

Introduction to the American Political Process

Class 10: The Bureaucracy

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March 8, 2022

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1. Readings

Gailmard and Patty, “Learning While Governing: Expertise and Accountability in the Executive Branch”

McCubbins and Schwartz, “Congressional Oversight Overlooked: Police Patrols versus Fire Alarms”

Potter, “Bending the Rules: Procedural Politicking in the Bureaucracy”

Readings

The messy mapping from **formal rules** to **lived experience**.

- Revolves around human discretion.
- But, institutions also matter.

The Role of the Bureaucracy in American Government

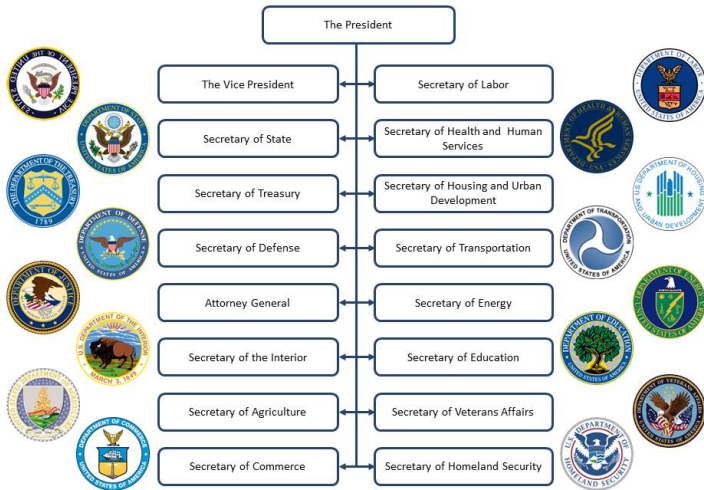
Lawmaking vs. Rulemaking

- Here is the text of the Affordable Care Act
- Here are the relevant sections of the Code of Federal Regulations (CFR)

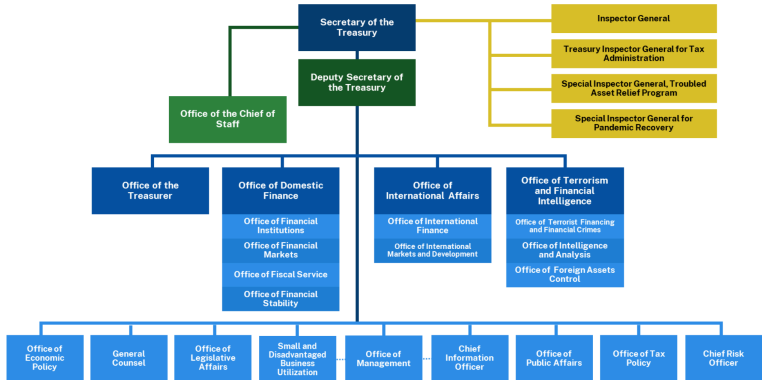
And here is everything else covered by the CFR...

The Bureaucracy: Executive Agencies

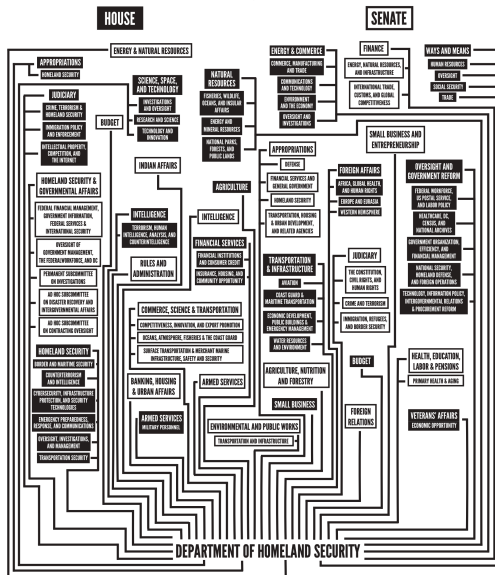
Executive Branch



The Structure of One Agency



The Congressional Bureaucracy



We seek some **general theories** of these extraordinarily complex systems.

The principal-agent model

- A **principal** delegates a task to an **agent**
 - Limits to principal's 1) capacity and 2) expertise
 - Examples: Manager to employee, the President to an executive agency, Congress to an executive agency
- The principal and agent often have divergent preferences
- The principal cannot perfectly monitor the agent (**asymmetric information**)
 - Infeasible
 - Expensive
- So the principal-agent problem is fundamentally a problem of **political control**

Political control in the principal-agent model

- **Moral hazard:** agent taking bad actions *after* being contracted
 - Driving recklessly after buying insurance
 - Slacking on the job
- **Adverse selection:** agents taking advantage of asymmetric information to select *into* contract
 - Smokers selecting into health insurance
 - Ideologues with extreme views selecting into the bureaucracy/courts

How can we design institutions with incentive structures to reduce moral hazard and adverse selection?

- Make the agent work hard
- Make the agent do what the principal wants
- Reduce costly monitoring by aligning incentives

Tools: financial incentives, promotion, policy goals

Note: These ideas are pulled from economics — optimal design of contracts. How far can we extend the analogy to politics?

Readings

Gailmard and Patty, “Learning While Governing: Expertise and Accountability in the Executive Branch”

The “Slackers and Zealots” Model (Gailmard and Patty)

Actors: Principal (e.g. President), agent (e.g. bureaucrat)

Actions:

- Principal: how much authority to grant to the agent
- Agent:
 1. Remain in public service or go to private sector
 2. Invest in expertise or do the absolute minimum

The “Slackers and Zealots” Model (Gailmard and Patty)

Preferences:

- There are two dimensions to policy outcomes: **quality** and **ideology**
- The principal wants **good policy** that is **close to their ideology**.
 - Good policy is made by people with expertise
- There are two types of agents:
 1. **The slacker**: Doesn't care much about policy outcomes; there for the paycheck
 2. **The zealot**: Cares very much about policy; needs discretion

The “Slackers and Zealots” Model (Gailmard and Patty)

How can the principal incentivize bureaucratic expertise?

- By “compensating” civil servants with **discretion**

Logic:

- Assumption: pay is higher in the private sector; ability to compensate with money is limited in government
- Why would a bureaucrat invest in expertise? Knowing that they can use it to get closer to their preferred policy.
 - They can only control policy outcomes from within the bureaucracy, not the private sector
- Who actually cares about policy? **Only the zealots.**

The “Slackers and Zealots” Model (Gailmard and Patty)

1. **Discretion inducement conclusion:** In the absence of direct monetary incentives, expertise will emerge only if such acquisition is rewarded through increased discretion.
 - And it'll only be the zealots who invest in expertise.
2. **Promotion conclusion:** Agencies will experience lower turnover when promotion leads to increased discretionary authority.
 - This is double-edged: principal trades ideological preference for expertise
3. **Tenure conclusion:** Expertise development is promoted by increased job security.
4. **Expertise promotion conclusion:** Principal will only support expertise development when agent's preferences are not too divergent.

The “Slackers and Zealots” Model (Gailmard and Patty)

Conclusions:

- There are only two possible regimes:
 1. **Regime of clerkship:** Bureaucrats do their jobs with low expertise, high turnover
 2. **Politicized competence:** Bureaucrats go the extra mile, but have their own strong preferences
- There is no such thing as **neutral competence**.

Discussion: What are the relative merits of these two regimes, and what are their downsides? What are the implications of Gailmard and Patty’s argument for (substantive) representation?

Readings

McCubbins and Schwartz, “Congressional Oversight Overlooked: Police Patrols versus Fire Alarms”

McCubbins and Schwartz, “Congressional Oversight Overlooked”

1. **Technological assumption:** There are two different types of oversight Congress can use to monitor administrative agencies.

1. **Police patrol oversight:** centralized, active, and direct; **costly**

- reading documents, commissioning scientific studies, conducting field observations, holding hearings

2. **Fire alarm oversight:** establishing a system that enables citizens and interest groups to monitor agencies for them

- access to information
- standing to challenge administrative decisions in the courts
- facilitating collective action

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2. **Motivational assumption:** members of Congress seek to claim credit and minimize blame → seekers of reelection
3. **Institutional assumption:** Executive agencies act as agents of Congress.

McCubbins and Schwartz, “Congressional Oversight Overlooked”

Consequence 1: Legislators prefer fire alarms over police patrols.

- Efficiency: examine only those procedures that their constituents care about & maximize credit-claiming
- Outsource the monitoring costs to interest groups

Consequence 2: Congress will not neglect its oversight responsibility.

- Monitoring is advantageous & nearly costless

Discussion: We ask, once more: what are the implications of McCubbins and Schwartz’s argument for (substantive) representation?

Readings

Potter, “Bending the Rules: Procedural Politicking in the Bureaucracy”

Potter, “Bending the Rules”

What has been missing from the principal-agent understanding of the bureaucracy?

- *“Instead of treating this relationship as rigidly hierarchical, the relationship is likely a more dynamic one wherein principals institute processes and agencies typically respond to those processes.”*

Agencies are staffed by “**zealots**” with strong policy preferences who know how to use the rules to their favor.

- **Procedural politicking:** *“using procedures in strategic ways so as to insulate policies that are at risk of political interventions and ensure that bureaucrat-preferred policies endure.”*
- Bureaucrats enjoy “first-mover advantage” (where have we seen this before?)

Case study: contraception and the ACA

- As of 2018, contraception is legally considered a “preventative service” that women can obtain without copay or out of pocket fees
- Attributed to Obama’s Affordable Care Act (ACA), but payment status of contraception not covered in over 2,400 pages of legislation
- Actually a rule set by Department of Health and Human Services

Procedural rules that bureaucratic agents can manipulate

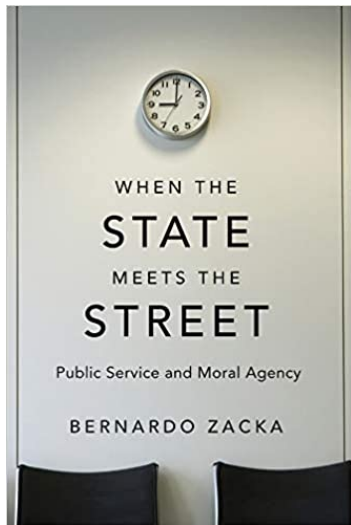
- Notice-and-comment
 - How much stakeholder outreach to conduct?
 - What information to make available?
 - How much public input to seek?
- Arcane knowledge of the rulemaking process
 - *“Even lawyers and people who work for the federal government tend not to understand the rulemaking process unless they have been personally involved in some way.”*
 - *“Bureaucratic domination means fundamentally domination through knowledge.”* (Max Weber)

Those who have argued that American government is inherently slow-moving and resistant to change: were they just looking in the wrong place?

But bureaucratic and Congressional policymaking are not perfectly interchangeable:

- *“When bureaucrats deploy key procedures that restrict participation, obfuscate, and render their work less visible, they may reinforce the already-existing disparity between the average citizen and these moneyed interests.”*

Other Perspectives on the Bureaucracy



See pages 5-8.