Government Outline

|  |  |
| --- | --- |
|  *
*
 | UNIT ICONSTITUTIONAL UNDERPINNINGS*PURPOSE OF GOVERNMENT* Two versions of social contract theory Thomas Hobbes*Return to state of nature without government* “Every man is against every man… and the life of man is solitary, poor, nasty, brutish, and short.” *Power to a sovereign government authority* - *preferably a king* Enforcement of laws Punishment of criminals Defense of people from invasion*Exchange of some citizen rights in order to have law and order* John Locke*Existence of government to guarantee peoples’ natural rights* Life, liberty, and enjoyment of personal property*Power to the people* Making the laws Agreement to follow the laws Punishment of criminals by agreed upon system *No restrictions on citizens without consent*     *B. FUNCTIONS OF GOVERNMENT* Protection of people from each other and outsiders Protection of individual rights and liberties Provision of public goods and services Examples *Parks and monuments Environmental regulations Anti-trust policies Interstate commerce policies* Examples of assistance to selected groups *Welfare Medicare and Medicaid Agricultural subsidies* *C.    POLITICAL IDEOLOGIES* Establishment of a set of beliefs about government policy Conservatism Beliefs *Opposition to government intervention in the economy Opposition to government-sponsored social programs Support for government intervention to uphold morality Support for a strong military**Support for the use of force as a means to attain an end Support for a balanced budget Support for limited taxation* Liberalism Beliefs of *classical liberalism* of the nineteenth century *Minimal government involvement in social and economic lives of individuals and groups* Beliefs of modem liberalism of the twentieth century *Support for government intervention into the economy Support for government-sponsored social programs Opposition to government interference with personal morals or activities Opposition to expansion of the military* Libertarianism  Background *Acceptance of Locke’s emphasis on basic rights Acceptance of Adam Smith’s view of the free market* Beliefs *Support for a very limited government Provision for national defense Protection of liberty and freedom of trade Opposition to government economic and social programs Abolition of nearly all government departments Opposition to laws against victimless crimes Opposition to military intervention* Socialism Divisions *Democratic socialism* Examples *in governments of Great Britain, Germany, France, and Scandinavian nations*Beliefs *Support for the democratic system Support for government regulation and ownership of major industries Support for regulation of production and distribution of goods and services Support for government planning to protect citizens’ welfare and interests* *Totalitarian socialism* - *Communism* Examples *in governments of People’s Republic of China and former communist regimes in Eastern Europe* Beliefs *Support for revolution against the existing system with a dictatorship of the proletariat Support for government regulation and ownership of industry Support for government planning to protect citizens’ welfare and interests* *D. CLASSIFICATIONS OF POLITICAL SYSTEMS* Anarchy Characteristic *Absence of a coordinating governing body* Examples *Lebanon 1980s Somalia 1990s*                                                                                                                                                                      Theocracy Characteristics *Control of political power by the clergy Superiority of church law to civil law* Example *Puritan rule in Early Colonial New England**Pure Democracy (Direct)* Characteristics *Direct citizen participation in daily government decisions Use of the initiative, referendum, and recall on state and local levels* Examples *Colonial New England town meetings Ancient Athens*Representative Democracy - Republicanism Characteristic *Election of government officials to manage affairs* Example *United States of America* Theories of America’s representative democracy Majoritarian Representation of the will of the majority Pluralist *Competition among organized pressure groups for superiority Advocacy of group participation* Elite *Domination by rich and powerful serving their own needs* Absolute Monarchy Characteristics *Government authority independent of subjects and descending from God Rule by a hereditary king or queen with unlimited powers* Example *Louis XIV* - *France King Abdullah Saudi Arabia*Constitutional Monarchy Characteristics *A government within the framework of a constitution Rule by a hereditary king or queen with limited powers* Examples *Great Britain Denmark* Dictatorship Characteristics *Imposition of government decisions by force No consent of the governed* Examples *USSR under Joseph Stalin Iraq under Saddam Hussein* *E. FIRST GOVERNMENT OF THE THIRTEEN STATES* Articles of Confederation (1781-1789)                                                                                                                                                                       Delay in ratification by Maryland *Concern with western land claims of some states* Structure of union *“Firm league of friendship”* Naming of the league - United States of America *Importance of sovereignty and independence for each state Retention of powers not expressly delegated to national government by states* *“Committee of the States”* Membership *One delegate from each state* Power *Execution of the laws during recesses of Confederation Congress Creation of a national unicameral (one house) legislature Selection of delegates Decision by individual states One vote per state Selection of President of Congress by congressional delegates annually Handling of three major functions by committees* Foreign affairs *Receiving of Ambassadors Negotiation of treaties* Military *Raising of an army Request to states for troops* Financial *Borrowing of money* Establishment of value currencies *Fixing of uniform standard of weights and measures* Weaknesses *Inability of Congress to lay and collect taxes Inability of Congress to regulate interstate and foreign commerce Need for agreement by nine states for any action Need for unanimous agreement among the states to amend the Articles Absence of a National Judiciary and Executive One vote per state regardless of population Retention by states of all powers not expressly given to Congress No power to act against an individual state Election of delegates for a one year term*Problems of the nation (1781-1789) *Bankruptcy of national government Receipt of only 1/4 of expected $10 million from states Inability to pay interest on foreign loans Defeat of proposed tariff on imports by one vote Trade wars among the states Charging of state fees for permission to trade Closing of ports to foreign trade Continuing inflationary spiral* *Printing of massive amounts of some state currencies Refusal of some states to accept other states’ currencies Fear of further uprisings after Shays’ Rebellion* Search for solutions                                                                                                    Mount Vernon Conference (1785) *Discussion by Maryland and Virginia on Potomac River trade* Call for a meeting at Annapolis by Virginia (1786) *Acceptance of five states Discussion of trade problems Suggestion by Alexander Hamilton for a meeting to revise the Articles of Confederation* F. CONSTITUTIONAL CONVENTION AT PHILADELPHIA             (MAY 1787) Attendance *Fifty-five men from all states except Rhode Island Adoption of rules of organization and procedure One vote for each state delegation Necessity of seven states for a quorum Majority vote to pass measures Requirement of secrecy No official record of proceedings Knowledge of actions from personal notes on proceedings by James Madison Selection of George Washington as President* Redefinition of the purpose of the Convention *Writing of a new document* Picture of the delegates *White Protestant males Men of wealth Many with some college education Men of distinction Future presidents Future state governors Future Chief Justices of Supreme Court Revolutionary War veterans Previous service in Colonial Assemblies and/or past Congresses and/or State Constitutional Conventions* Shared beliefs of the delegates *Need for stronger national government Belief in republican form of government Agreement with John Locke’s “Theory of Rights” Support for Montesquieu’ s  separation of powers* Sources of Ideas *Governments of Ancient Greece and Rome* *English heritage* *Limited government and limitations on executive authority Magna Carta (1215) English Bill of Rights (1689) Representative government Bicameral legislature Appointment of judges by the Crown with no power of removal by the Crown Basis of decisions of judges on precedents (Common Law) Authority on many issues to local government units* *Political writers* *John Locke William Blackstone Baron de Montesquieu Jean Jacques Rousseau* Previous experiences *Colonial governments*Colonial Charters *Statement of agreement between colonists/company and the Monarch Guarantee of certain rights and privileges* Three branches of government Bicameral legislatures except for Pennsylvania Legislative “power of the purse” to limit the power of the Governor Limitation on right to vote *Property holding white males Often requirement of membership in certain churches* Authority to local governments *Principles of the Declaration of Independence Equality Inalienable rights Life Liberty Pursuit of happiness Powers from the consent of the governed* *State Constitutions Use of conventions to draft and ratify Establishment of representative democracies Principles of separation of powers and checks and balances Power to legislatures (most bicameral) Limitations on the governors Inclusion by seven states of a Bill of Rights Some limitations on suffrage* *Previous attempts to unify the Thirteen Colonies Dominion of New England (1684) Albany Plan of Union (1754) Stamp Act Congress (1765) First Continental Congress (1774) Galloway Plan of Union (1774) Second Continental Congress (1775-1781) Articles of Confederation (1781-1789)* *Controversy between the big and small states**Support of big states for the Virginia Plan* *Separation of powers Bicameral legislature Representation by population Election procedures   Direct election of lower house members by the people   Direct election of upper house members by members of the lower house from a list of   nominees from state legislatures* *Additional powers beyond Articles Overriding of vetoes Use of veto in cases where state laws in conflict with national laws Use of force to make a state obey the national law Right to legislate whenever “separate states are incompetent”**One term executive                                     Selection by the legislaturePower to execute the laws National Judiciary   Selection by legislature   Power to veto legislative acts “Council of Revision”    Combination of Executive and members of the Judiciary    Power to veto congressional legislation* *Support by small states for the New Jersey Plan (Paterson)* *Separation of powers Unicameral legislature Equal representation for each state Additional powers to the Articles Enforcement of tax assessments Regulation of interstate commerce Plural Executive   Selection and removal by Congress Federal Judiciary   One Supreme Court or Tribunal Appointment by Executives* *Major stumbling block between the Virginia and New Jersey Plans* *Issue of representation “Bundle of major compromises”* Representation (Great Compromise) - Connecticut Plan*Bicameral legislature**Representation by population in the House of Representatives Taking of a national census every ten years**Equal representation (two) for each state in the Senate* Slavery (3/5s Compromise)*Support in southern states for counting of 3/5s of slaves for representation* *Support in the northern states for counting of 3/5s of slaves for taxation* Commerce *Granting of power to regulate foreign and interstate commerce to Congress* *Support from northern business interests* *Fear of southerners Support for export as well as import duties by the national government Major export of the nation - southern tobacco Intervention by Congress to stop the slave trade**Assurances to the South Prohibition on export duties No prohibition of the slave trade until 1808* Executive *Indirect selection of one Executive by an Electoral College Unlimited number of four year terms Enumerated powers Evidence of the fear of popular citizen control**Selection of Senators by state legislatures* *Selection of President by Electoral College* *Difficulty of amending process* *Proposal by two-thirds of Congress or state conventions* *Ratification by three-fourths of the state legislatures or state conventions*Ratification *Need for acceptance by nine states to go into effect* *Importance of support from big states Fairly easy passage in Massachusetts and Pennsylvania Close vote in New York and Virginia* *Emergence of two camps in each state* *Supporters - Federalists Spokesmen for a strong national government James Madison Alexander Hamilton John Jay Tactics: Emphasis on weaknesses of Articles of Confederation and resulting problems Publishing of letters to the people in newspapers (Madison, Hamilton, and Jay) to turn the tide in New York Later compilation into The Federalist Papers Request for vote by state conventions rather than state legislatures or a referendum Insistence on a vote on the entire document not individual sections Opponents* - *Anti-Federalists Spokesmen for states’ rights Patrick Henry John Hancock Richard Henry Lee Samuel Adams Tactics: Emphasis on the powers given to the national government at the expense of the states Revival of fears of a strong Executive Threat of the loss of rights with the absence of a Bill of Rights* *Ratification of eleven states by September 1788 Selection of New York City as temporary capital Election and inauguration of George Washington as President Ratification by 1790 of all thirteen states* *G. BASIC PRINCIPLES OF THE CONSTITUTION Representative government Selection of representatives in “free” and scheduled elections Governing with the consent of the governed Federalism Distribution of powers between a central government to which citizens can turn for policy goals and regional governments Local government State government National government Compromise between dictatorial national government and independence of the states Historical pattern of increasing the powers of the national government at the expense of local autonomy* *Three kinds of powers at the national level Expressed powers Enumerated powers in the Constitution Implied powers Suggested powers from those enumerated Inherent powers Exercise of certain powers in foreign policy because a sovereign nation in the world*  *Reasons for the growth of the national government’s power National scope of many problems Dependency of the states on federal funds Unequal distribution of wealth within the states Inability of states to deal politically with some problems Statements of “power” to the national government in the Constitution General welfare clause Commerce power Defense of the nation Necessary and proper clause Court’s role in ongoing debate over Federalism Consistent narrowing of states’ constitutional rights*  *Argument of states for more power with statement in the Tenth Amendment Denial of powers to the national government in the Tenth Amendment (1791) “The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.” No power to destroy the federal system Duties of the national government to the states Guarantee of territorial integrity of the states Guarantee of a republican form of government Protection of each state against invasion Attack on one an attack on all Protection against domestic violence within a state Most often in response to a request by a governor or legislature* *Examples of federal intervention into states over objections of governors Pullman Strike (1894) Little Rock Crisis (1957) University of Mississippi (1962) University of Alabama (1963)* *Assistance with natural disasters Congressional power to admit new states Establishment of criteria in Northwest Ordinance (1787)* *Denial of powers to the states In the Constitution: No coining or printing of money No levying of tariffs No keeping of troops in peacetime No signing of agreements with other nations or states without consent of Congress In Constitutional Amendments Thirteenth Amendment (1865) No slavery Fourteenth Amendment (1868) No depriving of life, liberty, or property without due process of law No denial of equal protection of the laws Fifteenth Amendment (1870) No denial of the right to vote based on race Nineteenth Amendment (1920) No denial of right to vote based on gender Twenty-sixth Amendment (1971) No denial of the right to vote for citizens eighteen years of age and older No power to destroy the federal system* *Powers of the states No enumerated powers in the Constitution Basis in the Tenth Amendment* *Major responsibilities of the states* *Education laws* *Marriage laws* *Voting and election laws* *Property laws* *Public safety laws* *Welfare of citizens* *Regulation of intrastate trade and business* *Establishment of local units of government* *Collection of state taxes* *Relations among the states In the Constitution:* *Full faith and credit* *Privileges and immunities* *Extradition* *Drafting of interstate compacts Increase in recent years with regional problems and urban sprawl Acid rain Nuclear waste sites* *Concurrent (shared) powers of the national and state governments Powers not denied to the states or given to the national government Examples: Collection of taxes Making and enforcing of laws Borrowing and spending money Regulation of commerce Control of intrastate by state governments Control of interstate and foreign by the national government* *Dependency of state and local governments on federal funds* *National grants-in-aid Education Welfare Highway construction Urban renewal* *Categorical grants Most federal aid to state and local areas in this form Criteria for receiving aid Use for specific purpose only Requirement of matching funds Establishment of agency to manage grant money Submission of plans with standards and expected results Acceptance of all federal guidelines* *Block grants Use by state and local governments with fewer criteria Areas of public health, services, education, community development, energy assistance Reasons for support of national grants Equalization of resources among the states Maintenance of minimal standards for services Establishment of nondiscriminatory standards Provision for otherwise unaffordable services* *Reason for opposition to national grants Opportunity for too much interference and authority by the national government**New revenue sharing plan in federal/state relations State and Local Fiscal Assistance Act (1972) Share of federal tax money to state and local governments One-third to state governments Two-thirds to local governments Few restrictions on use of the money* *Assistance of the states to the national government Conducting of elections at state and local expense Processing of citizenship through the state courts* *Explanations for the separation of powers Insurance against any one branch gaining too much power Different constituencies for different branches of government Different terms of office for different branches of government* *Checks and Balances Protection against the abuse of power by any one branch* *Executive Checks on Congress Proposal of legislation Vetoing of legislation checks on Judiciary Appointment of federal judges Enforcement of court decisions* *Congress checks on Executive Overriding of presidential veto Impeachment and removal of the President Ratification of presidential appointments (Senate) Ratification of treaties (Senate) Authorization/appropriation of funds for legislation Legislative veto checks on Judiciary Impeachment and removal of judges Confirmation of federal judges (Senate) Use of the amending process* *Judiciary check on Executive Review of actions check on Congress Review of laws* *THE LIVING CONSTITUTION* *Creation of a government “for the ages” Safeguarding of the Republic with checks and balances Provision for an amendment process easier than the process in the Articles of Confederation Brevity of wording with potential for interpretation The elastic clause “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 of the United States, or in any department or officer thereof.”* *Question of definition of “necessary and proper” Acceptance of interpretation of Chief Justice John C. Marshall Consistency of means and ends “with the letter and spirit of the Constitution”* *Provision for amendment process Call for amendment 2/3 vote of House of Representatives and Senate Convention held at request of 2/3 of states* *Ratification 3/4 of the state legislatures 3/4 of statewide popular conventions as prescribed by Congress or the proposing convention Ratification of only Twenty-first Amendment by popular conventions* *Informal ways to amend the Constitution* *CONGRESSIONAL ELABORATION* *Actions of CongressPassage of laws Giving precise form to government structure Creation of the federal court system Creation of agencies and commissions Clarification of enumerated and implied powers in Constitution* *PRESIDENTIAL  PRACTICES* *Actions of the Executive Drafting of Executive Agreements -foreign affairs Compact between the President and another Head of State Power as Commander-in-Chief Use of troops without congressional approval Executive Orders- lawmaking**Executive Privilege-withholding information* *JUDICIAL REVIEW**Actions of the Courts Use of power of judicial review Statement by Alexander Hamilton in The Federalist No. 78 darifying the Judiciary’s role in interpreting the Constitution Initial application with Marbury v. Madison, 1803* *CUSTOM AND USAGE**Actions of political parties Party divisions and arrangements in Congress Unwritten traditions Precedent of two term presidency Creation of the Executive Cabinet Establishment of the congressional committee system* *Arguments over interpretation of the Constitution* *Strict interpretation Belief that the powers of national government derive from the states McCulloch v. Maryland, 1819 Loose interpretation Limitation of the idea of states’ rights**Establishment of idea of implied powers with inclusion of the necessary and proper clause* *Changes during post Civil War Era Concept of dual federalism Separation of national and state governments into distinct spheres without overlap                                   Role of Supreme Court Support for laissez-faire Application of Fourteenth Amendment to support “Big Business” Consistent invalidation of state regulations on business National government actions under interstate commerce Creation of Interstate Commerce Commission (1887)**Changes during the New Deal Aggressive intervention of the national government* *Opposition of Supreme Court until 1936 election New interpretation of commerce clause Changes after World War II Cooperative Federalism Shared responsibility between national and state governments Fiscal Federalism Categorical grants Determination of state actions by federal spending options Block grants More freedom for state and local governments in spending federal money Crossover sanction Linkage of federal money to specific required state action Federal pre-emption Result of supremacy clause**Agreement of states to federal action Areas of concern Pollution control Civil rights Health and Safety Regulation of business Lack of federal funds to implement* *Weaknesses of the Constitution Complexity Potential for citizen apathy Difficulty of agreement on policy Difficulty of implementation of policy Lack of fiscal responsibility Lack of legislative accountability Difficulty of amending process Lack of clarity in protection of rights of minorities Competition between levels of government: Services Taxes Citizen assistance**Strengths of the Constitution Flexibility Variety of places for citizen input Potential for experimentation at various levels Variety of citizen choices Variety of bases of political power* *THE UNITED STATES CONSTITUTION* *Article I - Legislative Acceptance of two house (bicameral) plan House of Representatives Senate* *Enumerated powers Senate only Trials for all impeachment cases Ratification of presidential appointments Ratification of treaties House of Representatives only Origination of all revenue bills Impeachment of all officials Both Houses of Congress Lay and collect taxes, duties, imposts, and excises Pay the debts Provide for the common defense and general welfare Borrow money on credit Regulate commerce Foreign nations Among the several states Indian tribes Establish uniform rule on naturalization Establish uniform laws on bankruptcies Coin money, regulate the value thereof Fix standard of weights and measures Provide for punishment of counterfeiting Establish post offices and post roads Provide for progress of science and useful arts Patents Constitute tribunals inferior to the Supreme Court Define and punish piracies and felonies on the high seas Declare war Grant letters of marque and reprisal Make rules concerning captures on land and water Raise and support armies Provide and maintain a navy Make rules for the government and regulation of the land and naval forces Provide for the calling forth of the militia Provide for organizing, arming, and disciplining the militia Exercise exclusive legislation in all cases over the district seat of the national government Elastic clause (- implied powers )Make all laws necessary and proper for execution of powers* *Changing of powers by Amendments Thirteen Fourteen Fifteen Sixteen Article II- Executive Election by Electoral College Formal enumerated powers Serve as commander-in-chief of the army and navy and militia Require in writing the opinion of the principal officer in Executive Departments Grant reprieves and pardons Make treaties with advice and consent of two-thirds of the Senate Appoint ambassadors, public ministers and consuls, justices of the Supreme Court with advice and consent of two-thirds of the Senate Fill vacancies during recess of the Senate Deliver a State of the Union Address Call special sessions of Congress Receive ambassadors and other public ministers Execute the laws Commission all officers of the United States Changes in power - basis in interpretation of individual President* *Article III - Judiciary Establishment of Supreme Court Creation of Lower Courts by Congress Jurisdictions of the Supreme Court Original Appellate Changes in power Introduction of judicial review with Marbury v Madison, 1803* Article IV – *State to State Relations (Horizontal Federalism)**Full faith and credit to acts, records, proceedings of one state by any other state Entitlement to all privileges and immunities of citizens in the several states State extradition Criminals Persons held to service or labor (slaves) Control of territories by Congress Guarantee of republican government* *Article V - Amendments Two means of proposing constitutional amendments Two-thirds of both houses of Congress Two-thirds of specially called state conventions Two means to ratify a constitutional amendment Three-fourths of state legislatures Three-fourths of state conventions* *Limitations No actions against the slave trade until 1808 No loss of a state’s two votes in the Senate without its consent* *Article VI- The Supreme LawActions under Confederation binding under Constitution Recognition of the Constitution as the supreme law of the land No religious test for office* *Article VII- Ratification Need for approval by nine states*                  Last Modified on September 26, 2005 |
|  |  |
|  |  |
|  |  |
|  |  |
|  |  |

Top of Form