states, not levy taxes directly	War debt unpaid; soldiers unpaid; foreign creditors unpaid; national credit collapsed
No power to regulate commerce	States taxed each other's goods; tariff wars developed	Economic chaos; trade disrupted; interstate rivalry intensified
No executive branch	No single official to enforce laws or conduct foreign policy consistently	Laws ignored; treaties violated; foreign nations doubted U.S. commitments

No national judiciary	No federal courts to resolve interstate disputes or enforce national law	Interstate conflicts unresolved; contract law inconsistent across states
Supermajority/unanimity requirements	9 of 13 states needed to pass legislation; all 13 needed to amend	Legislative gridlock; no mechanism for incremental reform

Shays' Rebellion and Its Political Impact

Shays' Rebellion (1786–87), a debtor uprising in western Massachusetts led by Revolutionary War veteran Daniel Shays, demonstrated the Articles' terminal weakness. When Massachusetts farmers facing foreclosure shut down courts and marched on the Springfield federal arsenal, Congress could do nothing — it had no army and no money to raise one. The rebellion was suppressed by a privately funded state militia. The episode alarmed elites across the country and gave urgency to calls for a stronger central government. Madison cited Shays' Rebellion as evidence that the Articles left the republic vulnerable to internal disorder.

Federalist No. 51 (Madison) and *Federalist No. 70* (Hamilton) both responded to the governmental weakness exposed by the Articles — Madison by arguing for checked, balanced institutions; Hamilton by arguing for a unitary, energetic executive who could act decisively where the Articles' collective Congress could not.

AP FRQs that involve the Articles typically ask you to use the document as evidence for why the Constitutional Convention was called, or to apply its failures to the argument in *Federalist No. 51*. Know the specific powers Congress lacked under the Articles and connect each to a named consequence.

FEDERALIST NO. 51 AND NO. 70 ARE AP U.S. GOV FOUNDATIONAL DOCUMENTS. THIS MEANS YOU MUST KNOW THEIR CONTENTS! We recommend looking up full copies of each document online before the test.

Topic 1.5: Ratification of the U.S. Constitution

Ratification of the Constitution (1787–1790) was not assured — it required political negotiation, persuasion campaigns, and explicit promises that produced the Bill of Rights. The debate between Federalists and Anti-Federalists defined the terms of American constitutionalism for generations.

The Ratification Process

The Constitutional Convention agreed to a non-standard ratification mechanism: the Constitution would take effect upon ratification by nine of thirteen state conventions elected by the people — bypassing state legislatures that might resist reductions in state authority. This was itself a departure from the Articles' unanimity requirement and from legality *stricto sensu*, since the Convention's mandate was only to amend the Articles. The decision to route ratification through popular conventions echoed the Preamble's 'We the People' claim.

The Federalist Papers

Alexander Hamilton, James Madison, and John Jay wrote 85 essays under the pen name ‘Publius,’ collectively known as *The Federalist Papers*, to persuade New York voters and convention delegates to support ratification. The essays remain the most authoritative interpretation of constitutional intent.

Essay	Author	Core Argument
<i>Federalist No. 10</i>	Madison	A large republic controls faction better than a small one; the Constitution’s extended republic protects minority rights
<i>Federalist No. 51</i>	Madison	Separation of powers and checks and balances prevent tyranny; ‘ambition must be made to counteract ambition’
<i>Federalist No. 70</i>	Hamilton	A single, energetic executive is essential; unity, duration, and adequate powers define an effective presidency
<i>Federalist No. 78</i>	Hamilton	An independent judiciary with life tenure is essential; judicial review is implied by the Constitution’s supremacy

Anti-Federalist Opposition and the Bill of Rights Compromise

Anti-Federalists in key states — especially New York, Virginia, and Massachusetts — threatened to defeat ratification. Their core objections were the absence of a Bill of Rights, the concentration of power in the national government, and the Necessary and Proper Clause’s open-ended scope. In the Massachusetts ratifying convention, Federalists struck a deal: ratify the Constitution now, with the understanding that the First Congress would immediately propose amendments protecting individual rights. This ‘Massachusetts Compromise’ was adopted by several other states. James Madison, initially opposed to a separate bill of rights as unnecessary, introduced 12 amendments to the First Congress; 10 were ratified in 1791.

McCulloch v. Maryland (1819) and *United States v. Lopez* (1995) are the principal cases testing the scope of national power ratified in 1788 — specifically whether the Necessary and Proper Clause grants Congress broad implied powers (McCulloch: yes) or whether there are judicially enforceable limits on that power (Lopez: yes, as to non-economic activity).

FEDERALIST NO. 78 IS AN AP U.S. GOV FOUNDATIONAL DOCUMENTS. THIS MEANS YOU MUST KNOW ITS CONTENTS! We recommend looking up a full copy of the document online before the test.

Topic 1.6: Principles of American Government

The Constitution embeds two principles — separation of powers and checks and balances — that operate together to prevent any one branch from becoming dominant. These principles reflect Madison’s core insight in *Federalist No. 51* that the structure of government itself, not the virtue of officeholders, must guarantee against tyranny.

Separation of Powers

Article I (of the Constitution) vests legislative power in Congress. Article II vests executive power in the President. Article III vests judicial power in one Supreme Court and such inferior courts as Congress may establish. These are not merely administrative divisions — they are constitutionally distinct functions that cannot be fully transferred between branches. Congress cannot execute law; the President cannot make law by fiat; courts cannot initiate litigation.

Checks and Balances

Branch	Key Powers	Checked By
Legislative (Congress)	Pass legislation, declare war, control budget (power of the purse), override vetoes (2/3 majority), confirm appointments (Senate), ratify treaties (Senate, 2/3 majority), impeach and remove officers	Presidential veto; judicial review of acts of Congress; Senate filibuster checks House
Executive (President)	Veto legislation, command armed forces, nominate judges and executive officers, grant pardons, issue executive orders, conduct foreign policy	Congressional override of veto; Senate confirmation; Congressional appropriations; impeachment; judicial review of executive acts
Judicial (Federal courts)	Interpret Constitution; strike unconstitutional laws (judicial review); review executive actions; issue injunctions	Congressional control of appellate jurisdiction (Article III, §2); presidential appointment of judges; Senate confirmation; constitutional amendment overrides rulings

Federalist No. 51

Federalist No. 51 (Madison) provides the theoretical justification for checks and balances. The essay argues that because men are not angels, government must control the governed — and government must be made to control itself. The mechanism is ‘giving to those who administer each department the necessary constitutional means and personal motives to resist encroachments of the others.’ Each branch must have independence from the others and tools to defend that independence. The bicameral structure of Congress itself reflects this logic: the Senate and House check each other before any legislation reaches the president.

Impeachment as a Check

The impeachment power illustrates checks and balances in action. The House holds the sole power to impeach (Article I, §2) — a majority vote brings formal charges. (The § symbol = section.) The Senate holds the sole power to try impeachments (Article I, §3) — a two-thirds vote convicts and removes from office. The Chief Justice presides when a president is tried. Presidents Andrew Johnson (1868), Bill Clinton (1998), and Donald Trump (2019, 2021) were impeached by the House but not convicted by the Senate. Richard Nixon resigned before the House voted.

Topic 1.7: Relationship Between the States and National Government

Federalism is the constitutional principle dividing governing authority between the national government and state governments, with each level holding certain powers the other cannot simply override. The Constitution allocates three categories of power — enumerated, reserved, and concurrent — and establishes national supremacy where the two levels conflict.

Power Type	Holder	Definition	Constitutional Source	Examples
Enumerated (expressed)	National government	Powers explicitly listed in the Constitution	Article I, Section 8	Coin money, declare war, regulate interstate commerce, establish post offices
Implied	National government	Powers not explicitly listed but inferred from the Necessary and Proper Clause as means to carry out enumerated powers	Article I, §8, Clause 18 (Necessary and Proper)	Establish a national bank (McCulloch), regulate marijuana grown for personal use if it affects interstate commerce
Reserved	State governments	Powers neither delegated to the national government nor prohibited to the states	10th Amendment	Regulate education, marriage, intrastate commerce, most criminal law, public health
Concurrent	Both levels	Powers shared by national and state governments simultaneously	Implied by constitutional structure	Tax, borrow money, build roads, establish courts, enforce law
Denied	Neither level (or specifically one)	Powers explicitly prohibited	Article I, §9 (national); Article I, §10 (states)	Bill of attainder, ex post facto laws, titles of nobility

Fiscal Federalism: Grants-in-Aid

The national government uses fiscal tools — grants of money to states — to exercise influence over policy areas formally reserved to the states. Three types of grants operate differently in terms of state discretion:

- **Categorical grants** — funds provided for a specific, congressionally defined purpose with conditions. States have little discretion over use. Example: Title I education funds restricted to schools serving low-income students.
- **Block grants** — funds provided for a broad functional area (health, law enforcement, community development) with fewer conditions. States have more flexibility. Example: Temporary Assistance for Needy Families (TANF).
- **Revenue sharing** — direct grants with almost no conditions, allowing states maximum discretion. Least common; the general revenue-sharing program was eliminated in 1986.

Unfunded mandates — requirements imposed by Congress on state or local governments without providing funding to meet them — are a source of persistent state–federal conflict. The National Minimum Drinking Age Act (1984) is a conditional preemption example: Congress cannot directly set state drinking ages (reserved power), but it conditioned federal highway funds on states adopting the age-21 standard. States technically could refuse — but the financial penalty was prohibitive.

Required Cases: Federalism and Implied Powers

McCulloch v. Maryland (1819): Maryland taxed the Second Bank of the United States, which the national government had chartered. Chief Justice John Marshall held unanimously that Congress possessed the implied power to charter a bank under the Necessary and Proper Clause, and that Maryland could not tax a federal instrumentality under the Supremacy Clause. The ruling established two lasting doctrines: broad implied powers for Congress, and national supremacy over conflicting state action.

United States v. Lopez (1995): Congress had made possession of a gun in a school zone a federal crime under the Commerce Clause. The Court (5–4) struck down the law — the first time in sixty years it had invalidated a federal statute on Commerce Clause grounds. Chief Justice Rehnquist held that carrying a gun in a school zone was not an economic activity with a substantial effect on interstate commerce. *Lopez* reasserted that the Commerce Clause has limits, and that the 10th Amendment reserves genuinely local activity to the states.

Topic 1.8: Constitutional Interpretations of Federalism

Four constitutional clauses — the Due Process and Equal Protection Clauses of the 14th Amendment, the Commerce Clause, the Necessary and Proper Clause, and the Supremacy Clause — are the primary legal mechanisms through which the boundary between national and state power has shifted across American history. Supreme Court interpretations of these clauses determine in practice where federalism’s boundary falls.

The Four Key Clauses

Clause	Location	Grant of Power	Ongoing Tension
Due Process (5th and 14th Amendments)	5th Am. (federal); 14th Am. §1 (states)	Government may not deprive persons of life, liberty, or property without due process of law	What procedures are required? What substantive rights does due process protect?
Equal Protection	14th Amendment, §1	States may not deny any person equal protection of the laws	What government classifications trigger heightened scrutiny? How does equal protection interact with state police powers?
Commerce Clause	Article I, §8, Clause 3	Congress may regulate commerce among the states	What constitutes ‘commerce’? Must activity be economic? Does local activity with interstate effects qualify?
Necessary and Proper Clause	Article I, §8, Clause 18	Congress may make laws ‘necessary and proper’ to carry out enumerated powers	How deferential should courts be to Congress’s choice of means? Are there limits to implied power?
Supremacy Clause	Article VI, Clause 2	The Constitution, federal laws, and treaties are the supreme law of the land	When does federal law preempt state law? Can states choose to ignore federal policy they disagree with?

14th Amendment and Incorporation

The 14th Amendment (1868) transformed federalism by creating a constitutional basis for national enforcement of civil liberties against state governments. Section 1's Due Process Clause became the vehicle for selective incorporation — applying most of the Bill of Rights' protections to the states through the doctrine developed case by case from *Gitlow v. New York* (1925) onward (covered fully in Topic 3.7).

Commerce Clause Evolution

The Court's interpretation of the Commerce Clause has oscillated. In *McCulloch* (1819), Marshall read congressional power broadly. *Gibbons v. Ogden* (1824) established that commerce 'among the states' includes navigation and transmission, not just exchange of goods. From 1937 onward, the New Deal Court upheld sweeping federal regulation of agriculture, labor, and manufacturing. *Lopez* (1995) and *United States v. Morrison* (2000) reversed this trend by requiring that regulated activity be economic and have a substantial effect on interstate commerce. The ACA cases (2012) further clarified that the Commerce Clause allows regulation of existing economic activity but not a mandate to enter commerce.

Topic 1.9: Federalism in Action

Federalism is not a fixed equilibrium — it is a dynamic **relationship** (key word) in which the balance of national and state authority shifts in response to political pressure, judicial decisions, fiscal bargaining, and public demands. The distribution of power creates multiple access points for stakeholders to influence policy.

Multiple Access Points

Because power is divided between national and state governments, and further divided within each level among three branches, political actors who lose at one level or in one branch can redirect their efforts. A group that loses in Congress can seek state legislation. A group defeated in state courts can bring federal constitutional claims. A group that loses a judicial ruling can pursue a constitutional amendment or elect legislators who will reshape the bench. This fragmentation of authority is both a feature — it prevents entrenchment — and a friction — it slows and complicates policymaking.

Constraint of Concurrent Powers

National policymaking is constrained by states' concurrent powers in several ways. States control their own court systems, and federal law operates alongside (not instead of) state law in overlapping domains. Federal environmental standards set floors; states may exceed them. Federal minimum wage sets a floor; states may exceed it. States that choose to enforce federal priorities (immigration, drug law) differently create de facto policy variation. The 'devolution revolution' of the 1980s–90s deliberately shifted policy authority back toward states in areas like welfare (block grants under TANF), education, and criminal justice.

Current Federalism Debates

- **State marijuana laws:** Over 30 states have legalized marijuana for medical or recreational use; federal law (Controlled Substances Act) still classifies it Schedule I. The Supremacy Clause could preempt state laws, but the federal government has used prosecutorial discretion rather than enforcement (i.e., in most cases, minor marijuana offenses are not prosecuted federally).
- **Immigration enforcement:** Federal immigration law is supreme, but states and localities may decline to cooperate with Immigration and Customs Enforcement detainer requests (sanctuary policies). Courts have

generally upheld state non-cooperation as consistent with the anti-commandeering doctrine from *New York v. United States* (1992) and *Printz v. United States* (1997).

- **Federal disaster response:** Federalism's complexity is visible during natural disasters. FEMA coordinates federal aid, but governors control state National Guard units and emergency management. The Hurricane Katrina response (2005) exposed coordination failures between federal, state, and local governments.

Unit 2: Interactions Among Branches of Government

Topic 2.1: Congress: The Senate and the House of Representatives

Congress is bicameral by constitutional design — the House represents the people in proportion to population, the Senate represents states equally — and each chamber’s structure reflects that different representational purpose.

Structural Differences

Feature	House of Representatives	Senate
Membership	435, apportioned by population	100, 2 per state regardless of size
Term length	2 years; all seats up every election	6 years; 1/3 of seats contested every 2 years
Minimum age	25	30
Citizenship requirement	7 years	9 years
Presiding officer	Speaker of the House (elected by members)	Vice President (constitutional); President pro tempore (elected by members) in VP’s absence
Debate rules	Formal, time-limited; Rules Committee controls floor access	Extended debate possible; filibuster and cloture
Revenue bills	Must originate in the House (Article I, §7)	Can amend but not originate
Impeachment	Sole power to impeach	Sole power to try impeachments
Treaties / appointments	No role	Advise and consent (2/3 for treaties; majority for appointments)
Character	‘People’s House’ — closer to electoral pressure; responsive	Deliberative cooling chamber — less responsive by design

Constitutional Basis of Congressional Power

Article I, Section 8 lists Congress’s enumerated powers: laying and collecting taxes, borrowing money, coining money, regulating interstate and foreign commerce, establishing post offices and post roads, declaring war, and raising and supporting armies, among others. Clause 18 — the Necessary and Proper Clause — authorizes Congress to make all

laws ‘necessary and proper’ for carrying out these powers, providing the constitutional foundation for implied powers.

Baker v. Carr (1962) and *Shaw v. Reno* (1993) are the key SCOTUS cases governing congressional districting. *Baker* held that federal courts have jurisdiction over redistricting challenges (the political question doctrine does not bar such claims). *Shaw* held that districts drawn primarily on race must survive strict scrutiny under the Equal Protection Clause. Know both for FRQs linking congressional representation to constitutional limits.

Federalist No. 10 ties to this topic: Madison’s argument that representatives in a large republic filter factional passions through deliberation. The bicameral structure adds another layer — the Senate slows legislation that might otherwise pass the House in a moment of popular passion.

Topic 2.2: Structures, Powers, and Functions of Congress

Congress operates through a committee system, party leadership hierarchy, and chamber-specific rules that together determine how legislation moves — or stalls — on its way to becoming law.

Committee System

Both chambers refer bills to standing committees, which conduct hearings, take expert testimony, and ‘mark up’ bills (amend them line by line). Committee chairs hold the power to schedule or table bills, giving them substantial gatekeeping authority. Committee leadership is determined by the majority party; the minority party holds ranking member positions. Conference committees — temporary, bicameral — reconcile House and Senate versions of a bill after passage in both chambers.

House-Specific Rules

- The **Rules Committee** sets the terms of floor debate for each bill — how long debate lasts, whether amendments are permitted (open rule) or limited (closed or structured rule). It is effectively a traffic controller for House floor activity. This means the party in power has a significant advantage!
- The **Speaker of the House**, elected by all House members (but generally of the party that controls the House), controls the legislative agenda, committee assignments, and floor recognition. The Speaker is second in the presidential line of succession after the Vice President.
- The **Committee of the Whole** — all House members convening under relaxed voting rules — expedites debate on amendments; a quorum requires only 100 members rather than 218.
- A **discharge petition** signed by 218 members (an absolute majority) can force a bill out of committee to the floor, bypassing the chair’s gatekeeping power — but this rarely succeeds.

Senate-Specific Rules

- Bills reach the Senate floor typically by **unanimous consent agreement** — all 100 senators agree to proceed. Any senator can object, placing a ‘hold’ on a bill.
- The **filibuster** allows a senator (or coalition) to extend debate indefinitely, preventing a vote. A senator can speak for hours on any topic — or threaten to do so. The mere threat of a filibuster often shapes legislative negotiations.
- **Cloture** (Rule XXII) ends a filibuster with 60 votes (three-fifths of the full Senate). Once cloture is invoked, debate is limited to 30 additional hours. The 60-vote cloture threshold is why effective legislation often requires bipartisan support — a majority party with fewer than 60 seats must either attract opposition senators or accept filibuster death.

- **Budget reconciliation** allows certain budget-related legislation to pass with a simple majority (51 votes), bypassing the filibuster — hence its frequent use for major fiscal legislation.

Policymaking Impact

These structural differences directly affect what legislation can pass. A bill may sail through the House under a closed rule and simple majority, then die in the Senate because it cannot reach 60 votes for cloture. The Senate's capacity to block legislation majority parties enact in the House was by design: the framers intended the Senate to be a deliberative body that slows hasty action. *Federalist No. 51* explicitly describes the bicameral structure as an internal check — the Senate checking the House before either chamber's output reaches the president.

Topic 2.3: Congressional Behavior

How individual members of Congress vote and organize is shaped by electoral incentives, partisan structures, and constituency pressure — and the interaction of these forces produces the polarization and gridlock that characterize contemporary Congress.

Partisan Voting and Polarization

Partisan voting — members voting along party lines rather than independently — has increased dramatically since the 1970s. Party unity scores (the percentage of votes on which a member votes with their party majority) have risen for both parties. This ideological polarization, in which the parties' legislative caucuses move toward their ideological extremes with less overlap, reduces opportunities for bipartisan compromise and contributes to gridlock — the inability to pass legislation due to the absence of a working majority.

Electoral Effects on Congressional Behavior

- **Safe seats** created by partisan gerrymandering insulate members from general-election competition; they face primary challenges from within their party, which incentivizes more ideologically extreme positions.
- **All House members face reelection every two years**, making them perpetually attentive to short-term constituency preferences and less insulated from public opinion than senators.
- **Senators serve six-year terms**, and only one-third face election at any time, insulating them somewhat from immediate public pressure — though this protection is partial in competitive states.

Divided Government

Divided government — when one party controls the presidency and the opposing party controls one or both chambers of Congress — intensifies partisanship. Members of the congressional opposition have electoral incentives to block presidential initiatives, particularly in the final years of a president's term (the 'lame duck' period). (Midterm elections almost ALWAYS go the wrong way [i.e., the president's party loses Congressional seats].) The confirmation of executive appointments, passage of the president's budget, and treaty ratification all become sites of intensified conflict under divided government.

Redistricting and Gerrymandering

Every ten years, following the census, congressional districts are redrawn to reflect population changes. States control this process through their legislatures in most states. **Gerrymandering** — drawing districts to favor one party or group — comes in two forms: **packing** (concentrating the opposing party's voters into a few districts, ensuring they win those seats by large margins but waste votes) and **cracking** (splitting the opposing party's voters across multiple districts so they cannot form a majority anywhere).

Baker v. Carr (1962): The Supreme Court held (6–2) that federal courts have jurisdiction over redistricting challenges, rejecting the argument that legislative apportionment is a non-justiciable political question. Justice Brennan’s majority opinion applied a multi-factor test for distinguishing political questions from justiciable ones. The case opened the door for *Reynolds v. Sims* (1964), which established the ‘one person, one vote’ principle for state legislative districts.

Shaw v. Reno (1993): The Court held (5–4) that a North Carolina congressional district drawn in an irregular shape primarily to create a majority–minority district could be challenged under the Equal Protection Clause. Justice O’Connor’s majority held that racial classifications in districting trigger strict scrutiny — such districts must be narrowly tailored to serve a compelling government interest. *Shaw* constrains, but does not prohibit, the use of race in redistricting.

AP SCOTUS comparison FRQs often pair *Baker v. Carr* (political question / redistricting justiciability) or *Shaw v. Reno* (racial gerrymandering) with a non-required case. Know the constitutional basis of each ruling and the principle it established.

Topic 2.4: Roles and Powers of the President

The president exercises both formal powers explicitly granted by Article II and informal powers derived from political position, public visibility, and constitutional ambiguity. Managing both categories — and knowing their limits — is the core of presidential power.

Formal Powers

Formal Power	Constitutional Source	Details
Veto	Article I, §7	President may return a bill unsigned within 10 days with objections. Congress may override with 2/3 majority in both chambers. A vetoed bill returned without objection effectively dies.
Pocket veto	Article I, §7	If Congress adjourns within 10 days of presenting a bill and the president does not sign, the bill dies (pocket veto). Congress cannot override a pocket veto.
Commander-in-chief	Article II, §2	President commands the armed forces. Congress retains the power to declare war, but presidents have deployed forces without formal declarations (Korea, Vietnam, Gulf War). The War Powers Resolution (1973) requires notification within 48 hours and limits deployments to 60 days without congressional authorization.

Treaty power	Article II, §2	President negotiates treaties; Senate must ratify by 2/3 majority. Presidents use executive agreements (with foreign governments) instead when they want to avoid Senate ratification — these have the force of law but are not constitutionally equivalent to treaties.
Appointment power	Article II, §2	President nominates federal judges, ambassadors, and principal executive officers; Senate confirms by majority vote. Recess appointments (when Senate is in recess) are temporary.
Pardon power	Article II, §2	President may grant pardons for federal offenses. Pardons are absolute and cannot be reviewed by courts or Congress. They do not apply to state crimes or to impeachment.

Informal Powers

Informal Power	Mechanism
Executive orders	Directives issued under the president's constitutional executive authority or delegated by statute. Have the force of law but can be rescinded by successor presidents or challenged in court.
Signing statements	Written declarations issued when signing legislation, stating the president's interpretation of ambiguous provisions or noting constitutional objections. Not legally binding, but signal enforcement priorities.
Bargaining and persuasion	Richard Neustadt's formulation: presidential power is fundamentally the power to persuade. Without Congress's cooperation, the president cannot legislate or appropriate. Presidential success in Congress depends on political leverage, public approval ratings, and personal relationships with members.
Agenda-setting and the bully pulpit	Presidents use media access, State of the Union addresses, prime-time speeches, and social media to shape public priorities and pressure Congress. Theodore Roosevelt's term 'bully pulpit' described this amplified platform.

Federalist No. 70

Federalist No. 70 (Hamilton) argued for a single, energetic executive as opposed to a plural executive or one heavily constrained by a council. Hamilton identified four attributes of executive energy: unity (one person can act decisively, while a committee delays), duration (a longer term allows the president to develop and execute a consistent agenda), adequate provision (salary independent of Congress), and competent powers. An energetic executive, Hamilton contended, is not a threat to liberty but a condition for it — only a capable executive can protect the republic from domestic disorder and foreign threats.

Topic 2.5: Checks on the Presidency

The Constitution provides Congress and the courts with explicit checks on executive power, and the political system generates additional informal constraints through public opinion, media scrutiny, and electoral accountability.

Congressional Checks on the President

Check	Mechanism	Example
Override of veto	2/3 majority in both chambers	Congress overrode President Ford's veto of the Congressional Budget and Impoundment Control Act (1974)
Power of the purse	Congress must appropriate all federal spending; president cannot spend money not appropriated	Congress defunds programs the president supports; attaches conditions to appropriations
Confirmation power (Senate)	Principal officers and federal judges require Senate majority confirmation	Senate rejected Robert Bork's Supreme Court nomination (1987)
Treaty ratification (Senate)	2/3 Senate majority required to ratify treaties	Senate rejected Treaty of Versailles (1919–20) twice, preventing U.S. entry into League of Nations
War Powers Resolution (1973)	President must notify Congress within 48 hours of deploying forces; 60-day limit without authorization	Presidents have disputed its constitutionality; Congress has rarely enforced it
Impeachment and removal	House impeaches (majority); Senate convicts (2/3)	No president has been removed by Senate; Nixon resigned before House vote
Investigation and oversight	Congressional committees subpoena documents and testimony, hold hearings	Watergate hearings; Iran–Contra hearings; executive privilege disputes

Judicial Checks on the President

Federal courts — ultimately the Supreme Court — can strike down executive actions as unconstitutional or as exceeding delegated statutory authority. *Youngstown Sheet & Tube Co. v. Sawyer* (1952) (not a required case but frequently referenced) established that the president cannot seize private property without congressional authorization, even during wartime. Justice Jackson’s concurrence set out the tripartite framework for presidential power that courts still use: presidential power is strongest when authorized by Congress, in a ‘zone of twilight’ when Congress is silent, and at its lowest ebb when the president acts against the express will of Congress.

Informal Constraints

- **Public approval ratings** constrain what the president can do politically. Low approval weakens the president’s bargaining leverage with Congress and discourages allies from supporting controversial initiatives.
- **Media scrutiny** — including investigative journalism — exposes executive misconduct and shapes public opinion. The Watergate reporting by Woodward and Bernstein contributed to Nixon’s resignation.
- **Electoral accountability** — midterm elections allow voters to rebuke a president indirectly by changing congressional composition. Presidents who suffer large midterm losses (1994 under Clinton, 2010 under Obama) find the second half of their first term legislatively constrained.

Topic 2.6: Expansion of Presidential Power

The formal powers granted to the presidency by Article II have remained largely unchanged since 1787, but the practical scope of presidential power has expanded dramatically — through statutory delegation, executive orders, executive agreements, and the growth of the administrative state.

Sources of Expansion

Mechanism	How It Expands Power
Executive orders	Presidents issue directives that carry legal force without congressional action. FDR’s Executive Order 9066 (1942) authorized Japanese American internment. Truman desegregated the military (EO 9981, 1948). Obama’s DACA program was implemented by executive action (2012).
Executive agreements	Treaties require Senate ratification (2/3); executive agreements with foreign governments do not. Presidents have used executive agreements for major international commitments (NAFTA’s implementing decisions, Paris Agreement).
Delegation by Congress	Congress has granted the executive branch broad regulatory authority through statutes. The president controls cabinet departments and independent agencies that administer major domestic policy areas (EPA, HHS, DOE).
War and national security	As commander-in-chief in an era of standing armed forces and nuclear deterrence, the president’s national security role vastly exceeds what the framers anticipated. Presidents have claimed broad inherent authority in national security.

National emergencies	Presidents can declare national emergencies, triggering hundreds of statutory powers not available in normal times. The National Emergencies Act (1976) structures but does not tightly constrain this power.
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New York Times Co. v. United States (1971)

Facts: The Nixon administration sought a court injunction preventing the *New York Times* and *Washington Post* from publishing the Pentagon Papers — a classified Defense Department study of U.S. decision-making in Vietnam, leaked by Daniel Ellsberg. The administration argued publication would cause grave and irreparable national security harm.

Question: Could the government restrain publication of the classified documents as a prior restraint on the press?

Holding: 6–3 for the newspapers. The injunction was lifted. There was no majority opinion; each justice wrote separately, producing a plurality of perspectives.

Reasoning: The government failed to meet the ‘heavy presumption against prior restraints’ on the press. National security concerns, while valid in principle, were insufficient on the facts to justify a prior restraint — the most severe form of censorship. Most justices required a showing of direct, immediate, and irreparable harm, not speculative long-term damage.

Significance for AP: This case sits at the intersection of presidential expansion (Nixon’s claim of inherent executive authority to protect national security) and press freedom (First Amendment). The Court checked presidential power while affirming the ‘heavy presumption’ doctrine against prior restraint.

Federalist No. 70 Revisited

Hamilton’s argument for an energetic executive anticipated that presidents would need broad authority to act decisively. Critics of executive expansion argue that the framers envisioned congressional authorization as the norm, not the exception. The ongoing debate — whether the president may act without authorization in national security and foreign policy — is unresolved and appears on AP FRQs.

Topic 2.7: Presidential Communication

The president’s ability to communicate directly with the public — the ‘bully pulpit’ — is an informal power that shapes the legislative and political environment. Presidential communication strategies have evolved from newspaper editorials in the 18th century to social media in the 21st, but the core dynamic remains: presidents use public opinion as leverage over Congress.

Forms of Presidential Communication

Forum	Purpose	Examples
State of the Union Address	Annual constitutionally required message to Congress; sets legislative agenda; signals presidential priorities	FDR’s ‘Four Freedoms’ (1941); Obama’s call for ACA passage; Trump’s border security messaging

Press conferences	Allows journalists to question the president directly; managed through prepared questions and selective recognition	Roosevelt held more than 1,000; Nixon reduced them; some presidents severely limited access
Oval Office addresses	Nationally televised speeches on major events or crises; generate 'rally around the flag' approval spikes	Kennedy's Cuban Missile Crisis address; Reagan after Challenger disaster; Bush after 9/11
Social media	Unmediated direct communication bypassing traditional press gatekeeping; allows rapid agenda-setting	Trump's use of Twitter/X/Truth Social as primary policy announcement vehicle
Signing and veto statements	Formal statements attached to legislation; used to signal interpretation, express reservations, or build a record for judicial review	Obama's veto of Bill S. 2040, Justice Against Sponsors of Terrorism Act (JASTA)

Going Public

Political scientist Samuel Kernell coined the term 'going public' for the strategy of appealing directly to citizens to pressure Congress, rather than bargaining with congressional leaders behind closed doors. Modern presidents with high approval ratings can credibly threaten to 'go public' against members of Congress who block their agenda, making public communication a legislative tool. The effectiveness of going public declines as approval ratings fall and partisan polarization increases — opposition partisans are increasingly immune to presidential appeals.

Topic 2.8: The Judicial Branch

Article III of the Constitution creates one Supreme Court and authorizes Congress to establish inferior federal courts. The federal judiciary's power to strike down unconstitutional laws — judicial review — was not explicitly granted by the Constitution but was established by the Court itself in *Marbury v. Madison* (1803).

Federal Court Structure

The federal judiciary has three tiers. District courts (94 courts) are the trial courts: they hear evidence, make factual findings, and apply law to facts. Circuit courts of appeals (13 circuits) review district court decisions on legal error, not factual disputes. The Supreme Court of the United States reviews decisions from circuit courts and (on certain questions of federal law) state supreme courts. The Supreme Court operates primarily as an appellate court; it has original jurisdiction only over cases involving states as parties or foreign diplomats.

Judicial Review: *Marbury v. Madison* (1803)

Facts: William Marbury was appointed a justice of the peace in the final hours of John Adams's presidency. His commission was signed but not delivered before Jefferson took office. Jefferson's Secretary of State, James Madison, refused to deliver it. Marbury petitioned the Supreme Court directly for a writ of mandamus — a court order

compelling Madison to deliver the commission — under Section 13 of the Judiciary Act of 1789, which the Act gave the Supreme Court original jurisdiction to issue.

Question: Did the Supreme Court have jurisdiction to issue the writ, and if so, was Marbury entitled to his commission?

Holding: Chief Justice Marshall ruled unanimously that Marbury was entitled to his commission, but the Court could not give it to him — because Section 13 of the Judiciary Act, which purported to grant the Court original jurisdiction to issue writs of mandamus, conflicted with Article III's defined list of original jurisdiction. The Court struck down Section 13.

Reasoning: Marshall established three principles that made *Marbury* the foundation of American judicial power: (1) Marbury had a legal right to his commission; (2) that right had a legal remedy; (3) but the Court lacked jurisdiction because Congress cannot expand the Supreme Court's original jurisdiction beyond what Article III specifies — and when a statute conflicts with the Constitution, the Constitution prevails. Since the Constitution is law, it must be interpreted and applied by courts. Therefore, courts must disregard statutes inconsistent with it.

Significance: *Marbury* established judicial review — the power of federal courts to invalidate acts of Congress or the executive that violate the Constitution. It transformed the judiciary from the 'least dangerous branch' (*Federalist No. 78*) into the authoritative interpreter of constitutional meaning. Every subsequent constitutional ruling by the Supreme Court rests on the foundation of *Marbury*.

Federalist No. 78

Federalist No. 78 (Hamilton) argued that an independent judiciary with life tenure was essential for constitutional government. Courts must act as guardians of constitutional limits against legislative overreach. Without judicial review, Hamilton argued, the Constitution would become a dead letter — Congress could simply ignore it. Life tenure insulates judges from political pressure, enabling them to follow constitutional text and precedent rather than popular sentiment. *Federalist No. 78* is the philosophical foundation for the doctrine *Marbury* put into practice.

Topic 2.9: The Role of the Judicial Branch

Federal courts shape public policy not only by striking down laws but by interpreting statutes, defining constitutional rights, and supervising government agencies. The doctrine of judicial review sits within a larger framework of judicial philosophy about how courts should exercise that power.

Judicial Review in Practice

The Supreme Court receives approximately 7,000–8,000 petitions for certiorari each year and grants cert in roughly 60–80. Cert is granted when four justices agree to hear a case ('rule of four'). Once cert is granted, the Court receives written briefs, hears oral argument (typically 30 minutes per side), and issues a written opinion. Majority opinions bind lower courts; concurrences and dissents do not, though dissents sometimes become the basis for future majorities.

Modes of Constitutional Interpretation

Interpretive Approach	Core Principle	Associated Justices (examples)
Originalism (original intent)	The Constitution means what its framers intended it to mean at ratification; changing application requires amendment	Antonin Scalia, Clarence Thomas
Textualism	Courts should apply the literal text of the Constitution and statutes, not speculate about intent	Scalia, Amy Coney Barrett
Living constitutionalism	Constitutional meaning evolves with contemporary social conditions; courts should interpret broadly to address new circumstances	William Brennan, Thurgood Marshall
Structuralism	Constitutional meaning derives from the relationships among the document's provisions and the structure of government they create	Applied across various approaches

Stare Decisis and Precedent

Federal courts operate under *stare decisis* — the principle that courts should adhere to previously decided cases (precedents) in deciding current cases. *Stare decisis* promotes stability, predictability, and legitimacy. However, it is not absolute: the Supreme Court can and does overturn precedents, particularly when a prior ruling is deemed clearly erroneous or has proven unworkable. *Brown v. Board of Education* (1954) overruled *Plessy v. Ferguson* (1896)'s 'separate but equal' doctrine. *Dobbs v. Jackson Women's Health Organization* (2022) overruled *Roe v. Wade* (1973) and *Planned Parenthood v. Casey* (1992).

The Role of the Courts in Linked Cases

New York Times Co. v. United States (1971) — briefed in Topic 2.6 — illustrates the judicial check on presidential power. *Marbury* and *McCulloch* illustrate the Court's role in defining the constitutional allocation of power. *Citizens United v. FEC* (2010) illustrates the Court shaping campaign finance law through First Amendment interpretation.

Topic 2.10: The Court in Action

The Supreme Court's decision-making process — from cert petition through opinion publication — shapes how legal rules develop. The process is not purely legal; it involves strategic calculation by justices about coalition-building, precedent, and the Court's institutional legitimacy.

Path of a Supreme Court Case

A case reaches the Supreme Court from either a federal circuit court of appeals or (on federal questions) a state supreme court. A party files a petition for a writ of certiorari. If four justices vote to grant cert (the rule of four), the case is accepted. The parties submit written briefs; outside groups (*amicus curiae* — ‘friends of the court’) may file supplemental briefs on behalf of neither party. The Court hears oral argument: 30 minutes per side, highly structured, heavily questioned by justices. After argument, the justices confer privately, take a preliminary vote, and the most senior justice in the majority assigns the opinion.

Opinion Types

Opinion Type	Who Writes It	Legal Effect
Majority opinion	Written by a justice in the majority, joined by at least four others	Binding precedent for lower courts — <i>stare decisis</i> applies
Concurring opinion	Written by a justice who agrees with the outcome but for different or additional reasons	Not binding, but can signal alternative reasoning that future majorities might adopt
Plurality opinion	The reasoning section joined by more justices than any other, but not by a majority	Not binding precedent for its reasoning — only the judgment (the outcome) is authoritative
Dissenting opinion	Written by justices in the minority who would have decided differently	Not binding, but historically significant — dissents in <i>Plessy</i> (Harlan) became the basis for <i>Brown</i>

Required SCOTUS Cases: *Baker v. Carr* and *Shaw v. Reno*

Baker v. Carr (1962): Tennessee had not reapportioned its state legislature since 1901 despite significant population shifts; urban voters were severely underrepresented. The question was whether federal courts had jurisdiction to review state legislative apportionment. The Court (6–2) held that the case presented a justiciable constitutional question under the Equal Protection Clause — it did not implicate a non-justiciable political question because there were manageable judicial standards for assessing the claim. Justice Brennan’s majority developed a six-factor political question test. *Baker* opened the door for all subsequent equal protection redistricting claims.

Shaw v. Reno (1993): North Carolina, seeking to create majority/minority congressional districts to comply with the Voting Rights Act, drew an ‘irregular’ 12th District that connected African American communities in a narrow corridor along Interstate 85 for 160 miles. The question was whether white voters could challenge the district as an unconstitutional racial gerrymander. The Court (5–4) held that a district drawn primarily on race raises an equal protection claim even without a showing of discriminatory purpose. Strict scrutiny applies: the state must show a compelling interest and narrow tailoring. Significance: limits the use of race in redistricting.

Topic 2.11: Checks on the Judicial Branch

The judiciary is the least directly accountable of the three branches — federal judges serve during ‘good behavior’ (effectively life tenure) and are not elected. But the Court is not immune from check; constitutional design and political dynamics provide multiple mechanisms to constrain judicial power.

Constitutional Checks

Check	Holder	Mechanism
Appointment and confirmation	President (nominates); Senate (confirms by majority)	Determines ideological composition of federal courts; shifts in judicial philosophy follow presidential elections
Congressional control of appellate jurisdiction	Congress	Article III, §2 allows Congress to define the Supreme Court’s appellate jurisdiction — in theory, Congress could strip the Court of jurisdiction over certain issues, though this has rarely been done
Constitutional amendment	Congress (2/3) + states (3/4)	Overrides Court decisions by amending the Constitution — the 16th Amendment overruled <i>Pollock v. Farmers’ Loan</i> (1895), which had struck down the income tax
Legislation in response to statutory rulings	Congress	When the Court interprets a statute narrowly, Congress can amend the statute to reach the result it intended — not possible when the ruling rests on the Constitution
Court-packing / size adjustment	Congress	Article III does not specify the number of justices; Congress has changed the size of the Court historically (from 6 to 10 and back to 9). FDR’s 1937 court-packing plan failed but is frequently cited as a political check

Political and Informal Constraints

The Court’s legitimacy depends on public acceptance of its authority. When the Court departs too sharply from dominant political values, it risks political backlash. Alexander Hamilton called the judiciary the ‘least dangerous branch’ in *Federalist No. 78* precisely because it has neither the sword (executive) nor the purse (legislative). Its power rests on persuasion and institutional prestige. Presidents who disagree with rulings can instruct executive agencies to interpret them narrowly, limit enforcement resources, or simply delay compliance. Andrew Jackson’s alleged reaction to *Worcester v. Georgia* (1832) — ‘John Marshall has made his decision, now let him enforce it’ — illustrates this informal limit.

Required Case: *Marbury v. Madison* Revisited

Marshall’s choice in *Marbury* itself illustrates judicial strategic constraint. By ruling that the Court lacked jurisdiction, Marshall gave Jefferson what he wanted (Marbury didn’t get his commission) while simultaneously asserting the doctrine of judicial review. Jefferson could not appeal a ruling that went in his favor. This was an exercise of political skill as much as legal reasoning — the Court asserted ultimate interpretive authority in a way that made it impossible for the executive to challenge directly.

Topic 2.12: The Bureaucracy

The federal bureaucracy — the departments, agencies, commissions, and regulatory bodies that implement federal law — is the fourth element of the federal government. Though not explicitly described in the Constitution beyond references to ‘principal officers’ and ‘executive departments,’ the bureaucracy now employs roughly 2.1 million civilian federal workers and makes most of the day-to-day decisions that constitute governance.

Structure of the Federal Bureaucracy

Type	Examples	Accountability
Cabinet departments	Department of Defense, Department of Education, Department of Homeland Security (15 total)	Secretary appointed by president, confirmed by Senate; report directly to president
Independent agencies	NASA, EPA, CIA, Social Security Administration	Head appointed by president, confirmed by Senate; not housed in a cabinet department
Independent regulatory commissions	FCC, FEC, NLRB, SEC, Federal Reserve Board	Multi-member boards; staggered terms; members removable only for cause — insulated from direct presidential control; often bipartisan composition required
Government corporations	Amtrak, USPS, TVA	Operate like private businesses but are government-owned; intended to be partially self-funding

The Bureaucracy's Policy Role

Congress passes statutes that are often broad grants of authority — ‘the EPA shall regulate air pollutants to protect public health.’ The bureaucracy translates these broad mandates into specific regulations through a process governed by the Administrative Procedure Act (APA). Agencies have subject-matter expertise that Congress lacks; the complexity of environmental regulation, financial regulation, telecommunications policy, and food safety makes bureaucratic discretion functionally necessary.

Federalist No. 70 and Bureaucratic Unity

Hamilton’s argument for executive unity in *Federalist No. 70* applies to the bureaucracy: a unified executive, with the president directing a hierarchical administration, enables accountability, energy, and consistency. Critics of the bureaucracy’s growth argue it has diffused accountability so thoroughly — across independent agencies, regulatory commissions, and interagency processes — that the ‘energetic executive’ Hamilton envisioned cannot actually control the administrative state. The independent regulatory commission, in particular, exists in constitutional tension with the unitary executive theory.

Topic 2.13: Discretionary and Rulemaking Authority

Bureaucratic agencies exercise two types of authority: discretionary authority (choices about how to implement existing law within statutory parameters) and rulemaking authority (the power to promulgate regulations that carry the force of law through a formal process).

Discretionary Authority

Discretionary authority is the ability of agency officials to make judgment calls when implementing law. How aggressively should the EPA enforce clean air standards against marginal violations? How should the IRS prioritize audits among taxpayers? Should the Department of Justice prosecute a given class of cases? These choices allocate limited enforcement resources and effectively determine policy in practice, even without formal rulemaking. Presidential administrations change enforcement priorities — and thus effective policy — without changing statutes.

Rulemaking (Notice-and-Comment)

When agencies create binding regulations under their statutory authority, they must follow the APA’s notice-and-comment rulemaking procedure: (1) publish a proposed rule in the Federal Register; (2) accept public comments for a specified period (typically 60 days); (3) respond to substantive comments; (4) publish a final rule. The final rule has the force of law and is codified in the Code of Federal Regulations. This process can take years for complex rules and is the mechanism through which most of the federal regulatory state operates.

Iron Triangles and Issue Networks

Concept	Definition	Example
Iron triangle	A stable, mutually beneficial three-way relationship among a congressional subcommittee, a federal agency, and the interest group(s) the agency regulates	Defense subcommittee + Pentagon + defense contractors; Agriculture subcommittee + USDA + farm bureaus

Issue network (policy network)	A looser, broader web of participants — including think tanks, academics, journalists, NGOs, and multiple agencies — around a given policy domain	Health care policy: HHS + insurance industry + hospital associations + patient advocacy groups + academic researchers
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Iron triangles and issue networks describe how interest groups influence regulatory outcomes outside the formal legislative process. *Citizens United v. FEC* (2010) — covered in Topic 5.11 — addresses how money flows to influence these processes at the political level.

Topic 2.14: Holding the Bureaucracy Accountable

Because the bureaucracy wields significant policy authority without direct electoral accountability, multiple mechanisms exist to keep it responsive to elected institutions and, through them, to the public.

Congressional Oversight

Congress exercises oversight through several tools: committee hearings (calling agency officials to testify under oath about agency activities), appropriations (controlling agency budgets, cutting funding for disapproved activities, attaching conditions), and statutory amendment (revising or repealing the legal authority agencies exercise). The confirmation process extends oversight to agency leadership — Senate confirmation hearings allow senators to extract commitments about agency priorities. Congress can also create new statutory requirements or sunset provisions that force agencies to return for reauthorization.

Presidential Control

The president controls most executive agencies directly: appointing heads (with Senate confirmation), issuing executive orders directing agency priorities, and using the Office of Management and Budget (OMB) to review all significant regulations before publication. The OMB's Office of Information and Regulatory Affairs (OIRA) reviews proposed rules for economic impact and consistency with presidential priorities. This review process allows the White House to shape regulatory outcomes across agencies.

Judicial Review of Agency Action

Courts review agency rules and decisions under the APA. The traditional standard — 'Chevron deference,' established in *Chevron U.S.A., Inc. v. Natural Resources Defense Council* (1984) — required courts to defer to agencies' reasonable interpretations of ambiguous statutory language on the ground that agencies have subject-matter expertise. In 2024, the Supreme Court overruled *Chevron* in *Loper Bright Enterprises v. Raimondo*, holding that courts must independently interpret statutes rather than deferring to agencies.

Whistleblowers and FOIA

Whistleblower protection statutes protect federal employees who disclose agency wrongdoing from retaliation. The Freedom of Information Act (FOIA) requires agencies to disclose documents upon public request, subject to enumerated exceptions (national security, personal privacy, deliberative process). Both mechanisms increase transparency and allow outside monitoring of agency behavior.

Topic 2.15: Policy and the Branches of Government

Public policy in the U.S. is not made by any single branch; it is the product of interaction — negotiation, conflict, and compromise — among all three branches of government and the bureaucracy, operating within a federalist structure that distributes additional authority to the states.

The Policymaking Process

A bill becomes law only by clearing multiple institutional veto points: committee hearings, floor votes in both chambers (with different procedural rules), conference to resolve differences, presidential signature or veto override. Each veto point represents an opportunity for blocking legislation — a design feature that produces policy stability at the cost of policy change. The model is often called 'gridlock is the default': major policy shifts require alignment of Congress, the president, and typically the courts.

Interactions Across Branches

Interaction Type	Example
Congress → Executive	Appropriations constrain executive action; legislative mandates direct agency behavior; statutory amendments override executive interpretations
Executive → Congress	Presidential veto shapes what Congress passes; executive orders substitute for legislation when Congress is gridlocked; signing statements interpret enacted law
Courts → Congress	Judicial review strikes statutory provisions; statutory interpretation decisions prompt Congress to amend law; invalidation of agency rules forces congressional action
Courts → Executive	Courts enjoin executive orders; review agency rules for compliance with statutory authority and APA procedure; define scope of presidential emergency powers
Congress → Courts	Jurisdiction-stripping; court-packing threats; constitutional amendments to override decisions; confirmation power over judicial nominees
Federalism overlay	State law operates alongside federal law; states enforce (or decline to enforce) federal priorities; state litigation challenges federal action; interstate compacts substitute for federal legislation

Policy Types and Political Dynamics

Not all policy issues generate the same coalition dynamics. Distributive policies (benefits concentrated in specific districts — infrastructure projects, agricultural subsidies) generate bipartisan log-rolling: each member supports others' projects in exchange for support for their own. Redistributive policies (transferring resources across class lines — Medicare, progressive taxation) generate sharp ideological conflict. Regulatory policies (controlling private behavior in the public interest — environmental standards, financial regulation) generate industry opposition and organized advocacy. The type of policy determines the coalition needed to pass it and the intensity of opposition to expect.

Federalist No. 51's 'ambition must be made to counteract ambition' describes this multi-branch policymaking system perfectly: no branch can dominate, so policy requires cross-branch coalition-building. AP Data Analysis and Argumentation FRQs regularly ask you to analyze data on legislative productivity, executive orders, or agency rulemaking volume and draw conclusions about which branch is most influential in a given policy domain.

Unit 3: Civil Liberties and Civil Rights

Topic 3.1: The Bill of Rights

Civil liberties are constitutionally established protections against government interference with individual freedom — they define what government cannot do to the citizen. Civil rights, by contrast, protect individuals from discrimination and define what government must do to ensure equal treatment. Both are grounded in the Bill of Rights (1791) and the 14th Amendment (1868).

Something to note: Unit 3 is usually the least-tested unit.

The First Ten Amendments

Amendment	Primary Protections
1st	Freedom of religion (establishment and free exercise), speech, press, assembly, and petition
2nd	Right to keep and bear arms
3rd	No quartering of soldiers in private homes without consent
4th	Protection against unreasonable searches and seizures; warrant requirement with probable cause
5th	Grand jury for serious federal charges; no double jeopardy; no self-incrimination; no deprivation of life, liberty, or property without due process; just compensation for takings
6th	Right to speedy and public trial by jury; right to confront witnesses; right to assistance of counsel
7th	Right to jury trial in federal civil cases over \$20
8th	No excessive bail or fines; no cruel and unusual punishment
9th	Enumeration of certain rights shall not be construed to deny or disparage others retained by the people
10th	Powers not delegated to the national government, nor prohibited to the states, are reserved to the states or the people

Civil Liberties vs. Civil Rights

Concept	Definition	Constitutional Source	Example
Civil liberty	A protection from government action — government may not interfere with this freedom	Bill of Rights (1st–8th Amendments); substantive due process under 14th Amendment	Government may not censor a newspaper before publication
Civil right	An entitlement to equal treatment — government must provide equal protection across groups defined by race, sex, national origin, etc.	Equal Protection Clause, 14th Amendment §1; Civil Rights Act (1964)	Employers may not refuse to hire on the basis of race

The Bill of Rights originally applied only to the federal government — this is why the Anti-Federalists who demanded it were especially concerned about the national government’s unchecked power. The 14th Amendment’s Due Process Clause later became the vehicle for extending most of these protections to state governments through the doctrine of selective incorporation (Topic 3.7).

Topic 3.2: First Amendment: Freedom of Religion

The First Amendment contains two religion clauses that protect religious liberty from opposite directions: the Establishment Clause bars the government from promoting or endorsing religion, and the Free Exercise Clause bars the government from prohibiting or burdening religious practice.

Establishment Clause: Engel v. Vitale (1962)

Facts: The New York Board of Regents composed a short, non-denominational prayer (‘Almighty God, we acknowledge our dependence upon Thee’) for use in public school classrooms each morning. School officials directed the prayer be read aloud.

Question: Does state-sponsored prayer in public schools violate the Establishment Clause of the First Amendment?

Holding: 6–1 for the challengers. The school-directed prayer was unconstitutional.

Reasoning: Justice Hugo Black’s majority held that the Establishment Clause prohibits government officials from composing an official prayer for use in public schools. Even though the prayer was non-denominational and participation was voluntary, it represented government endorsement of religion. The government’s role in religious observance — however benign — violates the constitutional wall between church and state.

Significance: *Engel* established that public school sponsorship of prayer, bible readings, and religious observances violates the Establishment Clause even when not formally coercive. Subsequent cases have extended this to school-sponsored graduation prayers and organized student religious activities directed by school officials. Voluntary, student-led prayer is not prohibited.

Free Exercise Clause: Wisconsin v. Yoder (1972)

Facts: Jonas Yoder and other Amish parents in Wisconsin refused to send their children to school beyond 8th grade, in violation of the state’s compulsory attendance law. Their faith taught that high school education exposed children to worldly values incompatible with their religious community’s way of life.

Question: Does Wisconsin’s compulsory school attendance law, as applied to Amish parents, violate the Free Exercise Clause?

Holding: 7–0 (Douglas partially dissenting). Wisconsin’s law violated the Free Exercise Clause as applied to Old Order Amish.

Reasoning: Chief Justice Burger’s majority held that the State’s interest in universal secondary education, while legitimate, was insufficient to override the Amish’s fundamental religious practice given the unique characteristics of the Amish community (long-established, productive, law-abiding) and the minimal impact on the state’s educational goals. The State had not shown that compulsory attendance was absolutely necessary or that alternatives could not serve its interests.

Significance: *Yoder* remains the Supreme Court’s strongest ruling protecting free exercise against a neutral law of general applicability. It established that the Free Exercise Clause can sometimes require religious exemptions from otherwise valid laws — a principle subsequently limited by *Employment Division v. Smith* (1990), which held that neutral, generally applicable laws need not accommodate religious practice.

The Tension Between Clauses

The two religion clauses create tension: accommodating religious practice (free exercise) can look like establishing religion (establishment), and preventing establishment can burden free exercise. For example, granting religious organizations exemptions from anti-discrimination employment laws respects free exercise but arguably privileges religious practice. AP FRQs frequently pair *Engel* and *Yoder*.

Topic 3.3: First Amendment: Freedom of Speech

The First Amendment’s protection of speech extends beyond spoken or written words to symbolic speech — nonverbal conduct that communicates an idea or belief. But speech is not absolute; the Supreme Court has defined categories of expression that receive less than full protection and circumstances under which speech may be regulated.

Schenck v. United States (1919) — The Clear and Present Danger Test

Facts: Charles Schenck, a Socialist Party official, was convicted under the Espionage Act (1917) for distributing leaflets urging men to resist the military draft during World War I.

Question: Did the Espionage Act, as applied to Schenck’s anti-draft leaflets, violate the First Amendment?

Holding: Unanimous (9–0). Schenck’s conviction was upheld.

Reasoning: Justice Oliver Wendell Holmes formulated the ‘clear and present danger’ test: speech may be punished when the words are used in such circumstances and are of such a nature as to create a clear and present danger that they will bring about the substantive evils that Congress has a right to prevent. The classic example Holmes

offered — ‘falsely shouting fire in a theatre’ — illustrated that context determines constitutionality. During wartime, anti-draft speech posed a sufficient danger to justify restriction.

Significance: *Schenck* established that context matters — speech that would be protected in peacetime may be punishable when it poses an immediate threat. Subsequent cases refined and narrowed the test: *Brandenburg v. Ohio* (1969) replaced the ‘clear and present danger’ test with a stricter standard protecting speech unless it is ‘directed to inciting or producing imminent lawless action and is likely to incite or produce such action.’

Tinker v. Des Moines (1969) — Symbolic Speech in Schools

Facts: Students in Des Moines wore black armbands to school to protest U.S. involvement in Vietnam. School officials, anticipating disruption, suspended the students.

Question: Did the school district’s prohibition on armband-wearing violate the students’ First Amendment rights?

Holding: 7–2 for the students. The prohibition was unconstitutional.

Reasoning: Justice Abe Fortas held that students do not ‘shed their constitutional rights at the schoolhouse gate.’ Symbolic, non-disruptive political speech is protected. Schools may not suppress student expression based on mere apprehension of disruption — there must be evidence that the expression would cause substantial and material disruption of school discipline. Silent, passive black armbands did not meet this standard.

Significance: *Tinker* established the student speech doctrine and the ‘substantial disruption’ test for school speech restrictions. Later cases limited *Tinker* in specific contexts: *Bethel School District v. Fraser* (1986) allowed punishment of lewd student speech at school assemblies; *Morse v. Frederick* (2007) allowed restriction of student speech that appeared to promote drug use (‘BONG HiTS 4 JESUS’ banner at school event).

Categories of Restricted Speech

Category	Protection Level	Example
Political speech, symbolic speech	Full First Amendment protection	Armband wearing (<i>Tinker</i>); flag burning (<i>Texas v. Johnson</i> , 1989)
Time, place, and manner restrictions	Neutral restrictions upheld if content-neutral and leave open alternative channels	Permit requirements for parades; noise ordinances
Defamation (libel/slander)	Lower protection; false statements of fact that harm reputation are actionable	False accusation of crime in published article
Obscenity	Not protected; must meet <i>Miller v. California</i> (1973) three-part test	Material appealing to prurient interest, patently offensive, lacking serious literary/artistic/political/scientific value

Fighting words	Not protected; words that by their very utterance inflict injury or tend to incite immediate breach of peace	<i>Chaplinsky v. New Hampshire</i> (1942)
True threats	Not protected; serious expressions of intent to commit violence against specific persons	Statements threatening identifiable individuals or groups

Topic 3.4: First Amendment: Freedom of the Press

Freedom of the press receives the same First Amendment protection as speech, with a particular emphasis on preventing prior restraint — government action blocking publication before it occurs, which the Court has treated as the most serious infringement on press freedom.

New York Times Co. v. United States (1971) — Prior Restraint

Facts: The Nixon administration sought injunctions preventing the *New York Times* and *Washington Post* from publishing the Pentagon Papers — a classified study of U.S. decision-making in Vietnam. The government argued publication would damage national security and ongoing diplomatic efforts. See detailed briefing in Topic 2.6.

Holding: 6–3 for the newspapers. The injunctions were lifted. No majority reasoning — each justice wrote separately.

Reasoning and Significance: The plurality of opinions established that prior restraints on the press carry a ‘heavy presumption against their constitutional validity.’ The government bears a heavy burden to justify any pre-publication restriction. That burden is highest when the restriction would prevent embarrassing but not genuinely dangerous publication. The case did not hold that the government can never impose prior restraints — only that the burden is very high and was not met on these facts.

Prior Restraint vs. Post-Publication Liability

The distinction between prior restraint and post-publication liability is constitutionally significant. The government can prohibit publishing certain information in advance (prior restraint) only in extraordinary circumstances — imminent threat to specific military operations, for example. But it can impose civil or criminal liability after publication for defamation, disclosure of government secrets, or incitement. The *Pentagon Papers* case addressed only whether the government could stop publication in advance; it left open the question of whether journalists could be prosecuted after the fact.

Press freedom cases often appear in AP Source Analysis FRQs involving political cartoons or editorial comment on government restriction of information. Connect *New York Times Co. v. United States* to the tension between national security and the press’s role in democratic accountability: an informed public depends on a press that can publish government information without pre-clearance.

Topic 3.5: Second Amendment: Right to Bear Arms

The Second Amendment states: ‘A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.’ For most of American history, the Second Amendment was

interpreted to protect a collective right tied to militia service. *District of Columbia v. Heller* (2008) established that it also protects an individual right.

McDonald v. Chicago (2010) and Incorporation

Facts: Otis McDonald, a retired African American city worker, challenged Chicago's handgun ban, which prohibited residents from keeping handguns in their homes. *District of Columbia v. Heller* (2008) had already held that the Second Amendment protects an individual right to keep a handgun in the home for self-defense — but *Heller* applied only to the federal government (D.C. is a federal enclave). The question in *McDonald* was whether this right applies to state and local governments through the 14th Amendment.

Question: Does the Second Amendment's individual right recognized in *Heller* apply to state and local governments through the 14th Amendment's Due Process Clause?

Holding: 5–4. The Second Amendment is incorporated against state and local governments. Chicago's handgun ban was unconstitutional.

Reasoning: Justice Alito's plurality held that the Second Amendment right is fundamental to the American scheme of ordered liberty and deeply rooted in the Nation's history and tradition — the standard for incorporating a right through the 14th Amendment's Due Process Clause. Justice Thomas concurred, arguing incorporation was proper under the Privileges or Immunities Clause rather than Due Process.

Significance: *McDonald* extended the individual right to keep handguns at home for self-defense to all 50 states. It does not prohibit all gun regulation — *Heller* explicitly recognized that the right is not unlimited and that many longstanding regulations (prohibitions on felon possession, restrictions on carrying in sensitive places) are constitutional. Subsequent lower court decisions and *New York State Rifle & Pistol Association v. Bruen* (2022) have further developed Second Amendment doctrine.

Topic 3.6: Amendments: Balancing Individual Freedom with Public Order and Safety

Several amendments protect individual rights against government action that might otherwise be justified by public order or safety concerns: the Eighth Amendment limits punishment, the Second and Fourth Amendments limit weapons regulation and surveillance, and the due process clauses limit procedural shortcuts. The tension between individual liberty and collective safety is one of the AP exam's recurring themes.

Eighth Amendment: Cruel and Unusual Punishment

The Eighth Amendment prohibits 'cruel and unusual punishment.' Its application to the death penalty has generated the most extensive judicial development. *Furman v. Georgia* (1972) effectively halted executions nationwide by holding that the arbitrary, racially disparate application of death penalty statutes was unconstitutional. States rewrote their statutes; *Gregg v. Georgia* (1976) upheld the revised statutes, allowing executions to resume. The Court has since placed categorical limits: no death penalty for rape of an adult (*Coker v. Georgia*, 1977), intellectual disability (*Atkins v. Virginia*, 2002), or juvenile offenses (*Roper v. Simmons*, 2005).

Fourth Amendment and Digital Surveillance

The Fourth Amendment protects 'persons, houses, papers, and effects' against unreasonable searches and seizures and requires warrants based on probable cause. Digital technology has forced the Court to apply an 18th-century provision to 21st-century surveillance. *Katz v. United States* (1967) established the 'reasonable expectation of privacy' standard — Fourth Amendment protection extends wherever a person has a reasonable expectation of privacy, not

just in physical places. *Carpenter v. United States* (2018) held that government access to cell phone location records for an extended period requires a warrant.

Second Amendment and Firearms Regulation

Post *Heller/McDonald*, the constitutional debate has shifted to the limits of firearms regulation. Background check systems, prohibitions on assault-style weapons, magazine capacity limits, and 'red flag' laws that allow courts to temporarily remove firearms from individuals deemed dangerous all generate ongoing constitutional litigation. *Heller* left room for many regulations.

Topic 3.7: Selective Incorporation

Selective incorporation is the doctrinal process by which the Supreme Court has extended most of the Bill of Rights' protections to the states, making them binding on state and local governments through the Due Process Clause of the 14th Amendment. Before selective incorporation, the Bill of Rights restrained only the federal government.

The 14th Amendment as the Vehicle

The 14th Amendment (1868), ratified after the Civil War, contains three transformative clauses in Section 1: the Citizenship Clause (all persons born or naturalized in the U.S. are citizens), the Due Process Clause (no state shall deprive any person of life, liberty, or property without due process of law), and the Equal Protection Clause (no state shall deny any person equal protection of the laws). The Supreme Court used the Due Process Clause — specifically the word 'liberty' — to 'incorporate' the Bill of Rights, holding that fundamental rights protected against federal action are also protected against state action.

Key Incorporation Cases

Case	Year	Right Incorporated	Amendment
<i>Gitlow v. New York</i>	1925	Free speech and press	1st
<i>Near v. Minnesota</i>	1931	Freedom of the press; prior restraint doctrine	1st
<i>Cantwell v. Connecticut</i>	1940	Free exercise of religion	1st
<i>Everson v. Board of Education</i>	1947	Establishment clause	1st
<i>Mapp v. Ohio</i>	1961	Exclusionary rule (4th Amendment searches)	4th
<i>Gideon v. Wainwright</i>	1963	Right to counsel in criminal trials	6th
<i>Malloy v. Hogan</i>	1964	Privilege against self-incrimination	5th
<i>Miranda v. Arizona</i>	1966	Right to be informed of rights before interrogation	5th, 6th
<i>McDonald v. Chicago</i>	2010	Individual right to keep and bear arms	2nd

Required Case: Gideon v. Wainwright (1963)

Facts: Clarence Earl Gideon was charged with breaking and entering a Florida pool hall — a felony. He could not afford a lawyer and asked the court to appoint one. The judge refused, citing Florida law that provided appointed counsel only in capital cases. Gideon represented himself, was convicted, and appealed to the Supreme Court, arguing the refusal violated his Sixth Amendment right to counsel.

Question: Does the Sixth Amendment’s right to counsel, as applied to the states through the 14th Amendment, require states to appoint counsel for indigent defendants in non-capital felony cases?

Holding: 9–0 for Gideon. The Sixth Amendment right to counsel is incorporated and requires states to provide appointed counsel in felony cases.

Reasoning: Justice Hugo Black’s majority overruled *Betts v. Brady* (1942), which had held that appointed counsel was not a fundamental right required in all cases. *Gideon* held that the assistance of counsel is ‘fundamental and essential to fair trials.’ No fair trial is possible when the defendant, who lacks legal knowledge, must face a trained prosecutor without legal assistance. An indigent defendant’s inability to hire counsel cannot determine whether he receives constitutional protection.

Significance: *Gideon* is the foundation for the public defender system. All states are now required to provide counsel in felony cases; subsequent decisions extended this to misdemeanor cases that could result in incarceration. The case is cited in AP FRQs connecting the Bill of Rights to the 14th Amendment’s incorporation mechanism.

What Has Not Been Incorporated

Not every Bill of Rights provision has been incorporated. The Third Amendment (quartering of soldiers), the Fifth Amendment’s grand jury requirement, the Seventh Amendment (civil jury trial), and the Eighth Amendment’s excessive bail clause have not been definitively incorporated against the states. The Supreme Court incorporates rights selectively — only those that are ‘fundamental to the American scheme of ordered liberty and deeply rooted in the Nation’s history and tradition.’

Topic 3.8: Amendments: Due Process and the Rights of the Accused

The Fifth, Sixth, and Fourteenth Amendments create a framework of procedural due process protections for persons accused of crimes — requirements that the government follow specific procedures before depriving anyone of life, liberty, or property.

Fifth Amendment Protections

Protection	What It Means
Grand jury	Federal prosecution for serious crimes requires a grand jury indictment (not incorporated against states)
No double jeopardy	A person cannot be tried twice for the same offense after acquittal or conviction; applies to states through 14th Amendment

No self-incrimination	No person may be compelled in any criminal case to be a witness against himself; the 'Miranda rights' stem from this protection
Due process (federal)	Federal government may not deprive persons of life, liberty, or property without due process of law

Sixth Amendment Protections

Protection	What It Means
Speedy trial	Defendant must be brought to trial without unreasonable delay; rules vary by jurisdiction
Public trial	Trials must be open to the public; protects against secret proceedings
Impartial jury	Jury must be drawn from the community without systematic exclusion of any group
Notice of charges	Defendant must be informed of the specific charges against them
Right to confront witnesses	Confrontation Clause: defendant has the right to cross-examine adverse witnesses
Compulsory process	Defendant can compel witnesses to appear and testify on their behalf
Right to counsel	Defendant has the right to assistance of an attorney (<i>Gideon</i> : applies to all felony cases through 14th Amendment)

The Miranda Rule

The Miranda rule, established in *Miranda v. Arizona* (1966) (not a required case but nearly universal knowledge), requires that before custodial interrogation, police must inform suspects of: (1) the right to remain silent; (2) that anything said may be used against them; (3) the right to an attorney; (4) that if they cannot afford an attorney one will be appointed. Failure to provide these warnings means any resulting statement is inadmissible in the prosecution's case-in-chief — the 'exclusionary rule' applied to self-incriminating statements. A public safety exception (from *New York v. Quarles*, 1984) allows unwarned interrogation when there is an immediate public safety threat.

Procedural Due Process Requirements

Procedural due process requires that the government's procedures for depriving persons of rights must be fair — adequate notice, opportunity to be heard, a neutral decision-maker. The amount of process 'due' varies with the nature of the interest at stake. Deprivation of liberty (imprisonment) requires the fullest procedural protections. Deprivation of a government benefit (license, welfare, employment) requires less, but some notice and hearing are generally required.

Gideon v. Wainwright (1963) — briefed in Topic 3.7 — is the anchor case for this topic. AP Argumentation FRQs often ask you to argue whether specific government procedures comply with or violate due process standards, using the 5th and 6th Amendment frameworks.

Topic 3.9: Amendments: Due Process and the Right to Privacy

The Constitution nowhere mentions 'privacy,' yet the Supreme Court has recognized a constitutionally protected right to privacy derived from the penumbras and emanations of the Bill of Rights and grounded more formally in the substantive due process doctrine of the 14th Amendment's Due Process Clause.

Substantive Due Process

Procedural due process (Topic 3.8) asks whether the government used fair procedures before depriving a right. Substantive due process asks a different question: even if the government followed proper procedures, was the deprivation itself unconstitutional? The doctrine protects certain fundamental rights from government interference even when the government has followed every procedural rule. The right to privacy has been recognized as one of these fundamental rights.

Development of the Privacy Right

Griswold v. Connecticut (1965): The Court (7–2) struck down a Connecticut law prohibiting the use of contraceptives, even by married couples. Justice Douglas's majority found a privacy right in the 'penumbras' and 'emanations' of the Bill of Rights — the 1st, 3rd, 4th, 5th, and 9th Amendments together create a 'zone of privacy.' The marital bedroom is the most private of all spaces; government cannot intrude there to enforce restrictions on contraceptive use.

Roe v. Wade (1973): The Court (7–2) held that the right to privacy, as extended through substantive due process, encompasses a woman's decision whether to terminate a pregnancy. The ruling created a trimester framework limiting state regulation. *Planned Parenthood v. Casey* (1992) replaced the trimester framework with an 'undue burden' test — states may not impose substantial obstacles on a woman's right to choose before viability.

Dobbs v. Jackson Women's Health Organization (2022): The Court (5–4) overruled *Roe v. Wade* and *Casey*, holding that the Constitution does not confer a right to abortion. The majority held that abortion is not a right deeply rooted in U.S. history and tradition, and that substantive due process is limited to such historically grounded rights. Regulation of abortion was returned entirely to state legislatures. *Dobbs* is the most significant reversal of a constitutional precedent in modern history.

Unenumerated Rights and the 9th Amendment

The 9th Amendment states that 'the enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people.' This provision is cited by those who argue that constitutional rights are not exhausted by what is explicitly listed — but courts have been reluctant to use the 9th Amendment

independently as a source of enforceable rights. Substantive due process has been the more productive doctrinal path.

Topic 3.10: Social Movements and Equal Protection

Civil rights — the entitlement to equal treatment under law — have expanded historically through social movements that pressured government institutions to eliminate discriminatory barriers. The 14th Amendment’s Equal Protection Clause provides the constitutional foundation; social movements provide the political force to activate it.

The Equal Protection Clause

The Equal Protection Clause (14th Amendment, §1) prohibits states from denying any person ‘equal protection of the laws.’ It does not prohibit all distinctions — the government may legitimately classify people for many purposes (drivers must be 16 to get a license; judges must be adults). What the Clause prohibits is arbitrary and invidious discrimination, particularly discrimination based on race, sex, national origin, and other characteristics that courts have determined warrant heightened judicial scrutiny.

Levels of Scrutiny

Level of Scrutiny	When Applied	Standard	Result
Strict scrutiny	Race, national origin, alienage, religion, fundamental rights	Government must show a compelling interest and that the classification is narrowly tailored to achieve it	Government usually loses; very few laws survive
Intermediate scrutiny	Sex/gender, illegitimacy	Government must show an important interest substantially related to the classification	Government sometimes wins, sometimes loses
Rational basis	Economic regulation, most other classifications	Government need only show the classification is rationally related to a legitimate government purpose	Government almost always wins

Brown v. Board of Education (1954)

Facts: Linda Brown and other Black children in Topeka, Kansas were denied admission to white public schools under Kansas law segregating public education by race. The NAACP’s Legal Defense Fund, led by Thurgood Marshall, challenged segregation in Kansas and three other states as part of a coordinated litigation campaign. The cases were consolidated under *Brown v. Board of Education*.

Question: Does racial segregation in public schools, mandated by state law, violate the Equal Protection Clause of the 14th Amendment?

Holding: Unanimous (9–0). Racial segregation in public schools is unconstitutional.

Reasoning: Chief Justice Warren’s majority overruled *Plessy v. Ferguson* (1896), which had established the ‘separate but equal’ doctrine. Warren held that separate educational facilities are inherently unequal — segregation generates a feeling of inferiority in minority children that affects their motivation to learn. The Court cited psychological studies (including Kenneth Clark’s doll studies) showing the harmful effects of segregation on Black children’s self-image. Separate cannot be equal when the separation itself carries the message of inferiority.

Significance: *Brown* is the Supreme Court’s most consequential civil rights decision. It ended the legal foundation for Jim Crow segregation, inspired the Civil Rights Movement, and established that the Equal Protection Clause requires the elimination of legally mandated racial discrimination. It did not — by itself — produce desegregation; *Brown II* (1955) ordered desegregation ‘with all deliberate speed,’ a standard states exploited to delay.

Letter from a Birmingham Jail (1963)

Dr. Martin Luther King Jr.’s letter, written from the Birmingham city jail after his arrest during nonviolent protests, responded to white Alabama clergy who had called the demonstrations ‘unwise and untimely.’ King argued that there is a moral obligation to disobey unjust laws — laws that degrade human personality or are imposed by the majority without the minority’s consent. The letter articulated the philosophical basis for civil disobedience: just law is a code that squares with the moral law or the law of God; an unjust law is a code that is not in harmony with it. King’s argument connected the Civil Rights Movement to the tradition of natural rights running from the Declaration of Independence through Thoreau.

AP Source Analysis FRQs often pair *Brown* with the *Letter from a Birmingham Jail*, asking you to explain how King’s arguments support the constitutional principles at stake in *Brown*, or how the social movement documented in the Letter generated the political pressure that produced *Brown*, the Civil Rights Act (1964), and the Voting Rights Act (1965).

Topic 3.II: Government Responses to Social Movements

Social movements that pressured for expanded civil rights produced landmark governmental responses: Supreme Court decisions, major legislation, and constitutional amendments. These responses, in turn, redefined the scope of equal protection and the federal government’s authority to enforce civil rights against state and private actors.

Legislative Responses

Law	Year	Key Provisions
Civil Rights Act of 1964	1964	Prohibited discrimination in public accommodations (Title II), employment (Title VII) based on race, color, religion, sex, national origin; created EEOC; authorized federal enforcement against segregated schools
Voting Rights Act of 1965	1965	Prohibited discriminatory voting practices; required federal pre-clearance for voting law changes in states with history of discrimination (Section 5, weakened by <i>Shelby County v. Holder</i> , 2013)

Fair Housing Act of 1968	1968	Prohibited discrimination in sale, rental, and financing of housing based on race, color, religion, national origin (later amended to include sex, disability, familial status)
Americans with Disabilities Act of 1990	1990	Prohibited discrimination against persons with disabilities in employment, public services, and public accommodations
Equal Credit Opportunity Act (1974); Age Discrimination in Employment Act (1967)	Various	Extended equal protection principles to financial services and age classification in employment

Brown v. Board of Education and Judicial Enforcement

The government's response to *Brown* was initially evasive. Southern states employed 'massive resistance.' Dwight Eisenhower sent the 101st Airborne Division to Little Rock, Arkansas in 1957 to enforce the desegregation of Central High School after Arkansas Governor Orval Faubus defied a federal court order — making it one of the most direct federal military interventions in state policy in the modern era. Full compliance in many districts was not achieved until the 1970s.

From Legal Equality to Affirmative Action

Government responses to past discrimination have gone beyond prohibiting future discrimination to include affirmative action — programs that take race (and sometimes sex) into account in awarding contracts, university admissions, and employment to remedy historical underrepresentation. The constitutional standard for affirmative action has been contested across decades: *Grutter v. Bollinger* (2003) upheld race-conscious admissions at University of Michigan Law School as a compelling interest; *Students for Fair Admissions v. Harvard* (2023) held that race-conscious admissions programs at Harvard and UNC were unconstitutional under the Equal Protection Clause.

AP FRQs in this topic often trace the relationship between social movements and government action — asking you to explain how a movement generated legal or legislative change. Know the timeline: *Brown* (1954) → Civil Rights Act (1964) → Voting Rights Act (1965) → *Shelby County* (2013). Each step represents a different form of government response to civil rights pressure.

Topic 3.12: Balancing Minority and Majority Rights

Democratic systems face an inherent tension: majority rule can produce outcomes that harm minority groups. Constitutional protections for civil liberties and civil rights are the primary mechanisms for constraining majoritarian excess, but their scope is contested.

The Countermajoritarian Problem

When the Supreme Court strikes down a democratically enacted law as unconstitutional, it exercises countermajoritarian power — appointed judges invalidating the preferences of elected majorities. Critics (including Anti-Federalists) argue this is anti-democratic; defenders (following *Federalist No. 78*) argue an independent judiciary is essential to enforce constitutional limits against majority tyranny. The Civil Rights Cases present this tension starkly: when Congress passed the Civil Rights Act of 1875 protecting Black Americans from private

discrimination, the Court struck it down (1883) as exceeding congressional authority — a majoritarian triumph that entrenched Jim Crow for generations.

Required Cases: Citizens United and Schenck

Citizens United v. Federal Election Commission (2010):

Facts: Citizens United, a nonprofit corporation, sought to broadcast a documentary critical of Hillary Clinton during the 2008 primary election season. The Bipartisan Campaign Reform Act (McCain–Feingold, 2002) prohibited corporations and unions from using their general treasury funds for ‘electioneering communications’ (broadcast ads mentioning candidates) within 30 days of a primary or 60 days of a general election.

Question: Does the BCRA’s prohibition on independent corporate expenditures for electioneering communications violate the First Amendment’s free speech protections?

Holding: 5–4 for Citizens United. The prohibition on independent corporate political expenditures is unconstitutional.

Reasoning: Justice Kennedy’s majority held that the First Amendment’s protection of political speech applies to corporations as well as individuals. Political speech is at the core of First Amendment protection; independent expenditures (money spent without coordination with a candidate’s campaign) do not create the quid pro quo corruption risk that could justify restriction. The government may not suppress political speech based on the speaker’s corporate identity. The Court overruled *Austin v. Michigan Chamber of Commerce* (1990) and relevant portions of *McConnell v. FEC* (2003).

Significance: *Citizens United* removed limits on independent expenditures by corporations, unions, and associations in political campaigns. It gave rise to ‘super PACs’ — political action committees that can accept unlimited contributions and make unlimited independent expenditures. Critics argue the decision opened the door for unlimited corporate money in politics, distorting democratic representation; supporters argue it properly protects political speech from government censorship.

Distinguishing Citizens United from Buckley v. Valeo

Buckley v. Valeo (1976) upheld limits on direct contributions to campaigns (which raise quid pro quo corruption concerns) while striking down limits on candidate expenditures from personal funds (which raise only indirect influence concerns). *Citizens United* extended *Buckley*’s protection of expenditures to independent corporate expenditures. The distinction matters for AP: contribution limits survived *Buckley* and survive after *Citizens United*; independent expenditure limits did not.

AP SCOTUS Comparison FRQs frequently pair *Citizens United* with either *Schenck* (both involve speech restrictions, different contexts) or *Tinker* (both involve protected speech, different speakers and settings).

Unit 4: American Political Ideologies and Beliefs

Topic 4.1: American Attitudes About Government and Politics

American political culture is defined by a set of widely shared but variously interpreted core values: individualism, equality of opportunity, free enterprise, rule of law, and limited government. These values generate both consensus (most Americans embrace them at the abstract level) and conflict (Americans disagree sharply about what they require in specific policy contexts).

Core Values of American Political Culture

Value	Definition	Policy Implication	Contested Application
Individualism	Each person is responsible for their own outcomes; individual initiative and self-reliance are virtues	Skepticism toward redistributive programs that reward inaction; support for personal liberty	How much does structural inequality limit individual opportunity?
Equality of opportunity	All persons should have an equal chance to compete, regardless of background	Anti-discrimination laws; public education; civil rights protections	Does equality of opportunity require affirmative remedies for historical disadvantage?
Free enterprise	Markets — not government — should determine prices, products, and allocation of resources	Skepticism toward excessive regulation; support for property rights and contract enforcement	When do market failures justify government intervention?
Rule of law	All persons, including government officials, are subject to and accountable to the same laws	Judicial independence; civil liberties protections; anti-corruption norms	Do different groups have equal access to legal protection in practice?
Limited government	Government power should be constrained; individual freedoms should be maximized	Constitutional limits on governmental authority; Bill of Rights	What is the appropriate scope of government in health, education, and the economy?

Why Consensus Values Produce Policy Conflict

Near-universal agreement on these abstract values coexists with sharp disagreement on specific policies because the values themselves are in tension. Individualism and equality of opportunity conflict when background conditions (race, class, family wealth) determine outcomes more than individual effort. Free enterprise and rule of law conflict when market actors break laws or externalize costs. Limited government and equality of opportunity conflict when market outcomes produce extreme inequality that limits access.

Topic 4.2: Political Socialization

Political socialization is the process by which individuals develop political beliefs, values, opinions, and behavioral patterns over their lifetimes. It is not a single event but a continuous process that begins in childhood and continues through adult experiences.

Agents of Political Socialization

Agent	How It Shapes Political Attitudes	Relative Influence
Family	The most powerful agent for most people; party identification, ideological orientation, and civic engagement patterns are strongly correlated with parents'	Very high; most consistent across studies
Schools	Civic education, exposure to democratic norms, pledge of allegiance, constitutional content; transmit political culture across generations	Moderate; effects strongest in early grades
Peer groups	Friends and social networks reinforce or challenge political views; college peer environments can shift ideology	Moderate; increases in significance during adolescence
Media	News consumption, social media, entertainment frame political issues and define what counts as normal; increasingly fragmented by partisan media ecosystem	High and growing; effects vary by media diet
Religious organizations	Provide moral frameworks with policy implications; connect communities around shared values; mobilize voters	High for religiously observant individuals; particularly strong on social issues
Civic and community organizations	Voluntary associations (unions, professional groups, neighborhood associations) transmit civic skills and political information	Moderate to high for participants; declining participation rates

Political Culture and Globalization

U.S. political culture is not static. Globalization has both influenced American political culture and transmitted American values abroad. The immigration of diverse populations brings political traditions from other countries; exposure to global markets shapes economic attitudes; international communication (social media, news) creates cross-national political awareness. These influences have contributed to new political coalitions, new issue priorities, and new forms of political participation that challenge the traditional partisan alignment.

AP Data Analysis FRQs on this topic often present survey data on political attitudes broken down by demographic category (age, education, race, religion) and ask you to identify which socialization agents might explain observed differences. Family and generation are the most frequently tested agents.

Topic 4.3: Changes in Ideology

American political ideology — the set of beliefs about the proper role of government, the nature of equality, and the allocation of rights — has not been static. Both individual ideology (how Americans self-identify) and party ideology (what Democrats and Republicans actually believe) have shifted significantly across decades.

The Liberal–Conservative Spectrum

American political ideology is conventionally organized on a left–right (liberal–conservative) spectrum. Liberals generally favor active government to address economic inequality and social problems, while protecting individual rights in personal matters. Conservatives generally favor limited government, free markets, and traditional social norms. This framework is a simplification — libertarians favor limited government in both economic and personal domains; communitarians favor active government in both. But the spectrum describes the dominant organizing logic of American electoral politics.

Generational and Demographic Shifts

Shift	Direction	Time Period
Party realignment on race	Democrats embraced civil rights legislation (1964–65), prompting conservative white Southern Democrats to move to the Republican Party ('Southern strategy')	1964–1980s
Growing ideological sorting	Party coalitions have become more ideologically homogeneous; moderate Republicans and liberal Republicans have nearly disappeared; same for conservative Democrats	1970s–present
Generational replacement	Millennials and Gen Z more liberal on social issues (LGBTQ+ rights, climate, immigration) than Baby Boomers; Gen Z more ideologically diverse on economic issues	Ongoing
College education gap	College-educated whites have shifted substantially toward Democrats; non-college whites have shifted toward Republicans — one of the most significant coalition changes of the 21st century	2000s–present

Topic 4.4: Influence of Political Events on Ideology

Major political events — economic crises, wars, social movements, government scandals, and acts of mass violence — can shift political attitudes and ideology, sometimes permanently. Political scientists study ‘formative events’ that leave lasting impressions on generational cohorts.

Generational Imprinting

Individuals who come of political age during a significant event tend to carry the political attitudes formed during that period throughout their lives. The Great Depression imprinted an economically liberal cohort (the New Deal generation) that supported government economic intervention for decades. World War II created strong support for international engagement. Vietnam and Watergate created distrust of government institutions that has persisted. 9/11 generated short-term national unity and long-term support for counterterrorism policy, while also raising civil liberties concerns (Patriot Act, warrantless surveillance).

Events and Party Identification

Event	Period	Ideological Impact
Great Depression and New Deal	1929–1939	Consolidated the Democratic coalition around economic liberalism; government as protector of ordinary workers
Civil Rights Movement and legislation	1954–1968	Drove racial realignment: Black voters → Democrats; conservative white Southerners → Republicans
Vietnam and Watergate	1965–1974	Fueled anti-establishment sentiment; weakened party identification; increased cynicism toward government institutions
Reagan Revolution	1980–1988	Shifted baseline toward skepticism of government programs; ‘government is not the solution to the problem, government is the problem’
9/11 and War on Terror	2001–present	Short-term rally effect; long-term debate over civil liberties vs. security; generated support for military and security spending
2008 Financial Crisis	2008–2011	Both populist anger at Wall Street (fueling Occupy Wall Street) and anti-government anger (fueling Tea Party); deepened partisanship

Topic 4.5: Measuring Public Opinion

Public opinion is the aggregate of individual citizens’ views on political issues, candidates, and government performance. Measuring it accurately requires methodologically sound polling — poorly designed polls produce misleading data that can distort democratic accountability.

Fundamentals of Scientific Polling

A scientifically valid public opinion poll rests on four principles: (1) a random sample in which every member of the target population has an equal probability of being selected; (2) an adequate sample size (typically 1,000–1,500 for a national poll) to keep the margin of error manageable; (3) neutral question wording that does not lead respondents toward a particular answer; and (4) transparency about methodology so consumers can evaluate the poll's validity.

Sampling and Margin of Error

The **margin of error** — typically ± 3 percentage points for a poll of ~1,000 — reflects the uncertainty introduced by sampling. A poll showing Candidate A at 48% and Candidate B at 45% with a $\pm 3\%$ margin of error does not establish a statistically significant lead — the results are within the margin of error and the true population figures could be reversed. National polls cannot reliably predict Electoral College outcomes because the U.S. uses a state-by-state system.

Sources of Bias in Polls

Bias Type	Description	Example
Sampling bias	Sample is not representative of the target population because selection was not random	Literary Digest's 1936 poll (sampled from phone directories and club memberships — overrepresented wealthy, Republican voters) predicted Landon over FDR; FDR won 61–37
Question-wording bias	Survey question phrasing leads respondents toward a particular answer	Asking 'Should the government impose restrictions on free speech?' vs. 'Should the government prevent harmful misinformation?' will produce different results on the same underlying issue
Non-response bias	Certain groups are systematically more or less likely to complete surveys; completed sample does not represent the full population	Landline phone surveys undersample younger, more mobile adults who rely on cell phones
Social desirability bias	Respondents answer in ways they believe are socially acceptable rather than truthfully	Surveys may underestimate support for stigmatized positions (racism, illegal behavior)
Timing effects	Opinion measured at different moments yields different results due to news events	Approval ratings spike after national crises; pollsters must note when data was collected

Topic 4.6: Evaluating Public Opinion Data

Raw polling data requires critical evaluation before drawing conclusions. Well-designed polls accurately reflect public opinion, but poorly designed, selectively reported, or misinterpreted data can mislead. You must be able to assess data quality and draw defensible conclusions from what the data actually shows.

Critical Questions for Evaluating Poll Data

- **Who commissioned the poll?** A poll commissioned by an advocacy organization or political campaign has incentives to produce favorable results — question wording or sample design may be biased.
- **Who was sampled?** ‘Registered voters’ and ‘likely voters’ are different from ‘adults’ — likely voter screens can exclude certain demographic groups but just ‘adults’ isn’t representative either.
- **What is the sample size and margin of error?** A larger sample produces a smaller margin of error. Subgroup analyses (e.g., opinions among Black voters) have larger margins of error than the full sample.
- **How was the question worded?** ‘Do you support the Affordable Care Act?’ and ‘Do you support Obamacare?’ asked of the same respondent sometimes produce different answers. This effect is known as name framing or wording effect.
- **When was the poll conducted?** Opinion on a candidate or policy issue can shift dramatically following a major news event. Polling conducted during or immediately after a crisis or big happenstance is not representative of stable opinion.
- **What is the response rate?** Very low response rates increase the risk of non-response bias even when the initial sample was random.

Limitations of Public Opinion Data

Public opinion data has structural limitations beyond methodological design. Attitudes are often more fluid than polls suggest; respondents may express preferences on issues they have not thought carefully about (non-attitudes). Opinion intensity — how strongly people feel — is as important as directional preference for predicting behavior (voting, activism, donations). A majority may favor a policy in the abstract but not feel strongly enough about it to

Topic 4.7: Ideologies of Political Parties

The Democratic and Republican parties function as the primary organizing structures of American politics, providing voters with simplified ideological cues. Each party’s platform — the formal statement of its policy positions — generally reflects one of the two broad ideological tendencies that characterize contemporary American politics.

Democratic vs. Republican Platforms

Policy Domain	Democratic Position (generally)	Republican Position (generally)
Economic regulation	More government regulation of markets, labor, and finance; stronger worker protections; higher minimum wage	Less regulation; market-driven allocation; lower minimum wage or state-level control

Taxation	Higher taxes on upper incomes and corporations; use revenue for social investment	Lower taxes across the board; supply-side growth as primary fiscal mechanism
Social safety net	Preserve and expand Medicare, Medicaid, Social Security; universal healthcare access	Limit growth of entitlement spending; means-test benefits; block grants to states
Social issues	Generally support abortion access, same-sex marriage, LGBTQ+ protections	Generally oppose abortion (after <i>Dobbs</i> : defer to states); prioritize religious freedom
Immigration	Path to citizenship for undocumented immigrants; more accepting immigration policy overall	Stricter border enforcement; reduced immigration levels; deport undocumented residents
Environment	Active federal regulation; carbon pricing; international climate agreements	Prioritize energy production; limit federal environmental regulation; skepticism of climate mandates
Foreign policy	Multilateralism; international institutions; diplomacy	America First; military strength; skepticism of international agreements that constrain U.S. action

Ideological Consistency Is Not Universal

Not all Democrats are liberal on all issues, and not all Republicans are conservative on all issues. The parties are coalitions. The Democratic coalition includes progressive urban voters, Black voters (very liberal on social issues, somewhat more conservative on economic ones), Hispanic voters (increasingly heterogeneous), college-educated professionals, and labor unions. The Republican coalition includes white non-college voters, evangelical Christians, small-business owners, suburban fiscal conservatives, and rural voters. Within-party ideology is contested; primary elections reflect these internal divisions.

Federalist No. 10's concern about faction applies here: Madison feared that factions pursuing their own interest against the common good would dominate republican government. Contemporary partisan polarization — parties that are ideologically homogeneous and increasingly opposed — is a version of what Madison warned about, though he hoped the extended republic would prevent any single faction from dominating. AP FRQs may ask you to use *Federalist No. 10* to analyze the role of parties in contemporary democracy.

Topic 4.8: Ideology and Policymaking

Ideological commitments shape not only which policies elected officials prefer but which policies they can pass, given the need to build legislative coalitions. Ideology provides a framework for prioritizing government action, evaluating policy proposals, and deciding how to allocate limited political capital.

How Ideology Shapes Policy Agendas

Liberal ideologies favor active government in addressing economic inequality, environmental degradation, and social discrimination — but favor less government intrusion in personal lifestyle choices. Conservative ideologies favor less government economic regulation and redistribution — but are more willing to use government to enforce traditional social norms. Libertarian ideologies favor limiting government in both economic and personal domains. These different starting points produce predictably different legislative agendas and different patterns of coalition-building across issues.

Policy Windows and Ideological Opportunity

Major ideological shifts in policy occur when a ‘policy window’ opens: a problem becomes salient (economic crisis, public health emergency), a political solution is available, and political actors with the right ideological orientation hold power. Franklin Roosevelt’s New Deal required the convergence of the Great Depression (problem), Keynesian economic theory (solution), and Democratic supermajorities in Congress (politics). Ronald Reagan’s tax cuts and deregulation required the convergence of stagflation (problem), supply-side economics (solution), and a Republican Congress aligned with Reagan’s ideological vision.

Ideology and Democratic Culture

The U.S. is unusual among democracies in the extent to which ideological diversity is constrained by a two-party system. Most democracies have multiple significant parties spanning the ideological spectrum. The U.S. winner-take-all electoral system concentrates political competition around the median voter in competitive districts, constraining how far from center candidates can move without losing. Partisan primaries, however, select candidates who appeal to more ideologically extreme primary electorates — a tension that produces candidates who are more extreme than the general election median voter in some districts.

Topic 4.9: Ideology and Economic Policy

Economic policy is the arena in which ideological differences between liberal, conservative, and libertarian approaches are most directly translated into competing policy prescriptions. The two main tools of macroeconomic management — fiscal policy and monetary policy — are contested ideologically.

Marketplace Regulation by Ideology

Ideology	View of Market Regulation	Policy Implications
Liberal	Markets produce inefficiencies, externalities, and inequality that justify government correction; labor, environmental, and financial regulation protects the public interest	Minimum wage; OSHA workplace safety; EPA environmental rules; Dodd-Frank financial regulation; antitrust enforcement
Conservative	Markets generally allocate resources efficiently; excessive regulation produces deadweight loss and	Deregulation of industries; lower corporate taxes; limits on union power; free trade agreements

Libertarian	<p>reduces growth; private sector innovation solves most problems better than government</p> <p>Government should protect property rights and enforce voluntary contracts; beyond that, market freedom maximizes welfare for all participants; even well-intentioned regulation produces perverse effects</p>	Minimal regulation; eliminate occupational licensing requirements; abolish most agencies
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Fiscal Policy

Fiscal policy consists of Congress and the president adjusting taxing and spending to influence economic conditions. **Keynesian economics** (associated with John Maynard Keynes) holds that government should increase spending and cut taxes during recessions to stimulate demand, then reduce spending and raise taxes during booms to prevent overheating. **Supply-side economics** (associated with Arthur Laffer, popularized by Reagan) holds that cutting taxes on high incomes and businesses stimulates investment and economic growth that generates more total tax revenue — the ‘trickle-down’ model. Contemporary Democrats generally follow Keynesian prescriptions; contemporary Republicans generally favor supply-side approaches.

Monetary Policy

Monetary policy consists of the Federal Reserve adjusting interest rates and the money supply to influence inflation and employment. The Fed is an independent agency — its monetary policy decisions are intentionally insulated from direct presidential and congressional control. The Fed’s dual mandate (established by Congress) is to achieve maximum employment and price stability (low inflation). When inflation rises, the Fed raises interest rates (making borrowing more expensive, cooling demand and investment). When unemployment rises, the Fed lowers interest rates (stimulating borrowing, investment, and hiring). The Fed’s independence is itself an ideological choice: it reflects the view that monetary policy is too technical and long-term for electoral cycles to manage optimally.

Topic 4.10: Ideology and Social Policy

Social policy — government programs affecting education, health care, housing, social insurance, and family life — reflects the deepest ideological disagreements about the proper scope of government, the nature of the family, and the relationship between individual liberty and collective provision.

Three Ideological Approaches to Social Policy

Ideology	Education	Health Care	Social Insurance
Liberal	Federal funding for public schools; equity-focused programs (Title I); oppose school vouchers that divert funds from public schools	Government-provided or regulated universal coverage (ACA; Medicare for All); government negotiation of drug prices	Expand Social Security and Medicare; add programs for child care, paid leave, housing
Conservative	Local control of education; school choice including vouchers; reduce federal involvement (Department of Education)	Market competition to lower costs; oppose individual mandates; Medicaid block grants to states; health savings accounts	Limit growth of entitlement spending; means-test benefits; raise eligibility ages; privatize Social Security
Libertarian	Vouchers; home schooling; eliminate public school monopoly; no federal role	Fully market-based; HSAs; deregulate insurance markets; no government insurance mandates	Eliminate or sharply limit; private charity and personal saving should substitute

Social Policy and Electoral Coalitions

Ideological positions on social policy are closely tied to electoral coalitions. Conservative positions on social policy (religious liberty, opposition to abortion, school choice) energize evangelical Christian voters who are a core Republican constituency. Liberal positions (universal health care, expanded social insurance, reproductive rights) energize urban professionals, young voters, and minority voters who are core Democratic constituencies. Policy trends on social issues reflect which coalition is stronger at any given electoral moment.

Unit 5: Political Participation

Topic 5.1: Voting Rights and Models of Voting Behavior

Political participation in a democracy is grounded first in the right to vote. The Constitution has been amended multiple times to expand voting rights, and the Supreme Court has interpreted those amendments to prohibit systemic exclusions. Why and how individuals vote reflects competing theoretical models that each highlight different decision-making factors.

Constitutional Expansion of Voting Rights

Amendment	Year	Voting Right Extended
14th	1868	Granted citizenship to all persons born or naturalized in the U.S., including formerly enslaved people; incorporated equal protection into federal law
15th	1870	Prohibited denial of the right to vote based on race, color, or previous condition of servitude; African American men formally enfranchised
17th	1913	Provided for direct popular election of U.S. Senators (previously chosen by state legislatures); increased democratic responsiveness
19th	1920	Prohibited denial of the right to vote based on sex; enfranchised women nationally
24th	1964	Abolished the poll tax as a condition of voting in federal elections; eliminated a key structural barrier to Black voter participation in the South
26th	1971	Lowered the voting age from 21 to 18; primarily motivated by the argument that those old enough to be drafted should be old enough to vote

Models of Voting Behavior

Model	Core Explanation	Implication for Campaigns
Rational choice voting	Voters make decisions based on perceived self-interest — they calculate which candidate or party will produce the best outcome for them personally or for policies they value	Campaigns should inform voters how their candidate serves voter interests; policy substance matters
Retrospective voting	Voters evaluate whether the incumbent party or candidate has performed well and deserves	'Are you better off than you were four years ago?' (Reagan 1980);

	reelection; 'throw the bums out' if things went badly	economic conditions drive outcomes
Prospective voting	Voters choose based on future promises — which candidate's policy agenda do they prefer going forward?	Platform specificity matters; voters compare the future visions of candidates
Party identification voting	Most voters have a stable psychological attachment to a party that predisposes them to vote for that party's candidates; party ID is a standing decision that reduces the cost of evaluating each candidate	Turnout mobilization of base voters often matters more than persuasion of independents

Sociodemographic Predictors of Voting

Party identification, ideological orientation, candidate characteristics, and contemporary issue salience all influence vote choice. Demographic factors — age (older voters vote more reliably and more Republican), race and ethnicity (Black voters ~90% Democratic; Hispanic voters trend Democratic but with significant variation; Asian American voters shifting toward Democrats), education (college-educated voters more likely to vote Democratic; non-college voters more likely Republican), gender (women vote more Democratic than men — the 'gender gap'), and religion (evangelical Protestants strongly Republican; secular and Jewish voters strongly Democratic; Catholics split) — produce predictable patterns that campaigns use to model the electorate.

Topic 5.2: Voter Turnout

Voter turnout in the United States is lower than in most comparable democracies. Understanding why requires distinguishing structural barriers (rules and logistics that make voting harder), attitudinal factors (whether citizens feel voting is meaningful), and demographic predictors (which groups vote at higher rates).

Factors Affecting Turnout

Factor	Effect on Turnout	State Variation
Voter registration requirements	The U.S. requires citizens to register before voting; most comparable democracies use automatic registration. Registration deadlines close before Election Day, preventing late-deciding voters from participating	Automatic registration (Oregon, California) increases turnout; some states require registration 30 days in advance
Voter ID laws	Requirements to present specific forms of identification at the polls; proponents cite fraud prevention; critics argue they disproportionately burden low-income, minority, and elderly voters who are less likely to have required ID	Varies dramatically by state; strict photo ID states vs. states with no ID requirement

Polling place hours and locations	Limited hours, distant locations, and inadequate staffing create long lines that deter participation, particularly in low-income and minority precincts	States and counties control; funding disparities produce systematic inequities
Early voting and mail-in voting	Expanding the window and methods for casting ballots increases participation by accommodating work schedules and mobility limitations	All-mail voting (Colorado, Oregon, Washington) produces among the highest turnout rates nationally
Election type	Presidential elections generate highest turnout (~60% of eligible voters); midterm elections (~40%); primary elections (~20%); local elections often below 20%	Consistent pattern nationally

Attitudinal Factors

Political efficacy — the belief that one’s participation makes a meaningful difference — predicts turnout. External efficacy (believing government responds to citizens) and internal efficacy (believing oneself capable of political action) are both associated with higher participation. Citizens who believe their vote is meaningless (because their preferred party always wins or always loses in their district) vote at lower rates. The ‘paradox of voting’ in rational choice theory — that a single vote is almost never decisive, making the costs of voting exceed the expected benefit — is answered by appealing to civic duty, expressive value, and collective action norms.

Demographic Predictors of Turnout

Age is the strongest demographic predictor of turnout: voters 65+ turnout at rates 30–40 percentage points higher than voters 18–24. Education is the second strongest: college graduates vote at higher rates than non-graduates across all other demographic categories. Income is closely correlated with education and also predicts turnout. Race shows gaps that are partially but not entirely explained by socioeconomic factors — barriers including vote suppression, incarceration (which disenfranchises voters in many states), and language barriers contribute to lower turnout among some minority groups.

Topic 5.3: Political Parties

Political parties are linkage institutions — organized channels connecting citizens to government — and perform functions essential to democratic governance that no other institution replicates at scale. In the United States, a durable two-party system has organized political competition since the 1860s.

Linkage Institutions

Linkage institutions aggregate citizen preferences and transmit them to policymakers. The four major linkage institutions in American democracy are political parties, interest groups, elections, and media. Parties are unique among linkage institutions in their breadth — they attempt to aggregate preferences across all issue areas simultaneously, seeking majority coalitions that can win elections and govern. Interest groups focus on specific issues; media transmits information but does not itself aggregate preferences into governing coalitions.

Functions of Political Parties

Function	How Parties Perform It	Democratic Significance
Voter mobilization and education	Voter registration drives, get-out-the-vote operations, field organizing, digital advertising	Increases participation, especially among less engaged voters
Candidate recruitment and nomination	Recruitment of qualified candidates; primary elections as the nominating mechanism	Channels competition into manageable electoral contests; vets candidates for basic qualifications
Platform development	National conventions adopt platforms that signal ideological direction; platforms rarely bind elected officials but communicate priorities to voters	Simplifies voter choice; makes parties coherent enough to serve as a standing decision cue
Campaign management	Fundraising, media strategy, polling, data analytics, ground operations	Provides infrastructure that individual candidates cannot replicate
Legislative organization	Committee assignments, leadership positions, caucus whip operations in Congress organize legislative work	Enables collective action in legislatures that would otherwise face coordination failures

Federalist No. 10 and Parties

Madison's fear of faction in *Federalist No. 10* was partly a fear of organized political parties. He hoped the extended republic would prevent any single faction from dominating national politics. In practice, parties emerged immediately — Federalists vs. Democratic-Republicans divided George Washington's cabinet — and have organized every presidential election since. Contemporary parties are a source of the polarization and factional conflict Madison warned against, and scholars debate whether the party system serves democratic accountability or enables the kind of faction-dominated government Madison sought to prevent.

Topic 5.4: How and Why Political Parties Change and Adapt

American political parties are not static — they adapt their platforms, coalitions, and organizational structures in response to electoral defeats, demographic change, social movements, and technological innovation. Understanding why parties change is essential to understanding shifts in American political history.

Critical Elections and Realignment

A **critical election** is an election in which there is a durable realignment of political party support among voters — a significant, lasting shift in which groups support which party. Classic examples: the 1860 election (Republicans replaced Whigs as the anti-slavery party; regional coalition dramatically shifted); the 1932 election (New Deal

coalition cemented — Democrats gained the support of organized labor, Black northerners, urban ethnic immigrants, and the South); the 1980 election (Reagan Revolution consolidated economic conservatives, evangelical Christians, and white Southern voters into the Republican coalition, completing the Southern realignment that began with civil rights legislation in 1964–65).

Candidate-Centered Politics

Since the 1970s, parties have become weaker in nomination control as primary elections replaced party-controlled caucuses and conventions in selecting presidential nominees. The ‘invisible primary’ — the year before the first primary ballot is cast, when candidates raise money and seek endorsements — now determines most nominations more than party insiders. Candidates build their own campaigns, fundraising apparatus, and brands independent of the party structure. This shift toward candidate-centered politics has weakened party discipline but also made parties more responsive to their activist base.

Adaptation Mechanisms

Adaptation	Mechanism	Example
Policy repositioning	Parties shift positions to attract new demographic coalitions or respond to changed public opinion	Democrats embraced LGBTQ+ rights as public opinion shifted; Republicans shifted on trade from free trade to protectionism (2016–present)
Technology adoption	Parties invest in new communication and organizing technology	Obama’s 2008 digital organizing; Trump’s social media use; micro-targeting of voters by demographic data
Coalition expansion	Parties recruit candidates and make policy appeals targeted at underrepresented demographic groups	Republicans targeted Hispanic voters in 2020 with economic messaging; Democrats recruited more diverse congressional candidates
Primary system reform	Changes in how nominees are selected shape which voters control the nomination	Proportional primary allocation in Democratic Party rules after 1972 McGovern–Fraser Commission

Topic 5.5: Third-Party Politics

Despite the dominance of the two-party system, third parties and independent candidates play recurring roles in American politics — occasionally altering election outcomes, highlighting neglected issues, and challenging the ideological consensus of the major parties.

Why the U.S. Has a Two-Party System

Two structural factors entrench two-party competition. First, winner-take-all (single-member plurality) elections — the candidate with the most votes wins the seat, regardless of whether they have a majority — produce Duverger’s Law: rational voters and strategic campaign donors avoid wasting resources on third parties that cannot win. Second, ballot access laws — controlled by state legislatures that are themselves composed of members of the two major parties — impose petition requirements, filing fees, and other obstacles that make it expensive and difficult for third parties to get on the ballot in all 50 states.

Roles Third Parties Have Played

Third Party or Independent	Year(s)	Role Played
Populist Party	1892	Advocated silver coinage, railroad regulation, graduated income tax; absorbed by Democrats in 1896
Progressive (Bull Moose) Party — Theodore Roosevelt	1912	Split Republican vote; allowed Woodrow Wilson (D) to win with only 42% of popular vote
Dixiecrats — Strom Thurmond	1948	Carried four Southern states; protested Truman’s civil rights platform
American Independent — George Wallace	1968	Won 5 Southern states; reflected white Southern opposition to civil rights; Nixon’s Southern strategy co-opted this vote
Independent — Ross Perot	1992	Won 19% of popular vote; no electoral votes; may have cost Bush the election by drawing votes from Republican coalition
Green Party — Ralph Nader	2000	Won ~97,000 votes in Florida (Gore lost by 537); widely cited as decisive in closest electoral outcome in modern history
Libertarian Party	Ongoing	Routinely receives 1–3% nationally; most significant in close Senate races in libertarian-leaning states

Issue Entrepreneurship

Third parties often succeed less by winning elections than by forcing their issues onto the major party agenda. When a third party demonstrates significant electoral support for a previously ignored issue, the major parties have incentives to co-opt that issue and absorb the third party’s voters. The Populists’ agenda (progressive income tax, direct election of senators, banking regulation) was substantially adopted by Democrats over 1896–1913. The Green Party’s climate focus has been largely absorbed by the Democratic platform.

Topic 5.6: Interest Groups Influencing Policymaking

Interest groups — organizations that seek to influence public policy without nominating candidates for office — are a primary mechanism through which organized constituencies make demands on government outside the electoral process. They operate at every stage of the policy process and through every branch of government.

Types of Interest Groups

Type	Focus	Examples
Economic / business groups	Promote members' economic interests; seek favorable regulation, taxation, trade policy	U.S. Chamber of Commerce, National Association of Manufacturers, National Federation of Independent Business
Labor unions	Represent workers' interests in wages, benefits, working conditions; support Democratic candidates; lobby for pro-worker regulation	AFL-CIO, SEIU, United Auto Workers, NEA, AFSCME
Professional associations	Promote interests of specific professions; often seek occupational licensing and regulatory protection	American Medical Association, American Bar Association, American Farm Bureau
Ideological / advocacy groups	Promote a specific political or social cause regardless of direct economic interest	ACLU (civil liberties), NRA (gun rights), NAACP (civil rights), Sierra Club (environment)
Public interest groups	Claim to represent the broad public interest rather than a specific constituency	Common Cause (government reform), Consumers Union, League of Women Voters
Single-issue groups	Focused on one specific issue; often more ideologically intense than multi-issue groups	National Right to Life Committee, Planned Parenthood Action Fund, Emily's List

How Interest Groups Influence Policy

- **Lobbying** — professional advocates (lobbyists) contact legislators and executive officials to provide information, argument, and access. Direct lobbying includes testifying at congressional hearings, drafting bill language, meeting with agency officials during rulemaking. The Lobbying Disclosure Act (1995) requires registration and disclosure of lobbying activity.

- **Campaign contributions** — through Political Action Committees (PACs), groups can donate to candidates' campaigns up to legal limits. After *Citizens United*, super PACs can spend unlimited amounts independently. Contributions buy access, not votes — but access enables influence.
- **Grassroots mobilization** — interest groups mobilize their members to contact elected officials, attend town halls, and vote in elections, demonstrating political salience of the group's issue.
- **Litigation** — interest groups (especially civil liberties and civil rights organizations) use courts to challenge policies or enforce rights. The NAACP's litigation strategy produced *Brown v. Board of Education*; the NRA supports Second Amendment litigation.
- **Coalition-building** — groups form coalitions with allied organizations to multiply their influence, particularly for complex policy changes requiring broad legislative majorities.

Topic 5.7: Groups Influencing Policy Outcomes

Different types of organized groups — political parties, interest groups, and social movements — influence policy outcomes through distinct mechanisms and operate most effectively in different contexts. The pluralist model of democracy holds that competition among these groups produces policy outcomes that roughly aggregate citizens' preferences.

Linkage Institutions Compared

Linkage Institution	Primary Mechanism	Strength	Limitation
Political parties	Electoral competition; legislative organization; agenda-setting through platform	Broad coalition; controls government when it wins elections	Must appeal to a majority; sacrifices specificity; candidates are not bound by platform
Interest groups	Lobbying; campaign finance; litigation; mobilization	Specific expertise; concentrated resources on specific issues; persistent between elections	Represent organized, often affluent constituencies better than diffuse, unorganized interests
Social movements	Public protest; civil disobedience; media attention; electoral mobilization; litigation	Can mobilize mass action and shift cultural norms; reaches beyond organized membership	Difficult to sustain; lacks formal institutional access; success depends on external political conditions
Media	Agenda-setting; framing; investigative reporting; public opinion influence	Reaches mass audiences; can define what issues are politically salient	Subject to commercial incentives; partisan fragmentation limits influence on opposing partisans

Social Movements and Policy Change

Social movements — sustained, organized collective efforts by individuals outside established institutions to produce or resist social change — have generated some of the most significant policy changes in American history. The Civil Rights Movement produced the Civil Rights Act (1964) and Voting Rights Act (1965). The labor movement produced the NLRA (1935) and FLSA (1938). The women’s suffrage movement produced the 19th Amendment (1920). The environmental movement produced the Clean Air Act (1970) and EPA (1970).

The *Letter from a Birmingham Jail* (King, 1963) articulates the theory of social movement pressure: nonviolent direct action creates ‘creative tension’ that forces negotiation; civil disobedience exposes unjust laws to public scrutiny and compels government to respond. Governments respond to social movements when (1) the movement sustains pressure over time; (2) movement tactics generate sympathetic media coverage; (3) the political opportunity structure (which party holds power, whether Congress is aligned) permits legislative action.

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Topic 5.8: Electing a President

Presidential elections in the United States operate through the Electoral College — a constitutional mechanism that allocates electors to states based on congressional representation and that has produced outcomes where the popular vote winner lost the presidency on five occasions.

The Electoral College

Each state receives electoral votes equal to its total congressional representation — the number of House seats (proportional to population) plus two senators. Washington, D.C. receives three electoral votes (23rd Amendment, 1961). Total: 538 electoral votes; 270 are needed to win. In 48 states, the candidate who wins the state’s popular vote receives all of that state’s electoral votes (winner-take-all). Maine and Nebraska allocate two electors to the statewide winner and one to the winner of each congressional district.

How the Electoral College Shapes Campaign Strategy

Implication	Effect on Campaigns
Swing state focus	Campaigns concentrate resources (advertising, organizing, candidate visits) in states where the outcome is uncertain. Safe states (those predictably voting for one party) are largely ignored.
Popular vote winner can lose	Five times the candidate who received more total votes nationwide did not win the Electoral College: 1824, 1876, 1888, 2000 (Gore vs. Bush), 2016 (Clinton vs. Trump)
Third parties cannot win	Electoral College is winner-take-all at the state level; a third party winning 20% nationally but carrying no states wins zero electoral votes
Large state advantage in practice	Small states are overrepresented per voter (Wyoming has 3 electors for ~580,000 people; California has 54 for ~40 million). But large states dominate because of winner-take-all: winning California’s 54 electoral votes is a decisive advantage.

If No Candidate Reaches 270

If no candidate wins 270 electoral votes, the election is decided by the House of Representatives — each state delegation casting one vote for president among the top three electoral vote recipients. The Senate separately chooses the vice president from the top two VP candidates. This ‘contingent election’ procedure has been used twice: 1800 (Jefferson over Burr) and 1824 (Adams over Jackson despite Jackson winning the popular vote and most electoral votes — the ‘Corrupt Bargain’).

Topic 5.9: Congressional Elections

Congressional elections — held every two years for all 435 House seats and one-third of Senate seats — are shaped by structural advantages of incumbency, the effects of redistricting, the nationalization of congressional campaigns, and the relationship between presidential coattails and down-ballot outcomes.

Incumbency Advantage

Incumbent members of Congress — those running for reelection — enjoy powerful structural advantages: name recognition, a constituent service record, the franking privilege (free official mail), campaign finance advantages (interest groups and PACs donate to incumbents who sit on relevant committees), and party and media attention. House incumbents are reelected at rates above 90% in most cycles. Senate incumbents are reelected at lower rates because statewide races are more competitive and more visible.

Redistricting and Safe Seats

Every decade, following the census, House district boundaries are redrawn. Partisan gerrymandering concentrates (packing) or disperses (cracking) voters to create safe seats for the majority party. In gerrymandered states, most House districts are not competitive — the outcome is effectively determined by the primary. This reduces accountability to the median general election voter and incentivizes ideological extremism in primary-dominated safe seats.

Midterm Elections and Presidential Approval

The president’s party historically loses seats in midterm elections — an average of 25 House seats since 1938. The pattern is attributed to: (1) regression to the mean — the president’s coalition is energized in the presidential election year and less so two years later; (2) the ‘referendum effect’ — midterm voters are more likely to be voting in reaction to government performance than in aspiration; (3) the ‘six-year itch’ — second-term midterms tend to be especially punishing (1958, 1966, 1974, 1994, 2006, 2010, 2018). Presidential approval rating strongly predicts midterm outcomes: presidents above 50% approval tend to lose fewer seats.

Presidential Coattails

In presidential election years, strong presidential candidates can pull down-ballot candidates of their party to victory — the ‘coattail effect.’ FDR’s 1936 landslide brought large Democratic congressional gains; Reagan’s 1980 victory produced a Republican Senate majority. Coattail effects have weakened as ticket-splitting (voting for candidates of different parties for different offices) has become rarer as partisan sorting has increased.

Topic 5.10: Modern Campaigns

Contemporary political campaigns are sophisticated, data-intensive enterprises that integrate television and digital advertising, voter data analytics, field organizing, earned media strategy, and debate performance into multi-year efforts requiring tens to hundreds of millions of dollars.

Elements of a Modern Presidential Campaign

Component	Function	Evolution
Television advertising	Mass audience persuasion; defining the candidate and opponent	Dominant medium since Kennedy–Nixon debate (1960); 30-second attack ads since Reagan era; expensive but declining in reach as cord-cutting accelerates
Digital advertising and social media	Targeted persuasion and mobilization; organic engagement	Obama’s 2008 campaign pioneered digital organizing; Facebook micro-targeting in 2016 refined targeting to individual persuasion profiles; Trump’s Twitter use dominated 2016–2020
Voter data analytics	Identify, persuade, and mobilize specific voters by predicted preference	Voter files, consumer data, and predictive modeling identify persuadable voters and unmotivated base voters; ‘micro-targeting’ sends different messages to different voter segments
Field organizing	Door-to-door canvassing, phone banking, voter registration drives; personal contact significantly increases turnout	Obama’s ground game model (2008, 2012) demonstrated that large-scale organizing can move turnout margins in key states
Earned media (press coverage)	Free media coverage amplifies campaign messages without advertising cost	Candidates with high news value (controversial statements, dramatic moments) generate more earned media; Trump’s 2016 campaign received billions in free media
Debates	High-visibility, simultaneous candidate comparison; can shift opinion rapidly if one candidate performs poorly	Kennedy–Nixon (1960) showed television’s power; debates matter most when race is close and voters are uncertain

Money in Modern Campaigns

Presidential campaigns now cost more than \$1 billion. Congressional campaigns in competitive districts routinely cost millions. This scale requires continuous fundraising that consumes enormous amounts of incumbents' time and gives organized donors disproportionate access. The campaign finance system has evolved through legislation and court decisions that together determine who can give, how much, to what, and with what disclosure requirements (see Topic 5.11).

Topic 5.11: Campaign Finance

Campaign finance law governs who can contribute to political campaigns, how much, and with what disclosure requirements. The framework has been shaped by a succession of statutes and Supreme Court decisions that have alternately restricted and expanded the role of money in politics.

Federal Election Commission and BCRA

The Federal Election Campaign Act (1971, as amended in 1974 after Watergate) created the FEC, established disclosure requirements, and set contribution limits for candidates for federal office. The Bipartisan Campaign Reform Act (2002, McCain–Feingold) prohibited 'soft money' — large contributions to political parties — and restricted 'electioneering communications' (broadcast ads naming candidates within 60 days of a general election or 30 days of a primary).

Citizens United v. FEC (2010) — Detailed Brief

Facts: Citizens United, a conservative nonprofit, sought to air a documentary critical of Hillary Clinton during the 2008 Democratic primary and advertise it on television — activities prohibited by BCRA's 30-day and 60-day blackout windows. Citizens United sought exemptions and, when denied, challenged the BCRA's constitutionality.

Question: Do BCRA's restrictions on corporate independent expenditures for electioneering communications violate the First Amendment's free speech protections?

Holding: 5–4. The BCRA's prohibition on corporate independent expenditures is unconstitutional.

Reasoning: Justice Kennedy's majority held that the First Amendment's protection of political speech prohibits Congress from restricting speech based on the corporate identity of the speaker. Political speech — particularly speech about candidates and elections — is at the core of the First Amendment. Independent expenditures (spent without coordination with a candidate) do not create the quid pro quo corruption risk that could justify restriction. The government cannot impose a general prohibition on one class of speakers (corporations, unions) engaging in political speech based on their organizational form.

Significance: *Citizens United* enabled the creation of super PACs — political action committees that can accept unlimited contributions from corporations, unions, and individuals and make unlimited independent expenditures, so long as they do not directly coordinate with candidate campaigns. Presidential and congressional campaigns have since been accompanied by super PAC 'shadow campaigns' spending hundreds of millions of dollars. The decision was immediately controversial; Justice Stevens's 90-page dissent argued the majority misread history and precedent.

Citizens United and Buckley v. Valeo (1976) Compared

Issue	Buckley v. Valeo (1976)	Citizens United (2010)
Contribution limits	Upheld: contributions create quid pro quo corruption risk that justifies limits	Did not disturb: contribution limits to campaigns survive
Expenditure limits	Struck down: limits on candidate's own spending are unconstitutional; expenditures are speech	Extended: independent corporate/union expenditure limits are also unconstitutional
Disclosure requirements	Upheld: transparency helps voters evaluate political speech without silencing it	Upheld in principle (though dissent questioned whether super PAC disclosure was adequate in practice)
Corporate identity	Did not reach question	Held: corporations have First Amendment rights in political speech; government cannot discriminate based on speaker's corporate identity

Topic 5.12: The Media

The media functions as both a linkage institution (transmitting information between citizens and government) and an agenda-setter (determining which issues receive public attention and how those issues are framed). Its role in democracy has been recognized since the founding — the First Amendment explicitly protects press freedom — and has become more contested as the media environment has fragmented.

Functions of the Media in Democracy

Function	Description	Example
Agenda-setting	Which issues the media covers determines which issues citizens think about and prioritize; issues ignored by media rarely become salient political questions	Watergate became a political crisis partly because sustained investigative journalism by the <i>Post</i> kept it on the public agenda
Framing	How the media presents an issue — which aspects it emphasizes, which it omits, which frame of reference it applies — shapes how audiences interpret and evaluate the issue	Framing illegal immigration as 'crime' vs. 'economic contribution' produces different policy preferences among otherwise similar voters

Priming	Media coverage increases the weight voters give to specific issues when evaluating candidates and government performance	Heavy coverage of the economy in a campaign leads voters to evaluate candidates more heavily on economic performance
Watchdog function	Investigative journalism exposes government corruption, agency failure, and elite misconduct; provides accountability that legislative oversight alone cannot	Pentagon Papers; Watergate; Abu Ghraib photos; NSA surveillance leaks
Information transmission	News broadcasts, websites, and social media distribute information about government actions, election candidates, and policy debates	Essential to informed democratic participation

Biases and Limitations of the Media

Commercial media has structural incentives that can distort political information. Conflict bias (coverage of conflict sells better than consensus), negativity bias (negative news generates more engagement than positive news), and horse-race journalism (covering elections as competitive strategy rather than policy substance) all shape what gets covered. The profit motive also creates incentives to appeal to partisan audiences with content that confirms their priors — contributing to partisan media ecosystems that reinforce rather than inform.

Government-media relations are adversarial by design: the First Amendment protects press freedom precisely so journalists can hold government accountable without fear of prior restraint or retaliation. Presidential administrations routinely attempt to manage the media narrative through press secretaries, strategic leaks, and access control. *New York Times Co. v. United States* (1971) established the constitutional principle that government cannot stop publication in advance except under extraordinary circumstances.

Topic 5.13: Changing Media

The media environment has undergone fundamental transformation since the 1990s — from broadcast network dominance to cable news proliferation to the internet’s disruption of traditional news economics to social media’s fragmentation of the information environment. These changes have reshaped political information, participation, and polarization.

Evolution of the Media Landscape

Era	Dominant Medium	Political Implications
Broadcast era (1950s–1980s)	Television (ABC, NBC, CBS) + major newspapers	Shared national information environment; news reached broad, heterogeneous audiences; Walter Cronkite’s ‘most trusted man in America’ personified national media authority
Cable era (1980s–2000s)	CNN (1980); Fox News (1996); MSNBC (1996)	24-hour news cycle; partisan news channels; intense competition for audience attention; political entertainment blended with news
Early internet (1990s–2000s)	Online newspapers; political blogs; email; early social networks	Disintermediation: political information reached audiences directly, bypassing traditional editorial gatekeepers; bloggers broke news; campaign fundraising went online
Social media era (2010s–present)	Facebook, Twitter/X, YouTube, TikTok; podcasts; streaming	Algorithmic amplification of engaging (often outrage-generating) content; echo chambers; disinformation spread rapidly; candidates communicate directly without press mediation; declining trust in traditional media

Political Effects of Media Fragmentation

The fragmentation of the media into partisan, demographic, and interest-based silos has several documented political effects. **Selective exposure** — the tendency to consume media that confirms one’s existing views — increases partisan polarization by reducing citizens’ exposure to opposing arguments. **Algorithmic amplification** on social media platforms prioritizes emotionally engaging content, which tends to be outrage-generating, making political discourse more emotionally intense and less deliberative. **Disinformation** — false information spread for political advantage — spreads more rapidly on social networks than traditional media’s fact-checking infrastructure can counter.

Citizens United and New Media

Citizens United freed corporations and political organizations to spend unlimited amounts on independent political advertising, including digital advertising. Super PAC spending on social media targeting, combined with micro-targeting of voters identified through data analytics, represents a convergence of campaign finance deregulation and technological innovation. The combination allows political messages to reach specific voter segments with customized content, often without the transparency that broadcast advertising’s public file requirements provide.