

Exam 2

Michael Cardiff

July 23, 2020

Question 1

Q Why did the Framers set up such a complex and difficult process for legislation to become law, and what have been the positive and negative consequences?

A The Framers of the Constitution did not want it to be easy for things to change in the US, so they set up a very complex process for legislation to become law. They wanted to prevent any drastic changes from being put through to law too quickly. Coming from a monarchy as well, they wanted to avoid a tyrannical government such as the one they came from. This process, while ensuring checks and balances on each branch of government, has shown its especially in recent, regarding the current actions of Senate Majority Leader Mitch McConnell.

The Framers intentions when making such a complex system of turning legislation into law was for a few reasons. Mainly, they wanted to ensure that the status quo was maintained and that the government was kept in check and so that no tyrannical government would rise. It is very effective in doing both of these, due to the many roadblocks which the legislature faces on it way to becoming a law. The classic legislative process has the bill starting in either house of Congress but it must be approved by both before it even gets a chance to be a law. Even after that, the Executive Branch in the form of the President, must check on the legislature and sign on it. After this, it still must be deemed constitutional by the courts (Krutz et al., 436). This does not even mention much of modern legislation, which involves committees and much more discussion of the intricacies of the bill such as its cost, amending, and much more. These ensure checks and balances as at every stage of the bill's

'life' there are points where it can be removed by another branch of the government. Since this process has so many steps, there is a guarantee that no spur of the moment decisions will be made based on small changes in the current environment. By the time it came for the other House of Congress to vote on the legislation, those conditions will have worn out, and it will no longer be necessary. That is even if it makes it out of the first House of Congress in the first place. While this is a big strength of our legislature system, there are some steps which lead to a rather stagnant government.

One main weakness that can be seen in the legislative process is to ignore it. Senate Majority Leader Mitch McConnell has a lot of bills which were passed by the House of Representatives and he has yet to present to the Senate. It is his job to present these bills to the senate body, yet he has not. On one hand, he is ensuring that these bills were not too hastily passed by the House, but on the other hand, some of these bills have been on his desk for quite a long time, so there has been plenty of time for the conditions to die down, so why not place these bills on the floor to get voted down? Since the House is currently majority Democrat, it points to a partisan issue rather than an issue of passing legislation. This is not good, essentially placing a brick wall on all legislation coming from House Democrats, so truly nothing can get done on their part. The weakness that emerges is less with the actual implementation by the Framers, but rather with its practice especially in the emergence of a partisan system. However, this must be taken further, is this not just another form of filibuster? The problem with seeing these actions as a form of filibuster is that it is not the lesser represented party preventing the larger from passing their own legislation, it is the other way around, which is dangerous for a system which heavily relies on the smaller power being able to pass its own legislation.

Question 2

Q What are the opportunities and limitation for presidential leadership in the contemporary US political system?

A The Framers of the Constitution initially gave the President very few powers, afraid that they would be too much like a king, which they desperately wanted to avoid (Krutz et al., 447). Over the years however, the president has had many more opportunities to increase its leadership. The increase in the size and influence of the position of the president comes from various international problems. These problems have lead to the office of the president to become more involved in all aspects of politics, national and international.

The president is seen as in to the World as the figurehead of United States politics. This means that much of international relations is headed by the President. This can be traced all the way back to when George Washington's Cabinet issued a statement of neutrality in 1793, proclaiming that the US would be neutral in the current European conflict between France and England. The president did this despite any declarations of war needing to originate from the House. Many other war-times are when we see President's extend their power in this way. The position of the president as the Commander-in-Chief of the US Army has led to much of this misuse of power.

There still are limitations to the President's powers, most of which were been defined in the Constitution. More specifically, Congress has the power to impeach the President if they find him/her unfit to the position. This was seen most recently when Donald Trump was impeached by the House of Representatives. Before this, both Bill Clinton and Andrew Johnson have been impeached (Krutz et al., 227). However, none of these cases have led to the President being removed from office, so this seems to be quite a weak limitation.

Question 3

Q In what ways is the U.S. court system better suited to protect the individual than are the other branches of the government?

A The courts more often than not, will deal directly with individuals. When you hear about landmark achievements by the supreme court, you will hear the names of the people (i.e. Marbury and Madison) rather than the name of a bill (i.e. Civil Rights Act of 1964)(Krutz et al., 488). The conditions on which Supreme Court Justices are chosen are very different than elected officials, and the course of their careers vary as well. These reasons together provide a much different dynamic when looking at the law of the US.

The court system will quite literally deal with the people. This allows for the courts to hear the issues that people have directly as opposed to hearing in the form of public outcry that elected officials might have to do. With the structure of the courts which we have, if a case is able to reach the Supreme Court, then there is some major form of problem which requires an in-depth look at the laws presented by the Constitution.

The life-long term of a Supreme Court Justice completely removes the worry of re-election that some elected officials will have. This encourages the Justices to take on more definitive stances that will result in the betterment of the condition of the people, rather than having to appeal to a party, or even the people themselves. Take the decision from Brown v. Board (1954), despite segregation existing in many of the Southern States, the courts had deemed that separate but equal was inherently unequal (Krutz et al., 1954). This was a controversial opinion, but it was made to the benefit of the people, rather than some party or other elected official. The detachment from a fear of reelection allows the Justices in the Supreme Court to be more impartial in their decisions in the laws of the US.

Question 4

Q Why does it make sense to refer to the bureaucracy as the fourth branch of the U.S. government? Why does it not make sense?

A The bureaucracy is an important gear in the structure of the American government, and without it, the government would not be able to function in the way we know today. However, the extent to which it can be considered a fourth branch of government is debatable. On one hand, it makes sense in a literal way. The bureaucracy is an extension of the federal government which take charge of certain tasks given by the federal government. On the other hand, there are certain implications of another 'branch' of government which is not truly enforceable.

The bureaucracy is like a fourth branch of government in that it is an extension of the federal government. The bureaucrats in charge of it are an essential part of the connection between the federal government and the people. The bureaucracy provides a way for the people to insert themselves into the government, while still limiting the content which actually gets passed on to the federal government (Krutz et al., 558). In these ways it is in fact a fourth branch of the government.

While in a literal sense the bureaucracy is a fourth branch of government, the implications of a 'branch' is where this argument fails. Specifically when it comes to checks and balances this argument becomes difficult. In a way, the bureaucracy is a check or balance for the people, as mentioned before, but there is very little in terms of proper checks and balances. This is because the bureaucracy is a byproduct of other federal branches, rather than one which is independent from it (Krutz et al., 559). The judiciary branch for example, has connections to the federal government in that its members must be appointed by the Executive and approved by the Legislative, but its action is completely independent of actions done by the other branches. This is in contrast to the bureaucracy, in which entire positions could be removed without contest by the federal government, and the public would

not necessarily be effected too much.

Question 5

Q Which civil liberties has the federal government done a good job of protecting, and which ones could it better protect?

A The Government, if viewed in terms of the constitution, is very good at protecting the rights of persons who have not yet been tried. Many of the amendments in the bill of rights have to do with rights pertaining to a trial (Krutz et al., 117). Even past this, there have been more rights established such as the Miranda rights, which make it clear to the people that they are protected by the United States. Along with this, the rights of people in regards to protecting themselves. The laws related to guns in the US are meant to help people in protect themselves. The US government is very good at ensuring the protection of its people from unfair imprisonment, as well as protection from various attacks on their person.

Despite this, the civil liberties and rights that have to do with race and sex have been very poorly protected. There are innumerable court cases which have to do with both of these, and an equal amount of legislation passed. Despite this, there is still more which people believe needs to be passed. Even with the amendments to the Constitution as well, there still is discrimination against other people due to their race and sex. Cases like Brown v. Board have happened, yet soon after there was a presidential candidate who won many votes in Southern States solely on the platform of segregation. Even with the unconstitutional ruling of discrimination on the basis of sex, women still make less money than men across the board. These liberties and rights are much more important to protect with the people, and it is a major failure that these still exist at the state level.