



## Political Institutions

### Federal Bureaucracy

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It's conventional wisdom that Congress passes legislation and the bureaucracy implements it; that is, Congress makes the laws and the bureaucracy or federal Agencies implement the laws. Well, that may be conventional wisdom but, oh, let me tell you, so often the conventional wisdom is misguided. The bureaucracy is not just an implementer of the laws; the bureaucracy is intimately involved in both making policy and implementing policy; in designing legislation and putting the legislation into practice. And it does this because the bureaucracy has a source of political power of its own. The bureaucracy is not a passive tool used by the Congress to do things. The bureaucracy, or all our different kinds of bureaucracies have resources, political power of their own. What I want to consider now are the sources of power for bureaucracies, how do they use that power, where does it come from, and how does it affect the kinds of laws that we make, that we design, and that we implement. Let's think of the sources of power for a couple of minutes.

The first source of power actually stems from the Constitution itself. Well, how does the bureaucracy have power from the Constitution? Flip, flip, flip. I hope you're looking through the Constitution now looking for that, but you're not going to find it because the Constitution doesn't even mention the bureaucracy. What the Constitution does do is it establishes three branches of government, and for our concern here, it establishes the Executive Branch—the President, et cetera—and the Legislative Branch, the Congress. Where does the bureaucracy fit in? Well, it fits in uneasily. The Constitution does say that the President can appoint the leaders of the government through Senate ratification, and we note from the Constitution that the Congress can pass the budget. But the Constitution does not specify where the bureaucracy is and who has power over it. What that means is that the administrative Agencies that were established—you will recall the 14 Cabinet Departments along with many, many other Agencies—are struggled over by Congress and the President. And because the Congress and the President are fighting over control, the skilled bureaucrat and the skilled bureaucracy can play one-up off against each other to try to get political power and abilities of its own. So the Constitution is at least one source of power for the bureaucracy.

The bureaucracies also have power from the laws that Congress writes. I say "laws" because Congress often writes extraordinarily vague laws. I love this example and I've got to read it to you. When Congress was creating the Environmental Protection Agency, here's what Congress told it to do. It will "encourage productive and enjoyable harmony between man and his environment." Okay, "productive and enjoyable harmony between man and his environment"—not a clear specification of the precise mission of the Agency, allowing the EPA lots of flexibility to figure out what a "productive and enjoyable harmony" would be. That is, the vague law can be used by Agencies to do in part what the Agencies want to do.

Another source of power for the Agencies is knowledge. We talked about how Agencies usually have specialized people working for them, and those specialized people are sources of knowledge. In politics, knowledge is power. If you've got the data, if you understand the issue, you can have an impact on what's done. Congress and the President often turn to the bureaucracies for that knowledge, and the bureaucracies can use them to influence policies that are adopted.

Bureaucracies often have skilled leaders. Not always, but oftentimes the leaders of our Departments have extraordinary political skills of their own. They're talented; they're bright; they're hard-working. They understand the political process. And they don't simply take orders. They suggest; they guide; they lead; and they help encourage Congress and the President to follow their vision rather than simply adopting the visions given to them. And not only do we have skilled leaders, often the bureaucracies have their own staff. Let's think about that staff. Who works for the Environmental Protection Agency, the Department of Justice, the Department of Agriculture? Typically people who believe in the environment and in justice and in agriculture. That is, people work for the Agencies often because they believe in what the Agencies do. They're committed to the mission of the Agency, and that can lead them to support what the Agency does—again, not just to take instructions but to try to shape policy for their own views.

Finally, bureaucracies are not off on an island by themselves. They work in an environment, and often that external environment can be a source of power. How is that? Well, again, think about the USDA, the Department of Agriculture. It works with farmers. It works with farming communities. It works with kinds of media to cover farming issues. All of those external groups can be mobilized by the USDA or can work with the USDA to try to shape farm policies. So skillful bureaucracies get external support from the media, interest groups and the public to help promote the mission and the vision of the Agency.



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All right, now let me just summarize real quickly. The greater the external supports, the stronger the staff, the more skilled the leaders, the more intense the knowledge, and the more vague the laws in which bureaucracies operate, then the more political power they'll have; the greater their ability to shape the policy decisions made by our country. Now, I want to see how these kinds of power can actually work in the policy process; that is, the process by which regulations are made and implemented.

Here's the way I want to think about that. Here's the way I would like you to think about this. Let's talk about policy issues as having two distinct dimensions. Every policy is either more or less complex; that is, issues have low complexity or high complexity, from things that are really simple to understand to things that literally are rocket science, that require Ph.D.s or those with very extensive expertise to understand the issues. Policies also have different salience. Some issues are low salience—the public doesn't care about them, the media doesn't report on them—and other issues have high salience—the media and the public care a lot about them. Complexity and salience can vary across issues, and how it varies affects how much the bureaucracy will be involved, its power in decisions, and what other groups are likely to be involved.

Let's look at a couple of examples. Think of an issue that has low complexity and low salience; it's pretty simple and people don't care about it very much. Take, for example, the restaurant inspector. I don't really read about restaurant inspectors too much. Their job doesn't seem to be too difficult. What they actually have to do is in part make policy, and in part implement policy. Every time a restaurant inspector walks into a restaurant, that inspector will say, "Do I cite them for violations? Do I fine them? Do I shut them down? Do I negotiate them?" Those are all policy choices that the person, the street-level bureaucrat, can make. So the restaurant inspector can enforce policies with a fair amount of discretion, and that's who dominates the issues of low complexity and low salience.

Let's turn to a somewhat different kind of issue, one that has high complexity and low salience. For example, telecommunications deregulation or insurance regulation, banking regulation—those kinds of things that the public doesn't seem to care too much about and that seem to have a lot of complexity about what should be done. In that case, we can think of the decisions being made, policies being made, in a boardroom. That is, imagine people literally sitting around a boardroom table trying to decide what should be done and how to do it. And the question that is interesting for us here is, who is around that boardroom table? Who is making the decisions? Well, the bureaucracy will be there. They're the ones with the expertise to work, and they work well in areas where the public doesn't care much about it.

Who else is around that table in the boardroom? Well, there are two different visions of that. One is that around the boardroom table is the Agency itself or members of the Agency. There are members of Congress, those few members of Congress that care much about the issue, and there are interest groups. These three actors form an iron triangle. That is, each of them works with the other in a mutually supportive, mutually agreeable way, where the Agency helps the member of Congress and the interest group, and the interest group works well with the Agency and the member of Congress, et cetera. So they reinforce each other. Decisions are made quietly, out of the public's eye, and often in ways that benefit the three parties involved.

Now there's another way of looking at the iron triangle, the boardroom politics, where we expand the boardroom a little bit and bring other actors in. So there may be not just one interest group and one Agency and one member of Congress; there might be multiple interest groups involved. There might be multiple Agencies involved in the decisions and there might be multiple members of Congress. It looks like I've got a little Bingo game going here or Tick Tack Toe. Scrabble, I guess, is what this is. When that happens—multiple Agencies, multiple interest groups, multiple members of Congress—then we have no longer an iron triangle but what might be thought of as an issue network. That is, a lot of people who have expertise and concern about the issue, but the public is still primarily left out and the media is not very much involved either. In these cases in the boardroom politics, decisions are made by the experts more or less out of public view.

Now let's turn to the Hearing Room. Imagine, literally, the Congressional Hearing Room where the members of Congress are up on the podium and the people are asking for policies to be done. These are issues of low complexity and high salience. For example, flag burning. Flag burning, for a while the public all seemed to be concerned about it and the media was all over it. But it's a pretty low-complexity issue. It doesn't seem to me that you need to have a Ph.D. in flag burning-ology to understand that issue. And the public felt that it could understand and demand that



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things be done. In Hearing Room politics decisions are usually made by politicians with the media and the public closely involved. Those issues are simple to understand but very important to the public at large.

A final area I want to look at we think of as operating room politics, where the issues are of high complexity and high salience. I call it "operating room" because here's the image that comes with this. Oh, by the way, this whole schema was laid out by one of my colleagues, William Gormely, at Georgetown. The operating room image is this. When you go in for surgery, it's really important to you—a highly salient issue—but it's so complex you don't want an amateur or a bungler to make the decision. You want someone with expertise who can do it right. We can think of operating room politics the same way: highly complex issues that are highly salient. I'll give you an example of this that comes from my own research.

A number of years ago there was a lot of concern about whether doctors could infect their patients with HIV; that is, whether doctors could spread the AIDS virus to their patients in medical settings. For a brief period of time the public was really worried about getting HIV from their doctors—very high salience. But the question about HIV was spread, how it could be contained, how doctors could be regulated about this, was also quite complex. Here's what happens in that environment, then. The media is involved, the public is involved and politicians are involved but don't have the competence to make the issues themselves. They typically then say, "Do something!" and Congress will pass legislation or make a resolution saying, "Bureaucracy experts, take care of this for that." In this case I was talking about, about HIV in the medical workplace, Congress essentially passed legislation telling state health officials, "Solve this problem for us. Make the decisions that will protect the public from HIV in the healthcare workplace."

So four different rooms in which regulatory politics operates. Bureaucracies are involved a little bit in each one of these, but they tend to make the decisions more in street-level politics and in boardroom politics; often, also, in operating room politics under the instruction of politicians. Bureaucracy is not very important in Hearing Room politics. So one of the questions you want to think about when you look at bureaucratic involvement in different kinds of issues is, how complex is that issue? How salient is it? Who is making the decision? Is the bureaucracy more or less by itself, or with a small group of others, or is it done under scrutiny of the public and of politicians? Because as you know, in politics who makes the decisions can influence what kind of decisions are ultimately made.