Madisonian Democracy

- Self-interest is the basic problem
  - Everyone is self-interested
  - Self-interest leads to conflict
- Solution: Representation & Dispersed Power
  - Many power points so all groups represented
  - Shared powers ensures no tyranny

Pluralism

- The individual’s influence in society is negligible, so interest groups & parties act as intermediaries
  - U.S. Population = 327 million
  - A single person acting alone doesn’t have much influence
  - A group of people (organization, political party) can influence political outcomes
  - Because politicians pay attention to groups

Pluralism

- Groups compete for members/supporters
- Cross-cutting cleavages/conflicting loyalties:
  What group should Alba join?
  - UCSB Dream Scholars
  - Campus Democrats
  - Eta Kappa Nu
  - Engineers without Borders
  - Los Ingenieros
  - Nueva Vida
  - El Congreso
  - Gauchos against Fracking
  - UCSB Fencing Club
  - CalPIRG

Pluralism

- Different groups become active in different policy areas
- No majority - just larger or smaller factions
- Organization is the key to success
• College students
  – Fellowships and loans
  – Dream Scholars
  – Taxes on graduate fellowships

• The elderly
  – Social Security
  – Medicare
  – Prescription medical benefits

• Only small groups of people become active
• Most people watch from the sidelines
• Activists have influence

In 2012 & ’16, How Many Activists?

<table>
<thead>
<tr>
<th>Activity</th>
<th>2016</th>
<th>2012</th>
</tr>
</thead>
<tbody>
<tr>
<td>Work for a candidate</td>
<td>12%</td>
<td>8%</td>
</tr>
<tr>
<td>Signed a protest march (last 4 years)</td>
<td>28%</td>
<td>24%</td>
</tr>
<tr>
<td>Go to meetings, rallies, speeches</td>
<td>79%</td>
<td>76%</td>
</tr>
<tr>
<td>Contributed money</td>
<td>3%</td>
<td>4%</td>
</tr>
<tr>
<td>Campaign button/sign/bumper sticker</td>
<td>12%</td>
<td>10%</td>
</tr>
<tr>
<td>Contact senator or representative</td>
<td>6%</td>
<td>5%</td>
</tr>
<tr>
<td>Sign online petition (last 4 yrs)</td>
<td>4%</td>
<td>5%</td>
</tr>
<tr>
<td>Talk to anyone about voting for or against a candidate</td>
<td>0%</td>
<td>0%</td>
</tr>
</tbody>
</table>

Source: Data from the 2012 and 2016 American National Election Survey (www.sda.berkeley.edu)

Separation of Powers = Shared Powers

3 Branches of government:
- Legislative
- Executive
- Judicial

List of Shared Powers

- Legislation passed by Congress can be vetoed by the President
- Legislation that is passed & signed can be overruled by the Courts
- President can negotiate treaties, but they must be approved by the Senate
- Congress has the sole power to declare war, but the President must carry it out as Commander-in-Chief

- President can grant pardons, thus overruling the federal Courts in criminal matters
- Cabinet members & other top govt officials are nominated by the President & confirmed by the Senate
- President is commander-in-chief, but the Senate must approve all military promotions
- Federal judges are nominated by the President & confirmed by the Senate
- President may be impeached by the House & Tried by the Senate w/ the Chief Justice as the judge
Why Separated Powers?

- Framers feared Tyranny
- They feared concentrated power (a King)
- They feared Tyranny of the Majority
- They feared the Whims of the Majority


Electorate & Term of Office

<table>
<thead>
<tr>
<th>Office</th>
<th>Term</th>
<th>Elected by:</th>
</tr>
</thead>
<tbody>
<tr>
<td>House of Representatives</td>
<td>2 yrs</td>
<td>The People</td>
</tr>
<tr>
<td>President</td>
<td>4 yrs</td>
<td>Electoral college</td>
</tr>
<tr>
<td>Senate</td>
<td>6 yrs</td>
<td>State legislatures</td>
</tr>
<tr>
<td>Supreme Court Justices</td>
<td>Life</td>
<td>President &amp; Senate</td>
</tr>
</tbody>
</table>

President Obama –Possible Tyrant?

- Obama faced a system that gives great power to those who wish to block action
- Our system is designed to produce Gridlock

President Obama & the Dream Act

- Dream Act (Development, Relief, and Education for Alien Minors)
  - Introduced by Dick Durbin and Orrin Hatch, 2001
  - Reintroduced every Congress since then
- Person must have proof that they entered United States before the age of 16, continuously lived in the U.S. for at least 5 years, graduated from a U.S. high school or obtained a GED, & passed criminal background check

Public Opinion Favors Dream Act

"President Obama announced that the U.S. would halt the deportation of some illegal immigrants if they came here before age 16, have been in the country for five years, have no criminal record, are in school or have a high school diploma or have been honorably discharged from the military. Do you agree or disagree with this new policy?"

Agree: 64%
Disagree: 30%
Not sure: 6%

Obama promised immigration reform and a “path to citizenship”

He had to accept compromises with Congress

He lost

Madisonian Democracy

• Solution: Representation & Dispersed Power
  – Many power points so all groups represented
  – Shared powers ensures no tyranny

• Result: Slow moving government
  – Difficult to change policy in controversial areas
  – Majority support for policies does not guarantee success

Federalism: Arizona v. United States

• The Court struck down three of the four provisions of S.B. 1070:
  – Requiring legal immigrants to carry registration documents at all times
  – Allowing state police to arrest an individual for suspicion of being an undocumented immigrant
  – Making it a crime for an undocumented immigrant to search for or hold a job

• The Court allowed Arizona police to investigate the immigration status of an individual stopped, detained, or arrested if there is reasonable suspicion that the individual is an undocumented noncitizen.

Barriers to Legislation

• Attention
• Hearings
• Subcommittee majority (in the House)
• Full committee majority (House & Senate)
• Rules Committee (in the House)
• Getting to the Floor
  – Speaker discretion (House)
  – Hold or potential filibuster (Senate)
• Floor passage
• House-Senate agreement
• Presidential signature
• Supreme Court review

10,000 bills submitted
350 laws passed

Federalism:
States vs. the National Government

SB 1070: An Arizona law making it a crime for a non-citizen to be in Arizona without carrying the required documents, requiring state law enforcement officers to determine an individual's immigration status during a “lawful stop, detention or arrest.” It was challenged by the U.S. Dept. of Justice. The U.S. Supreme Court decided the case.

Arizona v. United States, 2012

Dual Federalism
(Original system, 1800s)

• National gov’t supreme in areas specified in the U.S. Constitution
• State gov’ts supreme in all other areas
• National and State gov’ts have little interaction

See Water Stone, Republic of Red and Green
Madison et al., The Federalist Papers
Fiscal Federalism

• The practice of having the National gov’t pay for state and local government programs
  – Began in the 1930s
  – Another boost in 1960s and early 1970s

• Along with money came requirements about how to spend it
  – In recent years, complaints about “unfunded mandates”

Marblecake Federalism

• As Federal money flowed to states, the federal and state govts began to interact and to cooperate in addressing problems
  – They lobbied each other
  – They established programs that addressed identical problems

Picket-fence Federalism

(Another metaphor describing current politics)

Figure 15.1

Under whose rules should immigration policy be decided—State or National?

Sheriff Joe Arpaio
Maricopa County, Arizona

Mitch McConnell & Barack Obama

Federalism: A set of rules for political conflict

Congress is given a long list of explicit powers + inferred powers

U.S. Constitution, Art. 1, sec 8:

“Congress shall have Power …

To provide for the common Defense and general Welfare of the United States; …

To regulate Commerce with foreign Nations, and among the several States, …

To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the government …”
The President is given explicit powers + Executive Power

U.S. Constitution, Art. 2, sec 1:
“The Executive Power shall be vested in a President of the United States of America.”

The Supreme Court Arbitrates Disputes

U.S. Constitution, Art. 3, sec 2:
“The judicial power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their authority; … to Controversies to which the United States shall be a Party …”

States’ Rights = Vague Promises

U.S. Constitution, Amendment 10:
“The powers not delegated to the United States, nor prohibited by it to the States, are reserved to the States respectively, or to the people”

Other Rights Exist, Not Clear What They Are

U.S. Constitution, Amendment 9:
“The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.”

In Federal-State Disputes the two sides are rarely National & State

Examples:
- Conflict over immigration policy
- Disputes over Civil Rights
- Pro-Life vs. Pro-Choice
- Conflict over climate change policy

Opposing factions seek the venue (Federal or State) that favors them in the dispute

Civil Liberties

"Freedom of Speech is not Freedom to Abuse"
Civil Liberties

- Liberties: Individual Freedoms guaranteed in the Bill of Rights
  - Free Speech, Free Press
  - Religion
  - Right to assemble & petition government
  - Freedom from unreasonable search & seizure
- Freedom of individuals from Gov’t power
  - Limits on government

Civil Liberties Principle vs. Practice

- The words of the First Amendment were not consistent with the law through most of our history
- The inconsistency spurred people to action
  - Student free speech protesters asked, “If the Constitution says Congress shall make no law restricting speech, why can’t I criticize the war?”

Civil Liberties Restrictions driven by Political views

The greater the distance between groups:
- The less they like one another
- The more they want to restrict civil liberties


Willingness to Tolerate Free Speech in Different Cases, 1976-79

How the Public Would Protect Political Speech, 1976-79
Civil Rights

• Civil rights refers to the equality of all people, regardless of:
  – Race, ethnicity, or national origin
  – Religion
  – Gender
  – Age
  – Disability
  – Sexual orientation
  – Disease (e.g., HIV/AIDS, cancer)
  – Weight, etc.

Civil Rights & the 14th Amendment

• “All persons born or naturalized in the United States … are citizens of the United States … No state shall … deny to any person within its jurisdiction the equal protection of the laws.”

• The basic concept is political and legal equality

Civil Rights does not require complete equality

• Discrimination on the basis of achievement & behavior is allowable
  – Universities may reward academic merit
  – Employers may hire the best qualified
  – Laws may punish people who are felons
  – Income taxes may discriminate on the basis of a person’s income