

**МІНІСТЕРСТВО ОСВІТИ І НАУКИ УКРАЇНИ
ХАРКІВСЬКИЙ НАЦІОНАЛЬНИЙ УНІВЕРСИТЕТ
МІСЬКОГО ГОСПОДАРСТВА імені О. М. БЕКЕТОВА**

В. В. Гриненко

**PUBLIC ADMINISTRATION
ПУБЛІЧНЕ АДМІНІСТРУВАННЯ**

ТЕКСТ ЛЕКЦІЙ

*(для спеціалістів і магістрів галузі знань
0306 – Менеджмент і адміністрування за спеціальностями
7.03060101 та 8.03060101 – Менеджмент організацій і адміністрування
(за видами економічної діяльності))*

**Харків
ХНУМГ
2015**

Гриненко В. В. Public administration = Публічне адміністрування : Текст лекцій (для спеціалістів і магістрів галузі знань 0306 – Менеджмент і адміністрування за спеціальностями 7.03060101 та 8.03060101 – Менеджмент організацій і адміністрування (за видами економічної діяльності) / В. В. Гриненко; Харків. нац. ун-т міськ. госп-ва ім. О. М. Бекетова. – Харків : ХНУМГ, 2015. – 128 с.

Автор : доц, к.е.н. В. В. Гриненко

Рекомендовано кафедрою менеджменту і маркетингу в міському господарстві, протокол № 9 від 05.11.2013 р.

CONTENTS

INTRODUCTION.....	4
1 THE CONCEPTS OF PUBLIC ADMINISTRATION.....	5
2 HISTORY OF PUBLIC ADMINISTRATION.....	7
3 APPROACHES OF PUBLIC ADMINISTRATION.....	12
4 ETHICS IN PUBLIC ADMINISTRATION.....	22
5 POLICY ANALYSIS.....	29
6 PUBLIC SECTOR AND PUBLIC SERVICES.....	39
7 PUBLIC MANAGEMENT.....	43
8 PUBLIC ECONOMICS.....	46
9 PUBLIC GOODS.....	48
10 WELFARE IN PUBLIC ADMINISTRATION.....	62
11 THE ROLE OF DEMOCRACY IN PUBLIC ADMINISTRATION.....	69
12 MUNICIPAL GOVERNMENTS.....	78
13 BUREAUCRACY IN PUBLIC ADMINISTRATION.....	80
14 CIVIL SOCIETY.....	86
15 HUMAN RIGHTS.....	95
16 PUBLIC ADMINISTRATION IN UKRAINE.....	117
MAIN USED SOURCES.....	125

INTRODUCTION

Administration is as old as Mankind. It has existed ever since Man began to organize himself. Administration is a Process common to all group effort, Public or private, Civil or military, large scale or Small scale. The word Administration is derived from the Latin word 'ad' and 'ministrare' which means to serve. Considered as an concrete activity, administration includes all types of Work necessary to achieve the goal in view it assumes Myriad of Shapes and forms in various subject matter fields; it is both skill and on art and its Process is Universally identical Administration has been practiced from time immemorial only it form and style have been Undergoing Changes to suit the Changing needs over the period of time.

Public administration is a segment of the wider field of Administration. Woodrow Wilson defines Public administration as "detailed and systematic application of law".

The full scope of public administration would cover administrative theory and applied administration. The wellbeing of the nation (society) is increasingly dependent on the efficiency of the Government (i.e.) Public administration. The future of the Civilized Government and even the Civilization rests on the competence, efficiency and efficacy of the Public administration. Every Individual in the modern society is Concerned with and totally interlinked with public administration at every form of his or her life right from the cradle to the grave; nay even before his or her birth (in the form of pre-natal care of the expectant mother) to even after his or her death (proving his Will and thereby taking Care of his property in certain ways). Thus on account of the importance of the public administration it has been rightly described as the "Heart of Modern civilization".

CHAPTER 1.

THE CONCEPTS OF PUBLIC ADMINISTRATION

Public administration is the implementation of government policy and also an academic discipline that studies this implementation and prepares civil servants for working in the public service.[1] As a "field of inquiry with a diverse scope" its "fundamental goal... is to advance management and policies so that government can function." [2] Some of the various definitions which have been offered for the term are: "the management of public programs"; [3] the "translation of politics into the reality that citizens see every day"; [4] and "the study of government decision making, the analysis of the policies themselves, the various inputs that have produced them, and the inputs necessary to produce alternative policies". [5].

Public administration is "centrally concerned with the organization of government policies and programmes as well as the behavior of officials (usually non-elected) formally responsible for their conduct" [6]. Many unelected public servants can be considered to be public administrators, including heads of city, county, regional, state and federal departments such as municipal budget directors, human resources (H.R.) administrators, city managers, census managers, state mental health directors, and cabinet secretaries. [4] Public administrators are public servants working in public departments and agencies, at all levels of government. [4]

In the US, civil servants and academics such as Woodrow Wilson promoted American civil service reform in the 1880s, moving public administration into academia. [7] However, "until the mid-20th century and the dissemination of the German sociologist Max Weber's theory of bureaucracy" there was not "much interest in a theory of public administration". [8] The field is multidisciplinary in character; one of the various proposals for public administration's sub-fields sets out six pillars, including human resources, organizational theory, policy analysis and statistics, budgeting, and ethics. [9]

In 1947 Paul H. Appleby defined public administration as "public leadership of public affairs directly responsible for executive action". In a democracy, it has to do with such leadership and executive action in terms that respect and contribute to the dignity, the worth, and the potentials of the citizen. [10] One year later, Gordon Clapp, then Chairman of the Tennessee Valley Authority defined public administration "as a public instrument whereby democratic society may be more completely realized." This implies that it must "relate itself to concepts of justice, liberty, and fuller economic opportunity for human beings" and is thus "concerned with "people, with ideas, and with things". [11]

Drawing on the democracy theme and discarding the link to the executive branch, Patricia M. Shields asserts that public administration "deals with the stewardship and implementation of the products of a living democracy". [12] The key term "product" refers to "those items that are constructed or produced" such as prisons, roads, laws, schools, and security. "As implementors, public managers engage these products." They participate in the doing and making of the "living" democracy. A living democracy is "an environment that is changing, organic", imperfect, inconsistent and teaming with values. "Stewardship is emphasized because public administration is concerned "with accountability and effective use of scarce resources and ultimately making the connection between the doing, the making and democratic values". [13]

More recently scholars claim that "public administration has no generally accepted definition", because the "scope of the subject is so great and so debatable that it is easier to explain than define". [14] Public administration is a field of study (i.e., a discipline) and an occupation. There is much disagreement about whether the study of public administration can properly be called a discipline, largely because of the debate over whether public administration is a subfield of political science or a subfield of administrative science". [14] Scholar Donald Kettl is among those who view public administration "as a subfield within political science". [15]

The North American Industry Classification System definition of the Public Administration (NAICS 91) sector states that public administration "... comprises establishments primarily engaged in activities of a governmental nature, that is, the enactment and judicial interpretation of laws and their pursuant regulations, and the administration of programs based on them". This includes "Legislative activities, taxation, national defense, public order and safety, immigration services, foreign affairs and international assistance, and the administration of government programs are activities that are purely governmental in nature". [16]

From the academic perspective, the National Center for Education Statistics (NCES) in the United States defines the study of public administration as "A program that prepares individuals to serve as managers in the executive arm of local, state, and federal government and that focuses on the systematic study of executive organization and management. Includes instruction in the roles, development, and principles of public administration; the management of public policy; executive-legislative relations; public budgetary processes and financial management; administrative law; public personnel management; professional ethics; and research methods". [17]

CHAPTER 2

HISTORY OF PUBLIC ADMINISTRATION

Antiquity to the 19th century. Dating back to Antiquity, Pharaohs, kings and emperors have required pages, treasurers, and tax collectors to administer the practical business of government. Prior to the 19th century, staffing of most public administrations was rife with nepotism, favoritism, and political patronage, which was often referred to as a "spoils system". Public administrators have been the "eyes and ears" of rulers until relatively recently. In medieval times, the abilities to read and write, add and subtract were as dominated by the educated elite as public employment. Consequently, the need for expert civil servants whose ability to read and write formed the basis for developing expertise in such necessary activities as legal record-keeping, paying and feeding armies and levying taxes. As the European Imperialist age progressed and the militarily powers extended their hold over other continents and people, the need for a sophisticated public administration grew.

The eighteenth-century noble, King Frederick William I of Prussia, created professorates in Cameralism in an effort to train a new class of public administrators. The universities of Frankfurt an der Oder and University of Halle were Prussian institutions emphasizing economic and social disciplines, with the goal of societal reform. Johann Heinrich Gottlob Justi was the most well-known professor of Cameralism. Thus, from a Western European perspective, Classic, Medieval, and Enlightenment-era scholars formed the foundation of the discipline that has come to be called public administration.

Lorenz von Stein, an 1855 German professor from Vienna, is considered the founder of the science of public administration in many parts of the world. In the time of Von Stein, public administration was considered a form of administrative law, but Von Stein believed this concept too restrictive. Von Stein taught that public administration relies on many prestablished disciplines such as sociology, political science, administrative law and public finance. He called public administration an integrating science, and stated that public administrators should be concerned with both theory and practice. He argued that public administration is a science because knowledge is generated and evaluated according to the scientific method.

Modern American public administration is an extension of democratic governance, justified by classic and liberal philosophers of the western world ranging from Aristotle to John Locke[18] to Thomas Jefferson. [19],[20]

In the United States of America, Woodrow Wilson is considered the father of public administration. He first formally recognized public administration in an 1887 article

entitled "The Study of Administration." The future president wrote that "it is the object of administrative study to discover, first, what government can properly and successfully do, and, secondly, how it can do these proper things with the utmost possible efficiency and at the least possible cost either of money or of energy". [7] Wilson was more influential to the science of public administration than Von Stein, primarily due to an article Wilson wrote in 1887 in which he advocated four concepts:

- Separation of politics and administration
- Comparative analysis of political and private organizations
- Improving efficiency with business-like practices and attitudes toward daily operations
- Improving the effectiveness of public service through management and by training civil servants, merit-based assessment

The separation of politics and administration has been the subject of lasting debate. The different perspectives regarding this dichotomy contribute to differentiating characteristics of the suggested generations of public administration.

By the 1920s, scholars of public administration had responded to Wilson's solicitation and thus textbooks in this field were introduced. A few distinguished scholars of that period were, Luther Gulick, Lyndall Urwick, Henri Fayol, Frederick Taylor, and others. Frederick Taylor (1856-1915), another prominent scholar in the field of administration and management also published a book entitled 'The Principles of Scientific Management' (1911). He believed that scientific analysis would lead to the discovery of the 'one best way' to do things and /or carrying out an operation. This, according to him could help save cost and time. Taylor's technique was later introduced to private industrialists, and later into the various government organizations (Jeong, 2007). [21]

Taylor's approach is often referred to as Taylor's Principles, and/or Taylorism. Taylor's scientific management consisted of main four principles (Frederick W. Taylor, 1911):

- Replace rule-of-thumb work methods with methods based on a scientific study of the tasks.
- Scientifically select, train, and develop each employee rather than passively leaving them to train themselves.
- Provide 'Detailed instruction and supervision of each worker in the performance of that worker's discrete task'.

- Divide work nearly equally between managers and workers, so that the managers apply scientific management principles to planning the work and the workers actually perform the tasks.

Taylor had very precise ideas about how to introduce his system (approach): 'It is only through enforced standardization of methods, enforced adoption of the best implements and working conditions, and enforced cooperation that this faster work can be assured. And the duty of enforcing the adoption of standards and enforcing this cooperation rests with management alone'. [22]

The American Society for Public Administration (ASPA) the leading professional group for public administration was founded in 1939. ASPA sponsors the journal Public Administration Review, which was founded in 1940. [23]

US in the 1940s. The separation of politics and administration advocated by Wilson continues to play a significant role in public administration today. However, the dominance of this dichotomy was challenged by second generation scholars, beginning in the 1940s. Luther Gulick's fact-value dichotomy was a key contender for Wilson's proposed politics-administration dichotomy. In place of Wilson's first generation split, Gulick advocated a "seamless web of discretion and interaction". [24]

Luther Gulick and Lyndall Urwick are two second-generation scholars. Gulick, Urwick, and the new generation of administrators built on the work of contemporary behavioral, administrative, and organizational scholars including Henri Fayol, Fredrick Winslow Taylor, Paul Appleby, Frank Goodnow, and Willam Willoughby. The new generation of organizational theories no longer relied upon logical assumptions and generalizations about human nature like classical and enlightened theorists.

Gulick developed a comprehensive, generic theory of organization that emphasized the scientific method, efficiency, professionalism, structural reform, and executive control. Gulick summarized the duties of administrators with an acronym; POSDCORB, which stands for planning, organizing, staffing, directing, coordinating, reporting, and budgeting. Fayol developed a systematic, 14-point, treatment of private management. Second-generation theorists drew upon private management practices for administrative sciences. A single, generic management theory bleeding the borders between the private and the public sector was thought to be possible. With the general theory, the administrative theory could be focused on governmental organizations. The mid-1940s theorists challenged Wilson and Gulick. The politics-administration dichotomy remained the center of criticism.

During the 1950s, the United States experienced prolonged prosperity and solidified its place as a world leader. Public Administration experienced a kind of hey-day due to the successful war effort and successful post war reconstruction in Western Europe and Japan. Government was popular as was President Eisenhower. In the 1960s and 1970s, government itself came under fire as ineffective, inefficient, and largely a wasted effort. The costly American intervention in Vietnam along with domestic scandals including the bugging of Democratic party headquarters (the 1974 Watergate scandal) are two examples of self-destructive government behavior that alienated citizens.

There was a call by citizens for efficient administration to replace ineffective, wasteful bureaucracy. Public administration would have to distance itself from politics to answer this call and remain effective. Elected officials supported these reforms. The Hoover Commission, chaired by University of Chicago professor Louis Brownlow, to examine reorganization of government. Brownlow subsequently founded the Public Administration Service (PAS) at the university, an organization which has provided consulting services to all levels of government until the 1970s.[citation needed]

Concurrently, after World War II, the whole concept of public administration expanded to include policy-making and analysis, thus the study of ‘administrative policy making and analysis’ was introduced and enhanced into the government decision-making bodies. Later on, the human factor became a predominant concern and emphasis in the study of Public Administration. This period witnessed the development and inclusion of other social sciences knowledge, predominantly, psychology, anthropology, and sociology, into the study of public administration (Jeong, 2007). [21] Henceforth, the emergence of scholars such as, Fritz Morstein Marx with his book ‘The Elements of Public Administration’ (1946), Paul H. Appleby ‘Policy and Administration’ (1952), Frank Marini ‘Towards a New Public Administration’ (1971), and others that have contributed positively in these endeavors.

In the late 1980s, yet another generation of public administration theorists began to displace the last. The new theory, which came to be called New Public Management, was proposed by David Osborne and Ted Gaebler in their book *Reinventing Government*. [25] The new model advocated the use of private sector-style models, organizational ideas and values to improve the efficiency and service-orientation of the public sector. During the Clinton Administration (1993–2001), Vice President Al Gore adopted and reformed federal agencies using NPM

approaches. In the 1990s, new public management became prevalent throughout the bureaucracies of the US, the UK and, to a lesser extent, in Canada.

Some modern authors define NPM as a combination of splitting large bureaucracies into smaller, more fragmented agencies, encouraging competition between different public agencies, and encouraging competition between public agencies and private firms and using economic incentives (e.g., performance pay for senior executives or user-pay models). [26] NPM treats individuals as "customers" or "clients" (in the private sector sense), rather than as citizens. [27]

Some critics argue that the New Public Management concept of treating people as "customers" rather than "citizens" is an inappropriate borrowing from the private sector model, because businesses see customers as a means to an end (profit), rather than as the proprietors of government (the owners), opposed to merely the customers of a business (the patrons). In New Public Management, people are viewed as economic units not democratic participants. Nevertheless, the model is still widely accepted at all levels of government and in many OECD nations.

In the late 1990s, Janet and Robert Denhardt proposed a new public services model in response to the dominance of NPM.[28] A successor to NPM is digital era governance, focusing on themes of reintegrating government responsibilities, needs-based holism (executing duties in cursive ways), and digitalization (exploiting the transformational capabilities of modern IT and digital storage). One example of this is openforum.com.au, an Australian non-for-profit eDemocracy project which invites politicians, senior public servants, academics, business people and other key stakeholders to engage in high-level policy debate.

Another new public service model is what has been called New Public Governance, an approach which includes a centralization of power; an increased number, role and influence of partisan-political staff; personal-politicization of appointments to the senior public service; and, the assumption that the public service is promiscuously partisan for the government of the day. [29]

Increasingly, public policy academics and practitioners have utilized the theoretical concepts of political economy to explain policy outcomes such as the success or failure of reform efforts and/or the persistence of sub-optimal outcomes. [30]

CHAPTER 3

APPROACHES OF PUBLIC ADMINISTRATION

There are several approaches of public administration. The first of them is Systems thinking

A system is composed of interrelated parts or components (structures) that cooperate in processes (behavior). Natural systems include biological entities, ocean currents, the climate, the solar system and ecosystems. Designed systems include airplanes, software systems, technologies and machines of all kinds, government agencies and business systems.

Systems Thinking has at least some roots in the General System Theory that was advanced by Ludwig von Bertalanffy in the 1940s and furthered by Ross Ashby in the 1950s. The term Systems Thinking is sometimes used as a broad catch-all heading for the process of understanding how systems behave, interact with their environment and influence each other. The term is also used more narrowly as a heading for thinking about social organisations, be they natural or designed, healthy or unhealthy. Often the focus is on a government or business organisation that is viewed as containing people, processes and technologies.

Systems thinking has been applied to problem solving, by viewing "problems" as parts of an overall system, rather than reacting to specific parts, outcomes or events and potentially contributing to further development of unintended consequences. Systems thinking is not one thing but a set of habits or practices [2] within a framework that is based on the belief that the component parts of a system can best be understood in the context of relationships with each other and with other systems, rather than in isolation. Systems thinking focuses on cyclical rather than linear cause and effect.

In systems science, it is argued that the only way to fully understand why a problem or element occurs and persists is to understand the parts in relation to the whole. [3] Standing in contrast to Descartes's scientific reductionism and philosophical analysis, it proposes to view systems in a holistic manner. Consistent with systems philosophy, systems thinking concerns an understanding of a system by examining the linkages and interactions between the elements that compose the entirety of the system.

Systems science thinking attempts to illustrate how small catalytic events that are separated by distance and time can be the cause of significant changes in complex systems. Acknowledging that an improvement in one area of a system can adversely affect

another area of the system, it promotes organizational communication at all levels in order to avoid the silo effect. Systems thinking techniques may be used to study any kind of system —physical, biological, social, scientific, engineered, human, or conceptual.

Systems science thinkers consider that:

- a system is a dynamic and complex whole, interacting as a structured functional unit;
- energy, material and information flow among the different elements that compose the system;
- a system is a community situated within an environment;
- energy, material and information flow from and to the surrounding environment via semi-permeable membranes or boundaries;
- systems are often composed of entities seeking equilibrium but can exhibit oscillating, chaotic, or exponential behavior.

Systems science and the application of systems science thinking has been grouped into three categories based on the techniques used to tackle a system:

- Hard systems — involving simulations, often using computers and the techniques of operations research/management science. Useful for problems that can justifiably be quantified. However it cannot easily take into account unquantifiable variables (opinions, culture, politics, etc) [*citation needed*], and may treat people as being passive, rather than having complex motivations.
- Soft systems — For systems that cannot easily be quantified, especially those involving people holding multiple and conflicting frames of reference. Useful for understanding motivations, viewpoints, and interactions and addressing qualitative as well as quantitative dimensions of problem situations. Soft systems are a field that utilizes foundation methodological work developed by Peter Checkland, Brian Wilson and their colleagues at Lancaster University. Morphological analysis is a complementary method for structuring and analysing non-quantifiable problem complexes.
- Evolutionary systems — Béla H. Bánáthy developed a methodology that is applicable to the design of complex social systems. This technique integrates critical systems inquiry with soft systems methodologies. Evolutionary systems, similar to dynamic systems are understood as open, complex systems, but with the capacity to evolve over time. Bánáthy uniquely integrated the interdisciplinary perspectives of systems research (including chaos, complexity, cybernetics), cultural anthropology, evolutionary theory, and others.

The next Approach of public administration is Public choice. Public choice or public choice theory has been described as "the use of economic tools to deal with traditional problems of political science".[1] Its content includes the study of political behavior. [2] In political science, it is the subset of positive political theory that models voters, politicians, and bureaucrats as mainly self-interested. [1] In particular, it studies such agents and their interactions in the social system either as such or under alternative constitutional rules. These can be represented in a number of ways, including standard constrained utility maximization, game theory, or decision theory. Public choice analysis has roots in positive analysis ("what is") but is often used for normative purposes ("what ought to be"), to identify a problem or suggest how a system could be improved by changes in constitutional rules, the subject of constitutional economics. [1],[3]

Within the Journal of Economic Literature classification codes, public choice is a subarea of microeconomics. Public choice theory is also closely related to social choice theory, a mathematical approach to aggregation of individual interests, welfares, or votes.[5] Much early work had aspects of both, and both use the tools of economics and game theory. Since voter behavior influences the behavior of public officials, public choice theory often uses results from social choice theory. General treatments of public choice may also be classified under public economics. [6]

A precursor of modern public choice theory was Knut Wicksell (1896), [7] which treated government as political exchange, a quid pro quo, in formulating a benefit principle linking taxes and expenditures.

Some subsequent economic analysis has been described as treating government as though it attempted "to maximize some kind sort of welfare function for society" and as distinct from characterizations of economic agents, such as those in business. [1] In contrast, public choice theory modeled government as made up of officials who, besides pursuing the public interest, might act to benefit themselves, for example in the budget-maximizing model of bureaucracy, possibly at the cost of efficiency. [1] [9]

Modern public-choice theory has been dated from the work of Duncan Black, sometimes called the founding father of public choice. [10] In a series of papers from 1948, which culminated in *The Theory of Committees and Elections* (1958), [11] and later, Black outlined a program of unification toward a more general "Theory of Economic and Political Choices" based on common formal methods, [12] developed underlying concepts of what would become median voter theory, and rediscovered earlier works on voting theory. [13], [1], [14]

Kenneth J. Arrow's *Social Choice and Individual Values* (1951) influenced formulation of the theory. Among other important works are Anthony Downs (1957) *An Economic Theory of Democracy* and Mancur Olson (1965) *The Logic of Collective Action*. [15]

James M. Buchanan and Gordon Tullock coauthored *The Calculus of Consent: Logical Foundations of Constitutional Democracy* (1962), considered one of the landmarks in public choice. In particular, the Preface describes the book as "about the political organization" of a free society. But its methodology, conceptual apparatus, and analytics "are derived, essentially, from the discipline that has as its subject the economic organization of such a society" (1962, p.v). The book focuses on positive-economic analysis as to the development of constitutional democracy but in an ethical context of consent. The consent takes the form of a compensation principle like Pareto efficiency for making a policy change and unanimity or at least no opposition as a point of departure for social choice.

Somewhat later, the probabilistic voting theory started to displace the median voter theory in showing how to find Nash equilibria in multidimensional space. The theory was later formalized further by Peter Coughlin. [16]

One of the basic claims that results from public choice theory is that good government policies in a democracy are an underprovided public good, because of the rational ignorance of the voters. Each voter is faced with a tiny probability that his vote will change the result of the elections, while gathering the relevant information necessary for a well-informed voting decision requires substantial time and effort. Therefore, the rational decision for each voter is to be generally ignorant of politics and perhaps even abstain from voting. Rational choice theorists claim that this explains the gross ignorance of most citizens in modern democracies as well as low voter turnout.

Decision-making processes and the state. One way to organize the subject matter studied by public choice theorists is to begin with the foundations of the state itself. According to this procedure, the most fundamental subject is the origin of government. Although some work has been done on anarchy, autocracy, revolution, and even war, the bulk of the study in this area has concerned the fundamental problem of collectively choosing constitutional rules. This work assumes a group of individuals who aim to form a government, then it focuses on the problem of hiring the agents required to carry out government functions agreed upon by the members.

"Expressive interests" and democratic irrationality. Geoffrey Brennan and Loren Lomasky claim that democratic policy is biased to favor "expressive interests" and neglect practical and utilitarian considerations. Brennan and Lomasky differentiate between instrumental interests (any kind of practical benefit, both monetary and non-monetary) and expressive interests (forms of expression like applause). According to Brennan and Lomasky, the voting paradox can be resolved by differentiating between expressive and instrumental interests.

This argument has led some public choice scholars to claim that politics is plagued by irrationality. In articles published in the *Econ Journal Watch*, economist Bryan Caplan contended that voter choices and government economic decisions are inherently irrational. [17], [18] Caplan's ideas are more fully developed in his book *The Myth of the Rational Voter* (Princeton University Press 2007). In opposition to the arguments put forward by economist Donald Wittman in his *The Myth of Democratic Failure*, Caplan claims that politics is biased in favor of irrational beliefs.

According to Caplan, democracy effectively subsidizes irrational beliefs. Anyone who derives utility from potentially irrational policies (such as protectionism) can receive private benefits while imposing the costs of such beliefs on the general public. Were people to bear the full costs of their "irrational beliefs", they would lobby for them optimally, taking into account both their instrumental consequences and their expressive appeal. Instead, democracy oversupplies policies based on irrational beliefs. Caplan defines rationality mainly in terms of mainstream price theory, pointing out that mainstream economists tend to oppose protectionism and government regulation more than the general population, and that more educated people are closer to economists on this score, even after controlling for confounding factors such as income, wealth or political affiliation. One criticism is that many economists do not share Caplan's views on the nature of public choice. However, Caplan does have data to support his position. Economists have, in fact, often been frustrated by public opposition to economic reasoning. As Sam Peltzman puts it: "Economists know what steps would improve the efficiency of HSE [health, safety, and environmental] regulation, and they have not been bashful advocates of them. These steps include substituting markets in property rights, such as emission rights, for command and control. The real problem lies deeper than any lack of reform proposals or failure to press them. It is our inability to understand their lack of political appeal. [19]

Public choice's application to government regulation was developed by George Stigler (1971) and Sam Peltzman (1976).

Special interests. Public choice theory is often used to explain how political decision-making results in outcomes that conflict with the preferences of the general public. For example, many advocacy group and pork barrel projects are not the desire of the overall democracy. However, it makes sense for politicians to support these projects. It may make them feel powerful and important. It can also benefit them financially by opening the door to future wealth as lobbyists. The project may be of interest to the politician's local constituency, increasing district votes or campaign contributions. The politician pays little or no cost to gain these benefits, as he is spending public money. Special-interest lobbyists are also behaving rationally. They can gain government favors worth millions or billions for relatively small investments. They face a risk of losing out to their competitors if they don't seek these favors. The taxpayer is also behaving rationally. The cost of defeating any one government give-away is very high, while the benefits to the individual taxpayer are very small. Each citizen pays only a few pennies or a few dollars for any given government favor, while the costs of ending that favor would be many times higher. Everyone involved has rational incentives to do exactly what they're doing, even though the desire of the general constituency is opposite. Costs are diffused, while benefits are concentrated. The voices of vocal minorities with much to gain are heard over those of indifferent majorities with little to individually lose. [20][21]

While good government tends to be a pure public good for the mass of voters, there may be many advocacy groups that have strong incentives for lobbying the government to implement specific policies that would benefit them, potentially at the expense of the general public. For example, lobbying by the sugar manufacturers might result in an inefficient subsidy for the production of sugar, either direct or by protectionist measures. The costs of such inefficient policies are dispersed over all citizens, and therefore unnoticeable to each individual. On the other hand, the benefits are shared by a small special-interest group with a strong incentive to perpetuate the policy by further lobbying. Due to rational ignorance, the vast majority of voters will be unaware of the effort; in fact, although voters may be aware of special-interest lobbying efforts, this may merely select for policies which are even harder to evaluate by the general public, rather than improving their overall efficiency. Even if the public were able to evaluate policy proposals effectively, they would find it infeasible to engage in collective action in order to defend their diffuse interest. Therefore, theorists expect that numerous special interests will be able to successfully lobby for various inefficient policies. In public choice theory, such

scenarios of inefficient government policies are referred to as government failure — a term akin to market failure from earlier theoretical welfare economics. [20]

Rent-seeking. A field that is closely related to public choice is "rent-seeking". This field combines the study of a market economy with that of government. Thus, one might regard it as a "new political economy". Its basic thesis is that when both a market economy and government are present, government agents provide numerous special market privileges. Both the government agents and self-interested market participants seek these privileges in order to partake in the resulting monopoly rent. Rentiers gain benefits above what the market would have offered, but in the process allocate resources in sub-optimal fashion from a societal point of view.

Rent-seeking is broader than public choice in that it applies to autocracies as well as democracies and, therefore, is not directly concerned with collective decision making. However, the obvious pressures it exerts on legislators, executives, bureaucrats, and even judges are factors that public choice theory must account for in its analysis of collective decision-making rules and institutions. Moreover, the members of a collective who are planning a government would be wise to take prospective rent-seeking into account. [21]

Another major claim is that much of political activity is a form of rent-seeking which wastes resources. Gordon Tullock, Jagdish Bhagwati, and Anne Osborn Krueger have argued that rent-seeking has caused considerable waste. [21] In a parallel line of research Fred McChesney claims that rent extraction causes considerable waste, especially in the developing world. As the term implies, rent extraction happens when officials use threats to extort payments from private parties.

Bureaucracy. Another major sub-field is the study of bureaucracy. The usual model depicts the top bureaucrats as being chosen by the chief executive and legislature, depending on whether the democratic system is presidential or parliamentary. The typical image of a bureau chief is a person on a fixed salary who is concerned with pleasing those who appointed him. The latter have the power to hire and fire him more or less at will. The bulk of the bureaucrats, however, are civil servants whose jobs and pay are protected by a civil service system against major changes by their appointed bureau chiefs. This image is often compared with that of a business owner whose profit varies with the success of production and sales, who aims to maximize profit, and who can in an ideal system hire and fire employees at will. [9] William Niskanen is generally considered the founder of public choice literature on the bureaucracy. [9]

From such results it is sometimes asserted that public choice theory has an anti-state tilt. But there is ideological diversity among public choice theorists. Mancur Olson for example was an advocate of a strong state and instead opposed political interest group lobbying. [15] More generally, James Buchanan has suggested that public choice theory be interpreted as "politics without romance," a critical approach to a pervasive earlier notion of idealized politics set against market failure. As such it is more a correction of the earlier scientific record, almost requiring a certain pragmatism in comparing alternative politicized institutional structures. [22]

Recognition. Several notable public choice scholars have been awarded the Nobel Prize in Economics, including James M. Buchanan (1986), George Stigler (1982), Gary Becker (1992), Vernon Smith (2002) and Elinor Ostrom (2009). In addition, Vernon Smith and Elinor Ostrom were former Presidents of the Public Choice Society. [23]

Criticisms. In their 1994 book *Pathologies of Rational Choice Theory*, political scientists Donald P. Green and Ian Shapiro argue that rational choice theory (of which public choice theory is a branch) has contributed less to the field than its popularity suggests. [24] They write: the discrepancy between the faith that practitioners place in rational choice theory and its failure to deliver empirically warrants closer inspection of rational choice theorizing as a scientific enterprise. [25]

Linda McQuaig writes in *All You Can Eat*: The absurdity of public-choice theory is captured by Nobel Prize-winning economist Amartya Sen in the following little scenario: "Can you direct me to the railway station?" asks the stranger. "Certainly," says the local, pointing in the opposite direction, towards the post office, "and would you post this letter for me on your way?" "Certainly," says the stranger, resolving to open it to see if it contains anything worth stealing.

It should be noted that scenarios of this type do not really contradict rational choice, except possibly a naive version of it, and therefore could be considered a straw man argument. The local person, foreseeing that the stranger with some probability will open or through the letter, would generally not risk giving it to him. In addition, the local may face small costs for being dishonest, for example, the possibility of facing again the stranger, or because other locals may see the dishonesty, or honesty may be a rational default rule that minimizes mental calculations when tangible benefits are zero. Facing behavioural rules or small incentives, the optimal totally self-interested decision may be to point to the train station, which means that strangers rationally trust directions given by locals on the street, specially in small places. Furthermore, as David D. Friedman observes, the

benefit of cheating the stranger on one occasion may not be worth the mental effort of conceiving a way to do so and weighing the odds of suffering the consequences.

Amartya Sen has acknowledged the contribution of Buchanan and Tullock's analysis of unanimity as a criterion for collective choice [26] but argued for the logical inconsistency of the Pareto-principle version of unanimity with even minimal liberty in a social-choice framework.[27] More broadly he qualified its use when other information besides personal utility is given a weight in public judgments. [28]

Buchanan and Tullock themselves outline methodological qualifications of the approach developed in their work *The Calculus of Consent* (1962), p. 30:

Even if the model [with its rational self-interest assumptions] proves to be useful in explaining an important element of politics, it does not imply that all individuals act in accordance with the behavioral assumption made or that any one individual acts in this way at all times... the theory of collective choice can explain only some undetermined fraction of collective action. However, so long as some part of all individual behavior... is, in fact, motivated by utility maximization, and so long as the identification of the individual with the group does not extend to the point of making all individual utility functions identical, an economic-individualist model of political activity should be of some positive worth.

Contingency approach. Contingency approach, also known as situational approach, is a concept in management stating that there is no one universally applicable set of management principles (rules) by which to manage organizations. Organizations are individually different, face different situations (contingency variables), and require different ways of managing. Contingency approaches remain less common than change management approaches.

Contingency approach evolved during the 1960s. Management theory and research began to adopt a new orientation, one that embodied a simple concept and enabled significant advancements in the study of management and organizations, now referred to as the contingency approach. It emphasised the importance of situational influences on the management of organisations and questioned the existence of a single, best way to manage or organise. Today, the contingency approach dominates theory and research in the management literature. Contingency approach challenged the classic process and models designed by management theorists such as Taylor and Fayol. Various researchers concentrated on different contextual factors. Joan Woodward (1958) [1] studied the production technology, Blau and Schoenherr (1971) [2] the size of the organizations, Burns and Stalker (1961) [3] as well as Lawrence and Lorsch (1967)[4] into the economic environment, in particular market

competition and technological change. A broader approach was developed by a British team of researchers at the University of Aston, widely known as Aston Group by developing a conceptual scheme for the comparative analysis of organizational structure which took account of several contextual factors at the same time (Pugh & Hickson et al., 1963). [5]

A conceptual model of the contingency approach was developed by Kieser and Kubicek.[6] According to the model, the formal structure of an organization defines the roles of its members in a specific way and thereby directs their behaviour to a certain degree. The performance of the organization depends on the degree to which these role definitions enable members to cope with the requirements resulting from the context of the organization.

CHAPTER 4

ETHICS IN PUBLIC ADMINISTRATION

Ethics in the public sector is a broad topic. Public sector ethics is usually considered a branch of political ethics. In the public sector, ethics addresses the fundamental premise of a public administrators duty as a "steward" to the public. In other words, it is the moral justification and consideration for decisions and actions made during the completion of daily duties when working to provide the general services of government and nonprofit organizations. Ethics are an accountability standard by which the public will scrutinize the work being conducted by the members of these organizations.

Decisions are based upon ethical principles, which are the perception of what the general public would view as correct. Having such a distinction ensures that public administrators are not acting on an internal set of ethical principles without first questioning whether those principles would hold to public scrutiny. It also has placed an additional burden upon public administrators regarding the conduct of their personal lives. Public sector ethics is an attempt to create a more open atmosphere within governmental operations.

Government's ethical origins. Government officials serve the people, managing the resources of others. Along with this stewardship, there is an expectation from the public that in conducting daily activities, the officials will practice fairness and equality. They are also expected to maintain openness in their workings to ensure that they are operating within the public's perception of what is "right." This concept of ethics, a branch of philosophy which seeks to address morality, is not a relatively new idea within government. Niccolò Machiavelli wrote *The Prince*, which serves as a manual to illustrate what a monarchy should do to maintain power. This treatise is often viewed as a tool of how a public official should not act in modern society, as it is an enumeration of the specific steps one should take to maintain control and power. This idea of control and power conflicts with the underlying principle of being a steward to the general public. As such, this treatise is a springboard for ethical issues in modern day times.

Paul Douglas, a former United States Senator from Illinois, argues that while many may secretly follow Machiavelli in their heart, most do not. "Instead, most men want a life of integrity and goodwill in which public officials are stewards rather than masters and treat their jobs as a means of helping people rather than dominating them".

Douglas further argues why ethical practices are needed. “Our government is now so huge and affects our lives so directly that we cannot be content with merely a moderately decent level of behavior on the part of our public officials. For even a small percentage of misbehavior on the part of these officials can do a vast amount of harm”.

While Machiavelli and Douglas are distant in time, the two opposing viewpoints of the types of public administrators, and the ethical stance of the decisions they make, are very relevant today. Further illustrating the bifurcation of thought on ethics in government, Cody and Lynn discuss the two opposing factors: utilitarians and deontologists.

Utilitarians: Believe that the end sought justifies the means to that end. In other words, if an ethical solution is more costly, a utilitarian will argue from a standpoint of efficiency or effectiveness to justify a less ethical solution.

Deontologists: Believe that certain absolute principles should be obeyed, regardless of the consequences. An example of an absolute principle would be honesty.

The definition of these two behavioral models is not necessarily exclusive. It is possible for a person to make a decision based upon a utilitarian stance and then follow a deontological stance for a separate decision. This is because the concept of ethics is vague and ultimately is based upon principles and values, which will differ among situations and people.

Ethical standards. John Rohr, in defining bureaucrats as public administrators, approaches ethic standards in government as a requirement due to the nature of the work of administrators. He writes, “because bureaucrats govern through authority that is discretionary, and because they are not elected, the ordinary means of popular control are inapplicable”. Rohr assumes that public administrators are working to benefit the general public’s needs. When an elected official does not act in line with the public’s expectations, they can be removed from office. However, public administrators are protected with due process rights as government employees, and ethical violations can be difficult to justify the removal of a person from an office.

Many questions about how ethics should be addressed in government exist. According to Cody and Lynn, the debate centers on the extent to which one would like to detail ethical standards. For example, they cite the general litmus test for administrators regarding whether or not they would like to hear about their actions on the front page of tomorrow’s newspaper. That is, a public official should gauge their decisions around how he/she would interpret the public scrutiny should his/her

decision appear on the front page of the next day's newspaper. If it would be viewed as a problem by the public, then the administrator should refrain from the action in question.

The Honest Person Rule: Unless there is an underlying honesty within people, a set of ethical rules is meaningless. This supporting argument for the general guidelines maintains that for ethical standards to be practical an individual must be ethically sound from the beginning. As Cody and Lynn point out, it is possible for a public official to act unethically, but not be personally dishonest.

The litmus test example and the Honest Person Rule are broad standards without much definition. As a consequence, broadly defined ethical standards are difficult to assess regarding concerns of ethical violations. In order to have greater accountability, more specific standards are needed, or a statement of applied ethics.

To further provide some definition, Rohr classifies ethics in government with some of the approaches that have been taken. The USDA devised a system where employees were asked questions and then asked to rank the actions as permissible, not permissible, and permissible with prior written approval. Rohr argues that this type of approach, known as the Low Road merely places an understanding of what not to do in order to steer clear of trouble (1978, pp. 53–54). This approach does not assist an employee in providing a standard for what is truly ethical behavior.

The High Road, according to Rohr, is the basis of decisions upon a pursuit for social equity, which is based upon political philosophy and humanistic psychology.

Rohr finds problems with both the Low Road and High Road approaches and centers his argument around regime values, or “the values of that political entity that was brought into being by the ratification of the Constitution that created the present American republic”. He contends that regime values are built upon three considerations:

Ethical norms should be derived from the salient values of the regime;

These values are normative for bureaucrats because they have taken an oath to uphold the regime;

These values can be discovered in the public law of the regime.

The basic contention upon which Rohr builds his argument is that rulings by the Supreme Court are sufficient measures upon which an ethical framework can be constructed. Rohr argues that this framework for ethical standards is strong because it

relies upon a system of checks and balances in the judicial system and because it is built upon the interpretation of framers' intents of how and why government exists.

Levels of ethical decision-making. Terry Cooper is an often-cited author in the field of public administration ethics. His book, *The Responsible Administrator*, is an in-depth attempt to bridge the philosophical points of ethics and the complex workings of public administration. While not revolutionary, his work has become a focal point around which ethical decision-making in the public sector are made. In *The Responsible Administrator*, he states that public administrators make decisions daily according to a distinctive four-level process. The four levels are:

The Expressive Level: At this stage, a person responds to a situation with "spontaneous, unreflective expressions of emotion ... which neither invite a reply nor attempt to persuade others"

The Level of Moral Rules: This is the first level at which we begin to question actions and begin to look for alternatives and consequences. The responses at this level are often built upon "moral rules we acquire through the socialization process from our families, religious affiliations, education and personal experiences." Decisions on how to handle the situation are then whittled down based on what we feel is the most appropriate action within our own personal moral bank.

The Level of Ethical Analysis: There are times when a personal moral code will seem inadequate for the situation, or that the alternatives and consequences do not feel right. When this occurs, a person has entered this level and begins to examine their ethical principles, or "statements concerning the conduct or state of being that is required for the fulfillment of a value; it explicitly links a value with a general mode of action". Particularly, at this level, one begins to reexamine their personal values, and may eventually disagree with actions to such an extent that they will become "whistleblowers".

The Postethical Level: At this level, questions center around one's view of the world and human nature, how we know anything to be true, and the meaning of life. Here there is a philosophical examination as to why ethical standards are important and relevant to the individual.

These levels are progressive and as an individual begins to move from level to the next, he/she will begin to question increasingly more fundamental assumptions upon which the decision-making process is built. It is important to understand the level of thinking upon which a decision is made to ensure that a decision has been tested for strength and a public sense of validity.

Cooper's decision-making model. Cooper devised a method of moving from an ethical problem to appropriate alternatives and consequences. This model follows a sequential, rational approach to ethical decision-making. This method utilizes description and prescription, where public administrators begin to describe to themselves and others an objective state of affairs, and then begin to suggest steps to change the situation .

The steps to this process are as follows:

1. The Descriptive Task: A problem is often presented in a fragmented, distorted fashion coupled with judgmental language and inflections. Cooper contends that the administrator is in a position to have more complete knowledge when an issue is brought forward. Additionally, an administrator should attempt to describe questionable situations void of personal feelings (moving beyond the expressive level).
2. Defining the Ethical Issue: Often the most misinterpreted step, with defining the ethical issue, an administrator is not charged with defining the problem. Instead, there is an examination of what is the underlying ethical value that is being addressed. Often, there is a decision made because of a problem, without examination of the ethical issue. This is damaging to the process of decision-making because it harms one's ethical analysis skills and ethical identity. This is true because situations can differ, and practical decision-making may lead to inconsistencies without an ethical base.
3. Identifying Alternative Courses of Action: Using a rationalistic approach, an administrator, with as complete knowledge of the situation as possible and an assessment of the ethical issue at hand, identifies all the plausible courses of action in response to the situation.
4. Projecting the Possible Consequences: In this stage, all positive and negative results of each alternative are examined. When discovering the possible positive and negative outcomes of an action, administrators use their moral imagination, or the imagined enactment of how alternatives will play out. Ideally, as more consequences are enumerated, the ethical decision-making process will be strengthened.
5. Finding a Fit: The appropriate solution or alternative is a balance of four elements :
 1. Moral Rules: Those basic standards that can be attributed to the alternatives and their consequences.

2. Rehearsal of Defenses: The assessment and alignment of alternatives with the accepted norms of the wider professional organization and political communities of which we are a part.
3. Ethical Principles: In assessing the moral rules, it may become clear that certain moral values are competitive. Therefore, it becomes difficult to say that an alternative which support social justice is more correct than the security of an individual or the organization. Here, an administrator assesses alternatives and their moral values under the light of the level of ethical analysis - deciding how the hierarchy of moral rules is structured and ultimately influencing the final decision.
4. Anticipatory Self-Appraisal: Simply put, this analysis of alternatives requires an internal reflection of whether an administrator feels that an alternative fits within what he or she perceives to be their own personality. This is an examination of whether an alternative will meet our need to feel satisfied with the decision.

By following Cooper's model of ethical decision-making, a public administrator is able to create a more concrete process by which to assess individual steps that were taken in reaching a decision. This ensures that at each point, an effort was made by the administrator to uphold ethical principles and that fairness and equality were the standard. An administrator's decision must be able to withstand scrutiny to ensure that there is a continued trust and respect for accountability among employees and the public in the administrator's ability to conduct his/her duties.

Politics and ethics. Public administrators act independently of legislators and most elected officials. This ensures that those on elections boards can operate independent of political influence. This is also true of law enforcement. Unfortunately, enforcing ethical violations can lead to consequences for the public administrator. While an officer can enforce a law against an elected official, the elected official can place pressure on others to force the officer to work a night shift or decrease the department's budget. The protection of positions from political pressure is known as safe harbor.

Rohr would argue that politics and administration are not separate, but are present at the same time when a public administrator makes decisions. He states that the problem with public administrators "is not that bureaucrats are excessively involved in policy formulation but that they are involved at all. This is a problem for a democratic society because to influence public policy as a public official is to govern". In other words, those officials who are influencing decisions are taking on the role of those elected by the public without a responsibility of having to answer to the public for decisions made.

However, because there can be large political obstacles, it can be difficult for an administrator to overcome ethical concerns within an organization. Sometimes, the culture of an organization is unethical, at which time, it would be useless to bring up ethical concerns within the organization. In the public sector and nonprofits, when this is the case, individuals will often attempt to bring outside scrutiny on to the organization. This is typically done by leaking the ethical concerns to the general media. Such an act is known as whistleblowing.

Whistleblowing: After using all available means for working within the system, an employee of a governmental agency reports a problem to other governmental agencies or to the general public directly. The problem for whistleblowing on all levels of government (federal, state, and local) is that there are very few protections for these individuals.

Ethics and the personal life of administrators. There are several factors of a person's private life that are often viewed as something that is not made available to the public. When a person enters into a public life, often, aspects of their private life are made public.

Health: It is important, in the public's eye, that a public official be physically sound when conducting the duties of their office. For example, when Ronald Reagan had an assassination attempt, he was often reporting how healthy he was. This may have been an attempt to prevent the transfer of powers to his Vice President. However, because of the mandate of a transfer of powers, it was necessary for the public to understand his overall condition.

Finances: A public official may be a strong steward of public funds, but may have personal financial issues (i.e. failure to pay taxes, etc.). Disclosure of finances is particularly important, ethically, for the public to decide an official's ability to properly manage public funds and to assess an individual's potential for giving into politically charged financial pressure. Opposing viewpoints to this argue that public officials should not have to disclose financial information because they are sometimes linked to personal contacts that prefer to remain anonymous.

Sexual Misconduct: The common view is that a public official's sexual life is subject to scrutiny. This is due to the assumption that any sexual misconduct may lead to the manipulation of the official's daily decisions. It is thereby often the subject of attention when sexual misconduct becomes known to the public.

Appearance of Impropriety: Officials should make public any possible conflicts of interest prior to their actions, in order to avoid public scrutiny when making decisions that could be construed in favor of a personal interest.

CHAPTER 5

POLICY ANALYSIS

Policy analysis is "determining which of various alternative policies will most achieve a given set of goals in light of the relations between the policies and the goals". However, policy analysis can be divided into two major fields. Analysis of policy is analytical and descriptive — i.e., it attempts to explain policies and their development. Analysis for policy is prescriptive—i.e., it is involved with formulating policies and proposals (e.g., to improve social welfare). The area of interest and the purpose of analysis determines what type of analysis is conducted. A combination of policy analysis together with program evaluation would be defined as Policy studies.

Policy Analysis is frequently deployed in the public sector, but is equally applicable to other kinds of organizations. Policy analysis has its roots in systems analysis as instituted by United States Secretary of Defense Robert McNamara during the Vietnam War.

Although various approaches to policy analysis exist, three general approaches can be distinguished: the analycentric, the policy process, and the meta-policy approach.

The analycentric approach focuses on individual problems and their solutions; its scope is the micro-scale and its problem interpretation is usually of a technical nature. The primary aim is to identify the most effective and efficient solution in technical and economic terms (e.g. the most efficient allocation of resources).

The policy process approach puts its focal point onto political processes and involved stakeholders; its scope is the meso-scale and its problem interpretation is usually of a political nature. It aims at determining what processes and means are used and tries to explain the role and influence of stakeholders within the policy process. By changing the relative power and influence of certain groups (e.g., enhancing public participation and consultation), solutions to problems may be identified.

The meta-policy approach is a systems and context approach; i.e., its scope is the macro-scale and its problem interpretation is usually of a structural nature. It aims at explaining the contextual factors of the policy process; i.e., what are the political, economic and socio-cultural factors influencing it. As problems may result because

of structural factors (e.g., a certain economic system or political institution), solutions may entail changing the structure itself.

Policy analysis is methodologically diverse using both qualitative methods and quantitative methods, including case studies, survey research, statistical analysis, and model building among others. One common methodology is to define the problem and evaluation criteria; identify all alternatives; evaluate them; and recommend the best policy agenda.

Many models exist to analyze the creation and application of public policy. Analysts use these models to identify important aspects of policy, as well as explain and predict policy and its consequences.

Some models are:

Institutional model

Public policy is determined by political institutions, which give policy legitimacy. Government universally applies policy to all citizens of society and monopolizes the use of force in applying policy. The legislature, executive and judicial branches of government are examples of institutions that give policy legitimacy.

Process model

Policy creation is a process following these steps:

- Identification of a problem and demand for government action.
- Agenda setting
- Formulation of policy proposals by various parties (e.g., congressional committees, think tanks, interest groups).
- Selection and enactment of policy; this is known as Policy Legitimation.
- Implementation of the chosen policy.
- Evaluation of policy.

This model, however, has been criticized for being overly linear and simplistic.[5] In reality, stages of the policy process may overlap or never happen. Also, this model fails to take into account the multiple factors attempting to influence the process itself as well as each other, and the complexity this entails.

Rational model

The rational model of decision-making is a process for making sound decisions in policy making in the public sector, although the model is also widely used in

private corporations. Herbert A. Simon, the father of rational models, describes rationality as “a style of behavior that is appropriate to the achievement of given goals, within the limits imposed by given conditions and constraints”.[6] It is important to note the model makes a series of assumptions in order for it to work, such as:

- The model must be applied in a system that is stable,
- The government is a rational and unitary actor and that its actions are perceived as rational choices,
- The policy problem is unambiguous,
- There are no limitations of time or cost.

Indeed, some of the assumptions identified above are also pin pointed out in a study written by the historian H.A. Drake, as he states:

In its purest form, the Rational Actor approach presumes that such a figure [as Constantine] has complete freedom of action to achieve goals that he or she has articulated through a careful process of rational analysis involving full and objective study of all pertinent information and alternatives. At the same time, it presumes that this central actor is so fully in control of the apparatus of government that a decision once made is as good as implemented. There are no staffs on which to rely, no constituencies to placate, no generals or governors to cajole. By attributing all decision making to one central figure who is always fully in control and who acts only after carefully weighing all options, the Rational Actor method allows scholars to filter out extraneous details and focus attention on central issues. [7]

Furthermore, as we have seen, in the context of policy rational models are intended to achieve maximum social gain. For this purpose, Simon identifies an outline of a step by step mode of analysis to achieve rational decisions. Ian Thomas describes Simon's steps as follows:

1. Intelligence gathering— data and potential problems and opportunities are identified, collected and analyzed.
2. Identifying problems
3. Assessing the consequences of all options
4. Relating consequences to values— with all decisions and policies there will be a set of values which will be more relevant (for example, economic feasibility and environmental protection) and which can be expressed as a set of criteria, against which performance (or consequences) of each option can be judged.

5. Choosing the preferred option— given the full understanding of all the problems and opportunities, all the consequences and the criteria for judging options. [8]

In similar lines, Wiktorowicz and Deber describe through their study on ‘Regulating biotechnology: a rational-political model of policy development’ the rational approach to policy development. The main steps involved in making a rational decision for these authors are the following:

1. The comprehensive organization and analysis of the information
2. The potential consequences of each option
3. The probability that each potential outcome would materialize
4. The value (or utility) placed on each potential outcome.

The approach of Wiktorowicz and Deber is similar to Simon and they assert that the rational model tends to deal with “the facts” (data, probabilities) in steps 1 to 3, leaving the issue of assessing values to the final step. According Wiktorowicz and Deber values are introduced in the final step of the rational model, where the utility of each policy option is assessed.

Many authors have attempted to interpret the above mentioned steps, amongst others, Patton and Sawicki who summarize the model as presented in the following figure (missing):

1. Defining the problem by analyzing the data and the information gathered.
2. Identifying the decision criteria that will be important in solving the problem.
The decision maker must determine the relevant factors to take into account when making the decision.
3. A brief list of the possible alternatives must be generated; these could succeed to resolve the problem.
4. A critical analyses and evaluation of each criterion is brought through. For example strength and weakness tables of each alternative are drawn and used for comparative basis. The decision maker then weights the previously identified criteria in order to give the alternative policies a correct priority in the decision.
5. The decision-maker evaluates each alternative against the criteria and selects the preferred alternative.
6. The policy is brought through.

The model of rational decision-making has also proven to be very useful to several decision making processes in industries outside the public sphere. Nonetheless, many criticism of the model arise due to claim of the model being impractical and lying on unrealistic assumptions. For instance, it is a difficult model to apply in the public sector because social problems can be very complex, ill-defined and interdependent. The problem lies in the thinking procedure implied by the model which is linear and can face difficulties in extra ordinary problems or social problems which have no sequences of happenings. This latter argument can be best illustrated by the words of Thomas R. Dye, the president of the Lincoln Center for Public Service, who wrote in his book `Understanding Public Policy` the following passage:

There is no better illustration of the dilemmas of rational policy making in America than in the field of health...the first obstacle to rationalism is defining the problem. Is our goal to have good health — that is, whether we live at all (infant mortality), how well we live (days lost to sickness), and how long we live (life spans and adult mortality)? Or is our goal to have good medical care — frequent visits to the doctor, wellequipped and accessible hospitals, and equal access to medical care by rich and poor alike?

The problems faced when using the rational model arise in practice because social and environmental values can be difficult to quantify and forge consensus around.[12] Furthermore, the assumptions stated by Simon are never fully valid in a real world context.

However, as Thomas states the rational model provides a good perspective since in modern society rationality plays a central role and everything that is rational tends to be prized. Thus, it does not seem strange that “we ought to be trying for rational decision-making”.

Decision Criteria for Policy Analysis — Step 2.

Rational policy analysis can be broken into 6 distinct stages of analysis. Step 2 highlights the need to understand which factors should be considered as part of the decision making process. At this part of the process, all the economic, social, and environmental factors that are important to the policy decision need to be identified and then expressed as policy decision criteria. For example, the decision criteria used in the analysis of environmental policy is often a mix of :

- Ecological impacts — such as biodiversity, water quality, air quality, habitat quality, species population, etc.
- Economic efficiency — commonly expressed as benefits and costs.

- Distributional equity — how policy impacts are distributed amongst different demographics. Factors that can affect the distribution of impacts include location, ethnicity, income, and occupation.
- Social/Cultural acceptability — the extent to which the policy action may be opposed by current social norms or cultural values.
- Operational practicality — the capacity required to actually operationalize the policy. For example,
- Legality — the potential for the policy to be implemented under current legislation versus the need to pass new legislation that accommodates the policy.
- Uncertainty — the degree to which the level of policy impacts can be known.

Some criteria, such as economic benefit, will be more easily measurable or definable, while others such as environmental quality will be harder to measure or express quantitatively. Ultimately though, the set of decision criteria needs to embody all of the policy goals, and overemphasising the more easily definable or measurable criteria, will have the undesirable impact of biasing the analysis towards a subset of the policy goals.

The process of identifying a suitably comprehensive decision criteria set is also vulnerable to being skewed by pressures arising at the political interface. For example, decision makers may tend to give "more weight to policy impacts that are concentrated, tangible, certain, and immediate than to impacts that are diffuse, intangible, uncertain, and delayed."⁸ For example, with a cap-and-trade system for carbon emissions the net financial cost in the first five years of policy implementation is a far easier impact to conceptualise than the more diffuse and uncertain impact of a country's improved position to influence global negotiations on climate change action.

Decision Methods for Policy Analysis — Step 5.

Displaying the impacts of policy alternatives can be done using a policy analysis matrix (PAM). PAM provides a summary of the policy impacts for the various alternatives and examination of the matrix can reveal the tradeoffs associated with the different alternatives.

Once policy alternatives have been evaluated, the next step is to decide which policy alternative should be implemented. At one extreme, comparing the policy alternatives can be relatively simple if all the policy goals can be measured using a single metric and given equal weighting. In this case, the decision method is an exercise in benefit cost analysis (BCA).

At the other extreme, the numerous goals will require the policy impacts to be expressed using a variety of metrics that are not readily comparable. In such cases, the policy analyst may draw on the concept of utility to aggregate the various goals into a single score. With the utility concept, each impact is given a weighting such that 1 unit of each weighted impact is considered to be equally valuable (or desirable) with regards to the collective well-being.

Weimer and Vining also suggest that the "go, no go" rule can be a useful method for deciding amongst policy alternatives⁸. Under this decision making regime, some or all policy impacts can be assigned thresholds which are used to eliminate at least some of the policy alternatives. In their example, one criterion "is to minimize SO₂ emissions" and so a threshold might be a reduction SO₂ emissions "of at least 8.0 million tons per year". As such, any policy alternative that does not meet this threshold can be removed from consideration. If only a single policy alternative satisfies all the impact thresholds then it is the one that is considered a "go" for each impact. Otherwise it might be that all but a few policy alternatives are eliminated and those that remain need to be more closely examined in terms of their trade-offs so that a decision can be made.

Case Study Example of Rational Policy Analysis Approach.

To demonstrate the rational analysis process as described above, let's examine the policy paper "Stimulating the use of biofuels in the European Union: Implications for climate change policy" by Lisa Ryan where the substitution of fossil fuels with biofuels has been proposed in the European Union (EU) between 2005–2010 as part of a strategy to mitigate greenhouse gas emissions from road transport, increase security of energy supply and support development of rural communities.

Considering the steps of Patton and Sawicki model, this paper only follows components 1 to 5 of the rationalist policy analysis model:

1. Defining The Problem – the report identifies transportation fuels pose two important challenges for the European Union (EU). First, under the provisions of the Kyoto Protocol to the Climate Change Convention, the EU has agreed to an absolute cap on greenhouse gas emissions; while, at the same time increased consumption of transportation fuels has resulted in a trend of increasing greenhouse gas emissions from this source. Second, the dependence upon oil imports from the politically volatile Middle East generates concern over price fluctuations and possible interruptions in supply. Alternative fuel

sources need to be used & substituted in place of fossil fuels to mitigate GHG emissions in the EU.

2. Determine the Evaluation Criteria – this policy sets Environmental impacts/benefits (reduction of GHG's as a measure to reducing climate change effects) and Economical efficiency (the costs of converting to biofuels as alternative to fossil fuels & the costs of production of biofuels from its different potential sources) as its decision criteria. However, this paper does not exactly talk about the social impacts, this policy may have. It also does not compare the operational challenges involved between the different categories of biofuels considered.
3. Identifying Alternative Policies – The European Commission foresees that three alternative transport fuels: hydrogen, natural gas, and biofuels, will replace transport fossil fuels, each by 5% by 2020.
4. Evaluating Alternative Policies – Biofuels are an alternative motor vehicle fuel produced from biological material and are promoted as a transitional step until more advanced technologies have matured. By modelling the efficiency of the biofuel options the authors compute the economic and environmental costs of each biofuel option as per the evaluation criteria mentioned above.
5. Select The Preferred Policy – The authors suggest that the overall best biofuel comes from the sugarcane in Brazil after comparing the economic & the environmental costs. The current cost of subsidising the price difference between European biofuels and fossil fuels per tonne of CO₂ emissions saved is calculated to be €229–2000. If the production of European biofuels for transport is to be encouraged, exemption from excise duties is the instrument that incurs the least transactions costs, as no separate administrative or collection system needs to be established. A number of entrepreneurs are producing biofuels at the lower margin of the costs specified here profitably, once an excise duty rebate is given. It is likely that growth in the volume of the business will engender both economies of scale and innovation that will reduce costs substantially.

Group model

The political system's role is to establish and enforce compromise between various, conflicting interests in society. This policy is formed as a result of forces and pressures from influential groups. Pressure groups are informally co-opted into the policy making process. Regulatory agencies are captured by those they are supposed to regulate. No one group is dominant all the time on all issues.

Elite model

Policy is a reflection of the interests of those individuals within a society that have the most power, rather than the demands of the mass. Elites shape mass opinion on policy questions more than masses shape elite opinion.

Six-step model

1. Verify, define and detail the problem
2. Establish evaluation criteria
3. Identify alternative policies
4. Evaluate alternative policies
5. Display and distinguish among alternative policies
6. Monitor the implemented policy

See policy cycle for a five-step and an eight-step approach.

Policy cycle. In political science, the policy cycle is a tool used for the analyzing of the development of a policy item. It can also be referred to as a "stagist approach", "stages heuristic" or "stages approach". It is a fiction rather than the actual reality of how policy is created, but has been influential in how people look at policy in general. It was developed as a theory from Harold Lasswell's work.

One standardized version includes the following stages:

1. Agenda setting (Problem identification) - The recognition of certain subject as a problem demanding further government attention.
2. Policy Formulation - Involves exploring a variation of options or alternative courses of action available for addressing the problem. (appraisal, dialogue, formulation, and consolidation)
3. Decision-making - Government decides on an ultimate course of action, whether to perpetuate the policy status quo or alter it. (Decision could be 'positive', 'negative', or 'no-action')
4. Implementation - The ultimate decision made earlier will be put into practice.
5. Evaluation - Assesses the effectiveness of a public policy in terms of its perceived intentions and results. Policy actors attempt to determine whether the course of action is a success or failure by examining its impact and outcomes.

An eight step policy cycle is developed in detail in *The Australian Policy Handbook* by Peter Bridgman and Glyn Davis: (now with Catherine Althaus in its 4th and 5th editions)

1. Issue identification
2. Policy analysis
3. Policy instrument development
4. Consultation (which permeates the entire process)
5. Coordination
6. Decision
7. Implementation
8. Evaluation

The Althaus, Bridgman & Davis model is heuristic and iterative. It is intentionally normative and not meant to be diagnostic or predictive. Policy cycles are typically characterized as adopting a classical approach. Accordingly some postmodern academics challenge cyclical models as unresponsive and unrealistic, preferring systemic and more complex models. They consider a broader range of actors involved in the policy space that includes civil society organisations, the media, intellectuals, think tanks or policy research institutes, corporations, lobbyists, etc.

CHAPTER 6

PUBLIC SECTOR AND PUBLIC SERVICES

The public sector refers to the part of the economy concerned with providing various government services. The composition of the public sector varies by country, but in most countries the public sector includes such services as the military, police, public transit and care of public roads, public education, along with healthcare and those working for the government itself, such as elected officials. The public sector might provide services that a non-payer cannot be excluded from (such as street lighting), services which benefit all of society rather than just the individual who uses the service.

Businesses and organizations that are not part of the public sector are part of the private sector. The private sector is composed of the business sector, which is intended to earn a profit for the owners of the enterprise, and the voluntary sector, which includes charitable organizations.

The organisation of the public sector (public ownership) can take several forms, including:

- Direct administration funded through taxation; the delivering organisation generally has no specific requirement to meet commercial success criteria, and production decisions are determined by government.
- Publicly owned corporations (in some contexts, especially manufacturing, "state-owned enterprises"); which differ from direct administration in that they have greater commercial freedoms and are expected to operate according to commercial criteria, and production decisions are not generally taken by government (although goals may be set for them by government).
- Partial outsourcing (of the scale many businesses do, e.g. for IT services), is considered a public sector model.

A borderline form is as follows:

- Complete outsourcing or contracting out, with a privately owned corporation delivering the entire service on behalf of government. This may be considered a mixture of private sector operations with public ownership of assets, although in some forms the private sector's control and/or risk is so great that the service may no longer be considered part of the public sector.

A public service is a service which is provided by government to people living within its jurisdiction, either directly (through the public sector) or by financing provision of services. The term is associated with a social consensus (usually expressed through democratic elections) that certain services should be available to all, regardless of income. Even where public services are neither publicly provided nor publicly financed, for social and political reasons they are usually subject to regulation going beyond that applying to most economic sectors. Public service is also a course that can be studied at a college and/or university. The public services is an agency provided by the government that work to help and provide the public, examples of public services are fire brigade, police, army, paramedics, they all have a role in protecting the public in a different way.

Public services are essential to modern life that for moral reasons their universal provision should be guaranteed. They may be associated with fundamental human rights (such as the right to water). The Volunteer Fire Dept. and Ambulance Corps. are institutions with the mission of servicing the community. A service is helping others with a specific need or want. Here, service ranges from a doctor curing an illness, to a repair person, to a food pantry.

In modern, developed countries, the term public services often includes:

- Electricity
- Education
- Environmental protection
- Fire service
- Gas
- Health care
- Law enforcement
- Military
- Postal service
- Public broadcasting
- Public library
- Public security
- Public transportation
- Public housing
- Social services
- Telecommunications
- Town planning
- Waste management
- Water supply network
- 999 services

A public service may sometimes have the characteristics of a public good (being non-rivalrous and non-excludable), but most are services which may (according to prevailing social norms) be under-provided by the market. In most cases public services are services, i.e. they do not involve manufacturing of goods. They may be provided by local or national monopolies, especially in sectors which are natural monopolies.

They may involve outputs that are hard to attribute to specific individual effort and/or hard to measure in terms of key characteristics such as quality. They often require high levels of training and education. They may attract people with a public service ethos who wish to give something to the wider public or community through their work.

Historically, the widespread provision of public services in developed countries usually began in the late nineteenth century, often with the municipal development of gas and water services. Later, other services such as electricity and healthcare began to be provided by governments. In most developed countries such services are still provided by local or national government, the biggest exceptions being the U.S. and the UK, where private provision is more significant.

Nonetheless, such privately provided public services are often strongly regulated, for example (in the US) by Public Utility Commissions.

In developing countries public services tend to be much less well developed. For example, water services might only be available to the wealthy middle class. For political reasons the service is often subsidized, which reduces the finance available for expansion to poorer communities.

Nationalization really took off following the World Wars of the first half of the twentieth century. Across Europe, because of the extreme demands on industries and the economy, central planning was required to make production maximally efficient. Many public services, especially electricity, gas and public transport are products of this era. Following the Second World War, many countries also began to implement universal health care and expanded education under the funding and guidance of the state.

Privatization. Here are several ways to privatize public services. A free-market corporation may be established and sold to private investors, relinquishing government control altogether. Thus it becomes a private (not public) service. Another option, used in the Nordic countries, is to establish a corporation, but keep ownership or voting power essentially in the hands of the government. For example, the Finnish state owned 49% of Kemira until 2007, the rest being owned by private

investors. A 49% share did not make it a "government enterprise", but it meant that all other investors together would have to oppose the state's opinion in order to overturn the state's decisions in the shareholder's meeting. Regulated corporation can also acquire permits on the agreement that they fulfill certain public service duties. When a private corporation runs a natural monopoly, then the corporation is typically heavily regulated, to prevent abuse of monopoly power. Lastly, the government can buy the service on the free market. In many countries, medication is provided in this manner: the government reimburses part of the price of the medication. Also, bus traffic, electricity, healthcare and waste management are privatized in this way. One recent innovation, used in the UK increasingly as well as Australia and Canada is public-private partnerships. This involves giving a long lease to private consortia in return for partly funding infrastructure.

Public services versus Services of General Interest.

At the European level, some countries use the name service of general interest, while other prefer public services. It has been a discussion, for instance during the writing of the European constitution (the word services of general interest has been used).

ETUC named its petition "for high quality public services" but explains "Public services are known as Services of general interest (SGI) and Services of general economic interest (SGEIs) in European Union terminology."

CHAPTER 7

PUBLIC MANAGEMENT

Public management that government and non-profit administration resembles private-sector management in some important ways. As such, there are management tools appropriate in public and in private domains, tools that maximize efficiency and effectiveness. This contrasts with the study of public administration, which emphasizes the social and cultural drivers of government that many contend (e.g. Graham T. Allison and Charles Goodsell) make it different from the private sector.

Studying and teaching about public management are widely practiced in developed nations. Such credentials as the Master of Public Administration degree offer training in decision making relevant to the public good using public infrastructure.

The public manager will deal with critical infrastructure that directly and obviously affects quality of life. Trust in public managers, and the large sums spent at their behest, make them subject to many more conflict of interest and ethics guidelines in most nations.

New public management (NPM), a term formally conceptualized by Hood (1991), denotes broadly the government policies, since the 1980s, that aimed to modernise and render more efficient the public sector. The basic hypothesis holds that market oriented management of the public sector will lead to greater cost-efficiency for governments, without having negative side-effects on other objectives and considerations. Ferlie et al (1996) describe 'New Public Management in Action' as involving the introduction into public services of the 'three Ms': Markets, managers and measurement.

Differences from private sector.

Jonathan Boston, one of the early proponents of NPM, identified several ways in which public organisations differ from the private sector:

- degree of market exposure—reliance on appropriations
- legal, formal constraints—courts, legislature, hierarchy
- subject to political influences
- coerciveness—many state activities unavoidable, monopolistic
- breadth of impact

- subject to public scrutiny
- complexity of objectives, evaluation and decision criteria
- authority relations and the role of managers
- organisational performance and effectiveness
- incentives and incentive structures
- personal characteristics of employees
- every election cycle senior manager (Owners) change, along with changed priorities.

Boston claimed that reforms tends to ignore these differences.

Developments.

Some modern authors define NPM as a combination of splitting large bureaucracies into smaller, more fragmented ones, competition between different public agencies, and between public agencies and private firms and incentivization on more economic lines. Defined in this way, NPM has been a significant driver in public management policy around the world, from the early 1980s to at least the early 2000s.

A 2003 Organisation for Economic Co-operation and Development paper described the characteristics of the new public management as decentralization, management by objectives, contracting out, competition within government and consumer orientation.

NPM, compared to other public management theories, is oriented towards outcomes and efficiency, through better management of public budget.[6] It is considered to be achieved by applying competition, as it is known in the private sector, to organizations in the public sector, emphasizing economic and leadership principles. New public management addresses beneficiaries of public services much like customers, and conversely citizens as shareholders.

In 2007, the European Commission produced a white book on governance issues whose objective was to propose a new kind of "relationship between the state and the citizens," reform governance, improve public management and render decision-making "more flexible."

Criticism

Some authors say NPM has peaked and is now in decline. Critics like Dunleavy proclaim that NPM is 'dead' and argue that the cutting edge of change has moved on to digital era governance focusing on reintegrating concerns into government control, holistic (or joined-up) government and digitalization (exploiting

the Web and digital storage and communication within government). In the UK and US NPM has been challenged since the turn of the century by a range of related critiques such as Third Way thinking (see Anthony Giddens) and particularly the rise of ideas associated with Public Value Theory (Mark Moore, Kennedy Business School, John Benington, Warwick Business School) which have re-asserted a focus on citizenship, network governance and the role of public agencies in working with citizens to co-create public value, generate democratic authorisation, legitimacy and trust, and stress the domains within which public managers are working as complex adaptive systems with characteristics which are qualitatively different from simple market forms, or private sector business principles.

In his book *Bad Samaritans*, economist Ha-Joon Chang claims that "increased NPM-inspired reforms have often increased, rather than reduced, corruption," as a result of "more contacts [of state-sector functionaries] with the private sector, creating new opportunities for bribes" and future, direct or indirect, employment in the private sector. Chang claims that "corruption often exists because there are too many market forces; not too few."

Robert Nield, a retired Cambridge economics professor and a member of the 1968 Fulton civil service reform committee, has stated, in reference to civil sector reforms implemented by British PM Margaret Thatcher, a pioneer and strong proponent of NPM, "I cannot think of another instance where a modern democracy has systematically undone the system by which incorrupt public services were brought into being."

CHAPTER 8

PUBLIC ECONOMICS

Public economics (or economics of the public sector) is the study of government policy through the lens of economic efficiency and equity. At its most basic level, public economics provides a framework for thinking about whether or not the government should participate in economics markets and to what extent its role should be. In order to do so, microeconomic theory is utilized to assess whether the private market is likely to provide efficient outcomes in the absence of governmental interference. Inherently, this study involves the analysis of government taxation and expenditures. This subject encompasses a host of topics including market failures, externalities, and the creation and implementation of government policy. Public economics builds on the theory of welfare economics and is ultimately used as a tool to improve social welfare.

Broad methods and topics include:

- the theory and application of public finance
- analysis and design of public policy
- distributional effects of taxation and government expenditures
- analysis of market failure and government failure.

Emphasis is on analytical and scientific methods and normative-ethical analysis, as distinguished from ideology. Examples of topics covered are tax incidence, optimal taxation, and the theory of public goods.

Public goods, or collective consumption goods, exhibit two properties; non-rivalry and non-excludability. Something is non-rival if one person's consumption of it does not deprive another person, (to a point) a firework display is non-rival - since one person watching a firework display does not prevent another person from doing so. Something is non-excludable if its use is cannot be limited to a certain group of people. Again, since one cannot prevent people from viewing a firework display it is non-excludable.

Taxation. Diamond-Mirrlees Efficiency Theorem.

In 1971, Peter A. Diamond and James A. Mirrlees published a seminal paper which showed that even when lump-sum taxation is not available, production efficiency is still desirable. This finding is known as the Diamond-Mirrlees efficiency theorem, and it is widely credited with having modernized Ramsey's analysis by

considering the problem of income distribution with the problem of raising revenue. Joseph E. Stiglitz and Partha Dasgupta (1971) have criticized this theorem as not being robust on the grounds that production efficiency will not necessarily be desirable if certain tax instruments cannot be used.

One of the achievements for which the great English economist A.C. Pigou is known, was his work on the divergences between marginal private costs and marginal social costs (externalities). In his book, *The Economics of Welfare* (1932), Pigou describes how these divergences come about:

...one person A, in the course of rendering some service, for which payment is made, to a second person B, incidentally also renders services or disservices to other persons (not producers of like services), of such a sort that payment cannot be extracted from the benefited parties or compensation enforced on behalf of the injured parties.

In particular, Pigou is known for his advocacy of what are known as corrective taxes, or Pigouvian taxes:

It is plain that divergences between private and social net product of the kinds we have so far been considering cannot, like divergences due to tenancy laws, be mitigated by a modification of the contractual relation between any two contracting parties, because the divergence arises out of a service or disservice to persons other than the contracting parties. It is, however, possible for the State, if it so chooses, to remove the divergence in any field by "extraordinary encouragements" or "extraordinary restraints" upon investments in that field. The most obvious forms which these encouragements and restraints may assume are, of course, those of bounties and taxes.

Pigou describes as positive externalities, examples such as resources invested in private parks that improve the surrounding air, and scientific research from which discoveries of high practical utility often grow. Alternatively, he describes negative externalities, such as the factory that destroys a great part of the amenities of neighboring sites.

In 1960, the economist Ronald H. Coase proposed an alternative scheme whereby negative externalities are dealt with through the appropriate assignment of property rights. This result is known as the Coase theorem.

CHAPTER 9

PUBLIC GOODS

In economics, a public good is a good that is both non-excludable and non-rivalrous in that individuals cannot be effectively excluded from use and where use by one individual does not reduce availability to others.[1] Examples of public goods include fresh air, knowledge, lighthouses, national defense, flood control systems and street lighting. Public goods that are available everywhere are sometimes referred to as global public goods.

Many public goods may at times be subject to excessive use resulting in negative externalities affecting all users; for example air pollution and traffic congestion. Public goods problems are often closely related to the "free-rider" problem, in which people not paying for the good may continue to access it, or the tragedy of the commons, where consumption of a shared resource by individuals acting in their individual and immediate self-interest diminishes or even destroys the original resource. Thus, the good may be under-produced, overused or degraded. Public goods may also become subject to restrictions on access and may then be considered to be club goods or private goods; exclusion mechanisms include copyright, patents, congestion pricing, and pay television.

There is a good deal of debate and literature on how to measure the significance of public goods problems in an economy, and to identify the best remedies.

Terminology, and types of goods. Paul A. Samuelson is usually credited as the first economist to develop the theory of public goods. In his classic 1954 paper *The Pure Theory of Public Expenditure*, he defined a public good, or as he called it in the paper a "collective consumption good", as follows:

...[goods] which all enjoy in common in the sense that each individual's consumption of such a good leads to no subtractions from any other individual's consumption of that good.

This is the property that has become known as non-rivalry. In addition a pure public good exhibits a second property called non-excludability: that is, it is impossible to exclude any individuals from consuming the good.

The opposite of a public good is a private good, which does not possess these properties. A loaf of bread, for example, is a private good: its owner can exclude others from using it, and once it has been consumed, it cannot be used again.

A good which is rivalrous but non-excludable is sometimes called a common-pool resource. Such goods raise similar issues to public goods: the mirror to the public goods problem for this case is sometimes called the tragedy of the commons. For example, it is so difficult to enforce restrictions on deep sea fishing that the world's fish stocks can be seen as a non-excludable resource, but one which is finite and diminishing.

	<u>Excludable</u>	Non-excludable
<u>Rivalrous</u>	<u>Private goods</u> food, clothing, cars, personal electronics	<u>Common goods</u> (<u>Common-pool resources</u>) fish stocks, timber, coal
Non-rivalrous	<u>Club goods</u> cinemas, private parks, satellite television	Public goods free-to-air television, air, national defense

Fig. 1 – Classification of goods.

The definition of non-excludability states that it is impossible to exclude individuals from consumption. Technology now allows radio or TV broadcasts to be encrypted such that persons without a special decoder are excluded from the broadcast. Many forms of information goods have characteristics of public goods. For example, a poem can be read by many people without reducing the consumption of that good by others; in this sense, it is non-rivalrous. Similarly, the information in most patents can be used by any party without reducing consumption of that good by others. Creative works may be excludable in some circumstances, however: the individual who wrote the poem may decline to share it with others by not publishing it. Copyrights and patents both encourage the creation of such non-rival goods by providing temporary monopolies, or, in the terminology of public goods, providing a legal mechanism to enforce excludability for a limited period of time. For public goods, the "lost revenue" of the producer of the good is not part of the definition: a public good is a good whose consumption does not reduce any other's consumption of that good.

Debate has been generated among economists whether such a category of "public goods" exists. Steven Shavell has suggested the following:

...when professional economists talk about public goods they do not mean that there are a general category of goods that share the same economic characteristics, manifest the same dysfunctions, and that may thus benefit from pretty similar corrective solutions...there is merely an infinite series of particular problems (some of

overproduction, some of underproduction, and so on), each with a particular solution that cannot be deduced from the theory, but that instead would depend on local empirical factors.

The economic concept of public goods should not be confused with the expression "the public good", which is usually an application of a collective ethical notion of "the good" in political decision-making. Another common confusion is that public goods are goods provided by the public sector. Although it is often the case that government is involved in producing public goods, this is not necessarily the case. Public goods may be naturally available. They may be produced by private individuals and firms, by non-state collective action, or they may not be produced at all.

The theoretical concept of public goods does not distinguish with regard to the geographical region in which a good may be produced or consumed. However, some theorists (such as Inge Kaul) use the term 'global public good' for public goods which is non-rival and non-excludable throughout the whole world, as opposed to a public good which exists in just one national area. Knowledge has been held to be an example of a global public good, but also as a commons, the Knowledge commons.

Social goods.

Social goods are defined as public goods that could be delivered as private goods, but are usually delivered by the government for various reasons, including social policy, and funded via public funds like taxes.

Note: Some writers have used the term 'public good' to refer only to non-excludable 'pure public goods' and refer to excludable public goods 'club goods'.

Examples

Common examples of public goods include: defense, public fireworks, lighthouses, clean air and other environmental goods, and information goods, such as software development, authorship, and invention. Some goods (such as orphan drugs) require special governmental incentives to be produced, but can't be classified as public goods since they don't fulfill the above requirements (Non-excludable and non-rivalrous.) Law enforcement, streets, libraries, museums, and education are commonly misclassified as public goods, but they are technically classified in economic terms as quasi-public goods because excludability is possible, but they do still fit some of the characteristics of public goods.

The provision of a lighthouse has often been used as the standard example of a public good, since it is difficult to exclude ships from using its services. No ship's use detracts from that of others, but since most of the benefit of a lighthouse accrues to ships using particular ports, lighthouse maintenance fees can often profitably be bundled with port fees (Ronald Coase, *The Lighthouse in Economics* 1974). This has been sufficient to fund actual lighthouses.

Technological progress can create new public goods. The most simple examples are street lights, which are relatively recent inventions (by historical standards). One person's enjoyment of them does not detract from other persons' enjoyment, and it currently would be prohibitively expensive to charge individuals separately for the amount of light they presumably use. On the other hand, a public good's status may change over time. Technological progress can significantly impact excludability of traditional public goods: encryption allows broadcasters to sell individual access to their programming. The costs for electronic road pricing have fallen dramatically, paving the way for detailed billing based on actual use.

There is some question as to whether defense is a public good. Murray Rothbard argues, "'national defense' is surely not an absolute good with only one unit of supply. It consists of specific resources committed in certain definite and concrete ways—and these resources are necessarily scarce. A ring of defense bases around New York, for example, cuts down the amount possibly available around San Francisco." Jeffrey Rogers Hummel and Don Lavoie note, "Americans in Alaska and Hawaii could very easily be excluded from the U.S. government's defense perimeter, and doing so might enhance the military value of at least conventional U.S. forces to Americans in the other forty-eight states. But, in general, an additional ICBM in the U.S. arsenal can simultaneously protect everyone within the country without diminishing its services."

Moreover, public goods are not restricted to the human species. Indeed it is one aspect of the study of cooperation in biology.

The free rider problem.

Public goods provide a very important example of market failure, in which market-like behavior of individual gain-seeking does not produce efficient results. The production of public goods results in positive externalities which are not remunerated. If private organizations don't reap all the benefits of a public good which they have produced, their incentives to produce it voluntarily might be insufficient. Consumers can take advantage of public goods without contributing sufficiently to their creation. This is called the free rider problem, or occasionally, the

"easy rider problem" (because consumers' contributions will be small but non-zero). If too many consumers decide to 'free-ride', private costs exceed private benefits and the incentive to provide the good or service through the market disappears. The market thus fails to provide a good or service for which there is a need.

The free rider problem depends on a conception of the human being as *homo economicus*: purely rational and also purely selfish—extremely individualistic, considering only those benefits and costs that directly affect him or her. Public goods give such a person an incentive to be a free rider.

For example, consider national defense, a standard example of a pure public good. Suppose *homo economicus* thinks about exerting some extra effort to defend the nation. The benefits to the individual of this effort would be very low, since the benefits would be distributed among all of the millions of other people in the country. There is also a very high possibility that he or she could get injured or killed during the course of his or her military service.

On the other hand, the free rider knows that he or she cannot be excluded from the benefits of national defense, regardless of whether he or she contributes to it. There is also no way that these benefits can be split up and distributed as individual parcels to people. The free rider would not voluntarily exert any extra effort, unless there is some inherent pleasure or material reward for doing so (for example, money paid by the government, as with an all-volunteer army or mercenaries). The free riding problem is even more complicated than it was thought to be until recently. Any time non-excludability results in failure to pay the true marginal value (often called the "demand revelation problem"), it will also result in failure to generate proper income levels, since households will not give up valuable leisure if they cannot individually increment a good. This implies that, for public goods without strong special interest support, under-provision is likely since benefit-cost analyses are being conducted at the wrong income levels, and all of the ungenerated income would have been spent on the public good, apart from general equilibrium considerations.

In the case of information goods, an inventor of a new product may benefit all of society, but hardly anyone is willing to pay for the invention if they can benefit from it for free. In the case of an information good, however, because of its characteristics of non-excludability and also because of almost zero reproduction costs, commoditization is difficult and not always efficient even from a neoclassical economic point of view.

Economic and Political Solutions.

An assurance contract is a contract in which participants make a binding pledge to contribute to building a public good, contingent on a quorum of a predetermined size being reached. Otherwise the good is not provided and any monetary contributions are refunded.

A dominant assurance contract is a variation in which an entrepreneur creates the contract and refunds the initial pledge plus an additional sum of money if the quorum is not reached. (The entrepreneur profits by collecting a fee if the quorum is reached and the good is provided). In game-theoretic terms this makes pledging to build the public good a dominant strategy: the best move is to pledge to the contract regardless of the actions of others.

Coasian solution.

A Coasian solution, named for the economist Ronald Coase, proposes that potential beneficiaries of a public good can negotiate to pool their resources and create it, based on each party's self-interested willingness to pay. His treatise, "The Problem of Social Cost" (1960), argued that if the transaction costs between potential beneficiaries of a public good are low—that it is easy for potential beneficiaries to find each other and organize a pooling their resources based upon the good's value to each of them—that public goods could be produced without government action.

Much later, Coase himself wrote that while what had become known as the Coase Theorem had explored the implications of zero transaction costs, he had actually intended to use this construct as a stepping-stone to understand the real world of positive transaction costs, corporations, legal systems and government actions.

The world of zero transaction costs has often been described as a Coasian world. Nothing could be further from the truth. It is the world of modern economic theory, one which I was hoping to persuade economists to leave. What I did in "The Problem of Social Cost" was simply to shed light on some of its properties. I argued in such a world the allocation of resources would be independent of the legal position, a result which Stigler dubbed the "Coase theorem."

Thus, while Coase himself appears to have considered the "Coase theorem" and Coasian solutions as simplified constructs to ultimately consider the real 20th-century world of governments and laws and corporations, these concepts have become attached to a world where transaction costs were much lower, and government intervention would unquestionably be less necessary. Is there room in the 21st century for something closer to this ideal?

A minor alternative, especially for information goods, is for the producer to refuse to release a good to the public until payment to cover costs is met. Author Stephen King, for instance, authored chapters of a new novel downloadable for free on his website while stating that he would not release subsequent chapters unless a certain amount of money was raised. Sometimes dubbed holding for ransom, this method of public goods production is a modern application of the street performer protocol for public goods production. Unlike assurance contracts, its success relies largely on social norms to ensure (to some extent) that the threshold is reached and partial contributions are not wasted.

One of the purest Coasian solutions today is the new phenomenon of Internet crowdfunding. Here rules are enforced by computer algorithms and legal contracts as well as social pressure. For example, on the Kickstarter site, each funder authorizes a credit card purchase to buy a new product or receive other promised benefits, but no money changes hands until the funding goal is met. Because automation and the Internet so reduce the transaction costs for pooling resources, project goals of only a few hundred dollars are frequently crowdfunded, far below the costs of soliciting traditional investors. Other crowdfunded projects have raised over a million dollars, like the Arkyd-100 space satellite telescope funded on Kickstarter in June 2013. It would seem to be a clear instance of a Coase solution when a public good that always required government sponsorship in the 20th century can be efficiently organized from 18000 individuals' self-interest (including rewards such as an orbital "selfie", and five minutes of observation time donated in their name to find potential killer asteroids).

Government provision.

If voluntary provision of public goods will not work, then the obvious solution is making their provision involuntary. This saves each of us from our own tendency to be a free rider, while also assuring us that no one else will be allowed to free ride. One frequently proposed solution to the problem is for governments or states to impose taxation to fund the production of public goods. This does not actually solve the theoretical problem because good government is itself a public good. Thus it is difficult to ensure the government has an incentive to provide the optimum amount even if it were possible for the government to determine precisely what amount would be optimum. These issues are studied by public choice theory and public finance.

Sometimes the government provides public goods using "unfunded mandates". An example is the requirement that every car be fit with a catalytic converter. This

may be executed in the private sector, but the end result is predetermined by the state: the individually involuntary provision of the public good clean air. Unfunded mandates have also been imposed by the U.S. federal government on the state and local governments, as with the Americans with Disabilities Act, for example.

Subsidies and joint products.

A government may subsidize production of a public good in the private sector. Unlike government provision, subsidies may result in some form of a competitive market. The potential for cronyism (for example, an alliance between political insiders and the businesses receiving subsidies) can be limited with secret bidding for the subsidies or application of the subsidies following clear general principles. Depending on the nature of a public good and a related subsidy, principal-agent problems can arise between the citizens and the government or between the government and the subsidized producers; this effect and counter-measures taken to address it can diminish the benefits of the subsidy.

Subsidies can also be used in areas with a potential for non-individualism: For instance, a state may subsidize devices to reduce air pollution and appeal to citizens to cover the remaining costs.

Similarly, a joint-product model analyzes the collaborative effect of joining a private good to a public good. For example, a tax deduction (private good) can be tied to a donation to a charity (public good). It can be shown that the provision of the public good increases when tied to the private good, as long as the private good is provided by a monopoly (otherwise the private good would be provided by competitors without the link to the public good).

Privileged group.

The study of collective action shows that public goods are still produced when one individual benefits more from the public good than it costs him to produce it; examples include benefits from individual use, intrinsic motivation to produce, and business models based on selling complement goods. A group that contains such individuals is called a privileged group. A historical example could be a downtown entrepreneur who erects a street light in front of his shop to attract customers; even though there are positive external benefits to neighboring nonpaying businesses, the added customers to the paying shop provide enough revenue to cover the costs of the street light.

The existence of privileged groups may not be a complete solution to the free rider problem, however, as underproduction of the public good may still result. The

street light builder, for instance, would not consider the added benefit to neighboring businesses when determining whether to erect his street light, making it possible that the street light isn't built when the cost of building is too high for the single entrepreneur even when the total benefit to all the businesses combined exceeds the cost.

An example of the privileged group solution could be the Linux community, assuming that users derive more benefit from contributing than it costs them to do it. For more discussion on this topic see also Coase's Penguin.

Another example is those musicians and writers who create music and writings for their own personal enjoyment, and publish because they enjoy having an audience. Financial incentives are not necessary to ensure the creation of these public goods. Whether this creates the correct production level of writings and music is an open question.

Merging free riders.

Another method of overcoming the free rider problem is to simply eliminate the profit incentive for free riding by buying out all the potential free riders. A property developer that owned an entire city street, for instance, would not need to worry about free riders when erecting street lights since he owns every business that could benefit from the street light without paying. Implicitly, then, the property developer would erect street lights until the marginal social benefit met the marginal social cost. In this case, they are equivalent to the private marginal benefits and costs.

While the purchase of all potential free riders may solve the problem of underproduction due to free riders in smaller markets, it may simultaneously introduce the problem of underproduction due to monopoly. Additionally, some markets are simply too large to make a buyout of all beneficiaries feasible – this is particularly visible with public goods that affect everyone in a country.

Introducing an exclusion mechanism (club goods).

Another solution, which has evolved for information goods, is to introduce exclusion mechanisms which turn public goods into club goods. One well-known example is copyright and patent laws. These laws, which in the 20th century came to be called intellectual property laws, attempt to remove the natural non-excludability by prohibiting reproduction of the good. Although they can address the free rider problem, the downside of these laws is that they imply private monopoly power and thus are not Pareto-optimal.

For example, in the United States, the patent rights given to pharmaceutical companies encourage them to charge high prices (above marginal cost)[dubious – discuss] and to advertise to convince patients to persuade their doctors to prescribe the drugs[dubious – discuss]. Likewise, copyright provides an incentive for a publisher to act like The Dog in the Manger, taking older works out of print so as not to cannibalize revenue from the publisher's own new works.

The laws also end up encouraging patent and copyright owners to sue even mild imitators in court and to lobby for the extension of the term of the exclusive rights in a form of rent seeking.

These problems with the club-good mechanism arise because the underlying marginal cost of giving the good to more people is low or zero, but, because of the limits of price discrimination those who are unwilling or unable to pay a profit-maximizing price do not gain access to the good.

If the costs of the exclusion mechanism are not higher than the gain from the collaboration, club goods can emerge naturally. James M. Buchanan showed in his seminal paper that clubs can be an efficient alternative to government interventions.

On the other hand, the inefficiencies and inequities of club goods exclusions sometimes cause potentially excludable club goods to be treated as public goods, and their production financed by some other mechanism. Examples of such "natural" club goods include natural monopolies with very high fixed costs, private golf courses, cinemas, cable television and social clubs. This explains why many such goods are often provided or subsidized by governments, co-operatives or volunteer associations, rather than being left to be supplied by profit-minded entrepreneurs. These goods are often known as social goods.

Joseph Schumpeter claimed that the "excess profits," or profits over normal profit, generated by the copyright or patent monopoly will attract competitors that will make technological innovations and thereby end the monopoly. This is a continual process referred to as "Schumpeterian creative destruction", and its applicability to different types of public goods is a source of some controversy. The supporters of the theory point to the case of Microsoft, for example, which has been increasing its prices (or lowering its products' quality), predicting that these practices will make increased market shares for Linux and Apple largely inevitable.[citation needed]

A nation can be seen as a club whose members are its citizens. Government would then be the manager of this club. This is further studied in the Theory of the State.

If enough people do not think like free-riders, the private and voluntary provision of public goods may be successful. For example, a free rider might come to a public park to enjoy its beauty; yet discard litter that makes it less enjoyable for others. More public-spirited individuals don't do this (they might even pick up existing litter) -- why? There could be several reasons. Perhaps they have lived nearby for years and derive pleasure from helping their community, or at least would feel ashamed if their neighbors or friends saw them. Perhaps they are emotionally attached to the environment, or the park is a national treasure; littering it would offend their patriotism. To the extent that most people behave like this (for any reason), a public good is produced: everyone enjoys a clean park, without the government needing to spend tax money on maintenance crews.

Good or bad social behavior is contagious: people unconsciously adapt their behavior to that of their peers. Even people who engaged in free-riding by littering elsewhere are less likely to if they see others hold on to their trash.

Social norms can also be observed everywhere people interact, not only in physical spaces but in virtual communities on the Internet. According to Lawrence Lessig describes how social norms can regulate behavior in cyberspace: through an individual's perceptions from the (physical or virtual) surrounding community. For example, if a disabled person boards a crowded bus, everyone expects that some able-bodied person will volunteer their seat. The same social norm, although executed in a different environment, can also be applied to the Internet. If a user enters a discussion in a chat room and continues to use ALL CAPITAL LETTERS or make personal attacks ("flames") when addressing other users, the culprit may realize s/he has been blocked by other participants. As in real life, users learning to adapt to the social norms of cyberspace communities provide a public good—here, not suffering disruptive online behavior—for all the participants.

Social Sanctions (Punishment).

Experimental literature suggests that free riding can be overcome without any state intervention. Peer-to-peer punishment, that is, members sanction those members that do not contribute to the Public Good at a cost, is sufficient to establish and maintain cooperation. Such punishment is often considered altruistic, because it comes at a cost to the punisher, however, the exact nature remains to be explored. Whether costly punishment can explain cooperation is disputed. Recent research finds that costly punishment is less effective in real world environments. For example, punishment works relatively bad under imperfect information, where people cannot observe the behavior of other perfectly.

Voluntary Organizations.

Organizations such as the Red Cross, public radio and television or a volunteer fire department provide public goods to the majority at the expense of a minority who voluntarily participate or contribute funds. Contributions to online collaborative media like Wikipedia and other wiki projects, and free software projects such as Linux are another example of relatively few contributors providing a public good (information) freely to all readers or software users.

Proposed explanations for altruistic behavior include biological altruism and reciprocal altruism. For example, voluntary groups such as labor unions and charities often have a federated structure, probably in part because voluntary collaboration emerges more readily in smaller social groups than in large ones (e.g. see Dunbar's number).

While both biological and reciprocal altruism are observed in other animals, our species' complex social behaviors take these raw materials much farther. Philanthropy by wealthy individuals—some, such as Andrew Carnegie giving away their entire vast fortunes—have historically provided a multitude of public goods for others. One major impact was the Rockefeller Foundation's development of the "Green Revolution" hybrid grains that probably saved many millions of people from starvation in the 1970s. Christian missionaries, who typically spend large parts of their lives in remote, often dangerous places, have had disproportionate impact compared with their numbers worldwide for centuries. Communist revolutionaries in the 20th century had similar dedication and outsized impacts. International relief organizations such as Doctors Without Borders, Save the Children and Amnesty International have benefited millions, while also occasionally costing workers their lives. For better and for worse, humans can conceive of, and sacrifice for, an almost infinite variety of causes in addition to their biological kin. Reciprocal altruism that leads a vampire bat to regurgitate blood to feed a few others in its colony who fed it on previous nights when it flew back hungry, motivates humans to build lifelong careers in huge multinational corporations and lubricates vast systems of banking and trade and production between hundreds or thousands of actors worldwide.

Religions and Ideologies.

Voluntary altruistic organizations often motivate their members by encouraging deep-seated personal beliefs, whether religious or other (such as social justice or environmentalism) that are taken "on faith" more than proved by rational argument. When individuals resist temptations to free riding (e.g. stealing) because they hold these beliefs (or because they fear the disapproval of others who do), they

provide others with public goods that might be difficult or impossible to "produce" by administrative coercion alone.

One proposed explanation for the ubiquity of religious belief in human societies is multi-level selection: altruists often lose out within groups, but groups with more altruists win. A group whose members believe a "practical reality" that motivates altruistic behavior may out-compete other groups whose members' perception of "factual reality" causes them to behave selfishly. A classic example is a soldier's willingness to fight for his tribe or country. Another example given in evolutionary biologist David Sloan Wilson's *Darwin's Cathedral* is the early Christian church under the late Roman Empire. Because Roman society was highly individualistic, during frequent epidemics many of the sick died not of the diseases per se but for lack of basic nursing care. Christians, who believed in an afterlife, were willing to nurse the sick despite the risks. Although the death rate among the nurses was high, the average Christian had a much better chance of surviving an epidemic than other Romans did, and the community prospered.

Religious and non-religious traditions and ideologies (such as nationalism and patriotism) are in full view when a society is in crisis and public goods such as defense are most needed. Wartime leaders invoke their God's protection and claim that their society's most hallowed traditions are at stake. For example, according to President Abraham Lincoln's Gettysburg Address during the American Civil War, the Union was fighting so "that government of the people, by the people, for the people, shall not perish from the earth." Such voluntary, if exaggerated, exhortations complement forcible measures—taxation and conscription—to motivate people to make sacrifices for their cause.

The Pareto optimum provision of a public good in a society is at the level where the combined sum of the marginal rate of substitution between private goods and a given public good of all individuals is equal to the marginal rate of transformation. This contrasts to the Pareto optimality condition of private goods, in which each consumer's marginal rate of substitution is equal; as is the society's marginal rate of transformation.

When should a public good be provided? To illustrate the basic principle, consider a community composed of just two consumers. The government is considering whether or not to provide a park. Arthur is prepared to pay up to \$200 for use of the park, while Julia is willing to pay up to \$100. The total value to the two individuals of having the park is \$300. If it can be produced for \$225, there

is a \$75 gain on its production since it provides services that the community values at \$300 at a cost of only \$225.

Regardless of the method of providing public goods, the efficient level of such provision is still being subjected to economic analysis. For instance, the Samuelson condition calculates the efficient level of public goods production to be where the ratio of the marginal social cost of public and private goods production equals the ratio of the marginal social benefit of public and private goods production.

"If the amount of a public good can be varied continuously, the optimal quantity to produce is that quantity for which the marginal cost of the last unit is just equal to the sum of the prices that all consumers would be willing to pay for that unit." This equilibrium guarantees that the last unit of the public good costs as much to produce as the value that it gives to all of its consumers.

CHAPTER 10

WELFARE IN PUBLIC ADMINISTRATION

Welfare is the provision of a minimal level of well-being and social support for all citizens, sometimes referred to as public aid. In most developed countries welfare is largely provided by the government, and to a lesser extent, charities, informal social groups, religious groups, and inter-governmental organizations.

The welfare state expands on this concept to include services such as universal healthcare and unemployment insurance.

In the Roman Empire, the first emperor Augustus provided the 'congiaria' or grain dole for citizens who could not afford to buy food. Social welfare was enlarged by the Emperor Trajan. Trajan's program brought acclaim from many, including Pliny the Younger. The Song dynasty government (c.1000AD in China) supported multiple programs which could be classified as social welfare, including the establishment of retirement homes, public clinics, and paupers' graveyards. According to Robert Henry Nelson, "The medieval Roman Catholic Church operated a far-reaching and comprehensive welfare system for the poor..."

Early Welfare programs in Europe included the English Poor Law of 1601, which gave parishes the responsibility for providing welfare payments to the poor. This system was substantially modified by the 19th-century Poor Law Amendment Act, which introduced the system of workhouses.

It was predominantly in the late 19th and early 20th centuries that an organized system of state welfare provision was introduced in many countries. Otto von Bismarck, Chancellor of Germany, introduced one of the first welfare systems for the working classes. In Great Britain the Liberal government of Henry Campbell-Bannerman and David Lloyd George introduced the National Insurance system in 1911, a system later expanded by Clement Attlee. The United States inherited England's poor house laws and has had a form of welfare since before it won its independence. During the Great Depression, when emergency relief measures were introduced under President Franklin D. Roosevelt, Roosevelt's New Deal focused predominantly on a program of providing work and stimulating the economy through public spending on projects, rather than on cash payment.

In the Islamic world, Zakat (charity), one of the Five Pillars of Islam, has been collected by the government since the time of the Rashidun caliph Umar in the 7th century. The taxes were used to provide income for the needy, including the poor,

elderly, orphans, widows, and the disabled. According to the Islamic jurist Al-Ghazali (Algazel, 1058–1111), the government was also expected to store up food supplies in every region in case a disaster or famine occurred. (See Bayt al-mal for further information.)

Forms.

Welfare can take a variety of forms, such as monetary payments, subsidies and vouchers, or housing assistance. Welfare systems differ from country to country, but welfare is commonly provided to individuals who are unemployed, those with illness or disability, the elderly, those with dependent children, and veterans. A person's eligibility for welfare may also be constrained by means testing or other conditions.

Provision and funding.

Welfare is provided by governments or their agencies, by private organizations, or a combination of both. Funding for welfare usually comes from general government revenue, but when dealing with charities or NGO's, donations may be used. Some countries run conditional cash transfer welfare programs where payment is conditional on behaviour of the recipients.

Canada.

Canada has a welfare state in the European tradition; however, it is not referred to as "welfare", but rather as "social programs". In Canada, "welfare" usually refers specifically to direct payments to poor individuals (as in the American usage) and not to healthcare and education spending (as in the European usage).

The Canadian social safety net covers a broad spectrum of programs, and because Canada is a federation, many are run by the provinces. Canada has a wide range of government transfer payments to individuals, which totaled \$145 billion in 2006. Only social programs that direct funds to individuals are included in that cost; programs such as medicare and public education are additional costs.

Generally speaking, before the Great Depression, most social services were provided by religious charities and other private groups. Changing government policy between the 1930s and 1960s saw the emergence of a welfare state, similar to many Western European countries. Most programs from that era are still in use, although many were scaled back during the 1990s as government priorities shifted towards reducing debt and deficits.

Denmark.

Characteristics of the Danish welfare is that it is handled by the state through a series of policies (and the like) that seeks to provide welfare services to citizens, hence the term welfare state. This refers not only to social benefits, but also tax-funded education, public child care, medical care etc. - A number of these services are not provided by the state directly, but administered by municipalities, regions or private providers through outsourcing. This sometimes gives a source of tension between the state and municipalities, as there is not always consistency between the promises of welfare provided by the state (i.e. parliament) and local perception of what it would cost to fulfill these promises.

France.

Solidarity is a strong value of the French Social Protection system. The first article of the French Code of Social Security describes the principle of solidarity. Solidarity is commonly comprehended in relations of similar work, shared responsibility and common risks. Existing solidarities in France caused the expansion of health and social security.

Germany

The welfare state has a long tradition in Germany dating back to the industrial revolution. Due to the pressure of the workers' movement in the late 19th century, Reichskanzler Otto von Bismarck introduced the first rudimentary state social insurance scheme. Today, the social protection of all its citizens is considered a central pillar of German national policy. 27.6 percent of Germany's GDP is channeled into an all-embracing system of health, pension, accident, longterm care and unemployment insurance, compared to 16.2 percent in the US. In addition, there are tax-financed services such as child benefits (Kindergeld, beginning at €184 per month for the first and second children, €190 for the third and €215 for each child thereafter, until they attain 25 years or receive their first professional qualification), and basic provisions for those unable to work or anyone with an income below the poverty line.

Since 2005, reception of full unemployment pay (60–67% of the previous net salary) has been restricted to 12 months in general and 18 months for those over 55. This is now followed by (usually much lower) Arbeitslosengeld II (ALG II) or Sozialhilfe, which is independent of previous employment (Hartz IV concept).

Under ALG II, a single person receives €391 per month plus the cost of 'adequate' housing and health insurance. ALG II can also be paid partially to supplement a low work income.

Italy

The Italian welfare state's foundations were laid along the lines of the corporatist-conservative model, or of its Mediterranean variant. Later, in the 1960s and 1970s, increases in public spending and a major focus on universality brought it on the same path as social-democratic systems. In 1978, a universalistic welfare model was introduced in Italy, offering a number of universal and free services such as a National Health Fund.

Japan

Social welfare, assistance for the ill or otherwise disabled and for the old, has long been provided in Japan by both the government and private companies. Beginning in the 1920s, the government enacted a series of welfare programs, based mainly on European models, to provide medical care and financial support. During the postwar period, a comprehensive system of social security was gradually established.

Latin America

The 1980s marked a change in the structure of Latin American social protection programs. Social protection embraces three major areas: social insurance, financed by workers and employers; social assistance to the population's poorest, financed by the state; and labor market regulations to protect worker rights.[20] Although diverse, recent Latin American social policy has tended to concentrate on social assistance.

The 1980s had a significant effect on social protection policies. Prior to the 1980s, most Latin American countries focused on social insurance policies involving formal sector workers, assuming that the informal sector would disappear with economic development. The economic crisis of the 1980s and the liberalization of the labor market led to a growing informal sector and a rapid increase in poverty and inequality. Latin American countries did not have the institutions and funds to properly handle such a crisis, both due to the structure of the social security system, and to the previously implemented structural adjustment policies (SAPs) that had decreased the size of the state.

New Welfare programs have integrated the multidimensional, social risk management, and capabilities approaches into poverty alleviation. They focus on income transfers and service provisions while aiming to alleviate both long- and

short-term poverty through, among other things, education, health, security, and housing. Unlike previous programs that targeted the working class, new programs have successfully focused on locating and targeting the very poorest.

The impacts of social assistance programs vary between countries, and many programs have yet to be fully evaluated. According to Barrientos and Santibanez, the programs have been more successful in increasing investment in human capital than in bringing households above the poverty line. Challenges still exist, including the extreme inequality levels and the mass scale of poverty; locating a financial basis for programs; and deciding on exit strategies or on the long-term establishment of programs.

New Zealand

New Zealand is often regarded as having one of the first comprehensive welfare systems in the world. During the 1890s a Liberal government adopted many social programmes to help the poor who had suffered from a long economic depression in the 1880s. One of the most far reaching was the passing of tax legislation that made it difficult for wealthy sheep farmers to hold onto their large land holdings. This and the invention of refrigeration led to a farming revolution where many sheep farms were broken up and sold to become smaller dairy farms. This enabled thousands of new farmers to buy land and develop a new and vigorous industry that has become the backbone of New Zealand's economy to this day. This liberal tradition flourished with increased enfranchisement for indigenous Maori in the 1880s and women. Pensions for the elderly, the poor and war casualties followed, with State run schools, hospitals and subsidized medical and dental care. By 1960 New Zealand was able to afford one of the best-developed and most comprehensive welfare systems in the world, supported by a well-developed and stable economy.

Sweden

Social welfare in Sweden is made up of several organizations and systems dealing with welfare. It is mostly funded by taxes, and executed by the public sector on all levels of government as well as private organisations. It can be separated into three parts falling under three different ministries; social welfare, falling under the responsibility of Ministry of Health and Social Affairs; education, under the responsibility of the Ministry of Education and Research and labour market, under the responsibility of Ministry of Employment.

Government pension payments are financed through an 18.5% pension tax on all taxed incomes in the country, which comes partly from a tax category called a public pension fee (7% on gross income), and 30% of a tax category called employer fees on salaries (which is 33% on a netted income). Since January 2001 the 18.5% is divided in two parts: 16% goes to current payments, and 2.5% goes into individual retirement accounts, which were introduced in 2001. Money saved and invested in

government funds, and IRAs for future pension costs, are roughly 5 times annual government pension expenses (725/150).

United Kingdom

The United Kingdom has a long history of welfare, notably including the English Poor laws which date back to 1536. After various reforms to the program, which involved workhouses, it was eventually abolished and replaced with a modern system by laws such as National Assistance Act 1948.

United States

In the United States, depending on the context, the term “welfare” can be used to refer to means-tested cash benefits, especially the Aid to Families with Dependent Children (AFDC) program and its successor, the Temporary Assistance for Needy Families Block Grant, or it can be used to refer to all means-tested programs that help individuals or families meet basic needs, including, for example, health care through Medicaid, Supplemental Security Income (SSI) benefits and food and nutrition programs (SNAP). Social Insurance programs such as Unemployment Insurance, Social Security, and Medicare are not generally considered "welfare."

AFDC (originally called Aid to Dependent Children) was created during the Great Depression to alleviate the burden of poverty of families with children and allow widowed mothers to maintain their households. (New Deal employment program such as the Works Progress Administration primarily served men). Prior to the New Deal, anti-poverty programs were primarily operated by private charities or state or local governments; however, these programs were overwhelmed by the depth of need during the Depression. The United States has no national program of cash assistance for non-disabled poor individuals who are not raising children.

In 1996, the Personal Responsibility and Work Opportunity Reconciliation Act changed the structure of Welfare payments and added new criteria to states that received Welfare funding. After reforms, which President Clinton said would "end Welfare as we know it", amounts from the federal government were given out in a flat rate per state based on population. Each state must meet certain criteria to ensure recipients are being encouraged to work themselves out of Welfare. The new program is called Temporary Assistance for Needy Families (TANF). It encourages states to require some sort of employment search in exchange for providing funds to individuals, and imposes a five-year lifetime limit on cash assistance. In FY 2010, 31.8% of TANF families were white, 31.9% were African-American, and 30.0% were Hispanic.

According to the U.S. Census Bureau data released September 13, 2011, the nation's poverty rate rose to 15.1% (46.2 million) in 2010, up from 14.3%

(approximately 43.6 million) in 2009 and to its highest level since 1993. In 2008, 13.2% (39.8 million) Americans lived in relative poverty.

In a 2011 op-ed in *Forbes*, Peter Ferrara stated that, "The best estimate of the cost of the 185 federal means tested Welfare programs for 2010 for the federal government alone is nearly \$700 billion, up a third since 2008, according to the Heritage Foundation. Counting state spending, total Welfare spending for 2010 reached nearly \$900 billion, up nearly one-fourth since 2008 (24.3%)". California, with 12% of the U.S. population, has one-third of the nation's welfare recipients. [33]

In FY 2011, federal spending on means-tested welfare, plus state contributions to federal programs, reached \$927 billion per year. Roughly half of this welfare assistance, or \$462 billion went to families with children, most of which are headed by single parents.

Criticism

Income transfers can be either conditional or unconditional. There is no substantial evidence that conditional transfers are more effective than unconditional ones. Conditionalities are sometimes critiqued for being paternalistic and unnecessary.

Current programs have been built as short-term rather than as permanent institutions, and many of them have rather short time spans (around five years). Some programs have time frames that reflect available funding. One example of this is Bolivia's Bonosol, which is financed by proceeds from the privatization of utilities—an unsustainable funding source. Some see Latin America's social assistance programs as a way to patch up high levels of poverty and inequalities, partly brought on by the current economic system.

Some opponents of welfare argue that it affects work incentives. They also argue that the taxes levied can also affect work incentives. A good example of this would be the reform of the Aid to Families with Dependent Children (AFDC) program. Per AFDC, some amount per recipient is guaranteed. However, for every dollar the recipient earns the monthly stipend is decreased by an equivalent amount. For most persons, this reduces their incentive to work. This program was replaced by Temporary Aid to Needy Families (TANF). Under TANF, people were required to actively seek employment while receiving aid and they could only receive aid for a limited amount of time. However, states can choose the amount of resources they will devote to the program.

CHAPTER 11

THE ROLE OF DEMOCRACY IN PUBLIC ADMINISTRATION

Democracy is a form of government in which all eligible citizens participate equally—either directly or indirectly through elected representatives—in the proposal, development, and creation of laws. It encompasses social, religious, cultural, ethnic and racial equality, justice, and liberty. The term originates from the Greek δημοκρατία (dēmokratía) "rule of the people", which was found from δῆμος (dêmos) "people" and κράτος (kratos) "power" or "rule" in the 5th century BCE to denote the political systems then existing in Greek city-states, notably Athens; the term is an antonym to αριστοκρατία (aristokratia) "rule of an elite". While theoretically these definitions are in opposition, in practice the distinction has been blurred historically. The political system of Classical Athens, for example, granted democratic citizenship to an elite class of free men and excluded slaves and women from political participation. In virtually all democratic governments throughout ancient and modern history, democratic citizenship consisted of an elite class until full enfranchisement was won for all adult citizens in most modern democracies through the suffrage movements of the 19th and 20th centuries. The English word dates to the 16th century, from the older Middle French and Middle Latin equivalents.

Democracy contrasts with forms of government where power is either held by an individual, as in an absolute monarchy, or where power is held by a small number of individuals, as in an oligarchy. Nevertheless, these oppositions, inherited from Greek philosophy, are now ambiguous because contemporary governments have mixed democratic, oligarchic, and monarchic elements. Karl Popper defined democracy in contrast to dictatorship or tyranny, thus focusing on opportunities for the people to control their leaders and to oust them without the need for a revolution.

Several variants of democracy exist, but there are two basic forms, both of which concern how the whole body of all eligible citizens executes its will. One form of democracy is direct democracy, in which all eligible citizens have direct and active participation in the political decision making. In most modern democracies, the whole body of all eligible citizens remain the sovereign power but political power is exercised indirectly through elected representatives; this is called representative democracy or democratic republic. The concept of representative democracy arose largely from ideas and institutions that developed during the European Middle Ages,

the Reformation, the Age of Enlightenment, and the American and French Revolutions.

No consensus exists on how to define democracy, but legal equality, freedom and rule of law have been identified as important characteristics since ancient times. These principles are reflected in all eligible citizens being equal before the law and having equal access to legislative processes. For example, in a representative democracy, every vote has equal weight, no unreasonable restrictions can apply to anyone seeking to become a representative, and the freedom of its eligible citizens is secured by legitimised rights and liberties which are typically protected by a constitution.

One theory holds that democracy requires three fundamental principles: 1) upward control, i.e. sovereignty residing at the lowest levels of authority, 2) political equality, and 3) social norms by which individuals and institutions only consider acceptable acts that reflect the first two principles of upward control and political equality.

The term "democracy" is sometimes used as shorthand for liberal democracy, which is a variant of representative democracy that may include elements such as political pluralism; equality before the law; the right to petition elected officials for redress of grievances; due process; civil liberties; human rights; and elements of civil society outside the government. Roger Scruton argues that democracy alone can't provide personal and political freedom unless the institutions of civil society are also present.

In some countries, notably in the United Kingdom which originated the Westminster system, the dominant principle is that of parliamentary sovereignty, while maintaining judicial independence. In the United States, separation of powers is often cited as a central attribute. In India, the world's largest democracy, parliamentary sovereignty is subject to a constitution which includes judicial review. Other uses of "democracy" include that of direct democracy. Though the term "democracy" is typically used in the context of a political state, the principles also are applicable to private organisations.

Majority rule is often listed as a characteristic of democracy. Hence, democracy allows for political minorities to be oppressed by the "tyranny of the majority" in the absence of legal protections of individual or group rights. An essential part of an "ideal" representative democracy is competitive elections that are fair both substantively and procedurally. Furthermore, freedom of political expression, freedom of speech, and freedom of the press are considered to be

essential rights that allow eligible citizens to be adequately informed and able to vote according to their own interests.

It has also been suggested that a basic feature of democracy is the capacity of all voters to participate freely and fully in the life of their society. With its emphasis on notions of social contract and the collective will of the all voters, democracy can also be characterised as a form of political collectivism because it is defined as a form of government in which all eligible citizens have an equal say in lawmaking.

While democracy is often equated with the republican form of government, the term "republic" classically has encompassed both democracies and aristocracies. Some democracies are constitutional monarchies, such as the United Kingdom.

The term "democracy" first appeared in ancient Greek political and philosophical thought in the city-state of Athens during classical antiquity. Led by Cleisthenes, Athenians established what is generally held as the first democracy in 508–507 BC. Cleisthenes is referred to as "the father of Athenian democracy."

Athenian democracy took the form of a direct democracy, and it had two distinguishing features: the random selection of ordinary citizens to fill the few existing government administrative and judicial offices, and a legislative assembly consisting of all Athenian citizens. All eligible citizens were allowed to speak and vote in the assembly, which set the laws of the city state. However, Athenian citizenship excluded women, slaves, foreigners (μέτοικοι metoikoi), non-landowners, and males under 20 years old.

Of the estimated 200,000 to 400,000 inhabitants of Athens, there were between 30,000 and 60,000 citizens. The exclusion of large parts of the population from the citizen body is closely related to the ancient understanding of citizenship. In most of antiquity the benefit of citizenship was tied to the obligation to fight war campaigns.

Athenian democracy was not only direct in the sense that decisions were made by the assembled people, but also the most direct in the sense that the people through the assembly, boule and courts of law controlled the entire political process and a large proportion of citizens were involved constantly in the public business. Even though the rights of the individual were not secured by the Athenian constitution in the modern sense (the ancient Greeks had no word for "rights"), the Athenians enjoyed their liberties not in opposition to the government but by living in a city that was not subject to another power and by not being subjects themselves to the rule of another person.

Range voting appeared in Sparta as early as 700 BC. The Apella was an assembly of the people, held once a month. In the Apella, Spartans elect leaders and made voting by range voting and shouting. Every male citizen of age 30 could participate. Aristotle called this "childish," as opposed to something sophisticated as using stone voting ballots the Athenians used. But in terms, Sparta adopted it because of its simplicity, and to prevent any bias voting, buying, or cheating that was predominant in the early democratic elections.

Even though the Roman Republic contributed significantly to many aspects of democracy, only a minority of Romans were citizens with votes in elections for representatives. The votes of the powerful were given more weight through a system of gerrymandering, so most high officials, including members of the Senate, came from a few wealthy and noble families. However, many notable exceptions did occur. In addition, the Roman Republic was the first government in the western world to have a Republic as a nation-state, although it didn't have much of a democracy. The Romans invented the concept of classics and many works from Ancient Greece were preserved. Additionally, the Roman model of governance inspired many political thinkers over the centuries, and today's modern representative democracies imitate more the Roman than the Greek models because it was a state in which supreme power was held by the people and their elected representatives, and which had an elected or nominated leader. Representative democracy is a form of democracy in which people vote for representatives who then vote on policy initiatives as opposed to a direct democracy, a form of democracy in which people vote on policy initiatives directly.

During the Middle Ages, there were various systems involving elections or assemblies, although often only involving a small part of the population. These included:

- the South Indian Kingdom of the Chola in the Tamil Nadu region of the Indian Subcontinent had an electoral system 1000 years ago,
- Carantania, old Slavic/Slovenian principality, the Ducal Inauguration from 7th to 15th century,
- the upper-caste election of the Gopala in the Bengal region of the Indian Subcontinent,
- the Polish-Lithuanian Commonwealth (10% of population),
- the Althing in Iceland,
- the Løgting in the Faeroe Islands,
- certain medieval Italian city-states such as Venice,

- the tuatha system in early medieval Ireland,
- the Veche in Novgorod and Pskov Republics of medieval Russia,
- Scandinavian Things,
- The States in Tirol and Switzerland,
- the autonomous merchant city of Sakai in the 16th century in Japan,
- Volta-Nigeric societies such as Igbo.
- the Mekhk-Khel system of the Nakh peoples of the North Caucasus, by which representatives to the Council of Elders for each teip (clan) were popularly elected by that teip's members.

Most regions in medieval Europe were ruled by clergy or feudal lords.

The Kouroukan Fouga divided the Mali Empire into ruling clans (lineages) that were represented at a great assembly called the Gbara. However, the charter made Mali more similar to a constitutional monarchy than a democratic republic. A little closer to modern democracy were the Cossack republics of Ukraine in the 16th and 17th centuries: Cossack Hetmanate and Zaporizhian Sich. The highest post – the Hetman – was elected by the representatives from the country's districts.

The Parliament of England had its roots in the restrictions on the power of kings written into Magna Carta (1215), which explicitly protected certain rights of the King's subjects, whether free or fettered – and implicitly supported what became English writ of habeas corpus, safeguarding individual freedom against unlawful imprisonment with right to appeal. The first elected parliament was De Montfort's Parliament in England in 1265. The emergence of petitioning is some of the earliest evidence of parliament being used as a forum to address the general grievances of ordinary people.

However, only a small minority actually had a voice; Parliament was elected by only a few percent of the population (less than 3% as late as 1780), and the power to call parliament was at the pleasure of the monarch.

During the early modern period, the power of the Parliament of England continually increased. The idea of a political party took form in England with groups freely debating rights to political representation during the Putney Debates of 1647. After the English Civil Wars (1642–1651) and the Glorious Revolution of 1688, the English Bill of Rights of 1689 was enacted, which codified certain rights and liberties, and is still in effect. The Bill set out the rights of Parliament, rules for freedom of speech in Parliament and limited the power of the monarch, ensuring that, unlike much of the rest of Europe, royal absolutism would not prevail. The voting

franchise was slowly increased and Parliament gradually gained more power until the monarch became largely a figurehead.

In North America, representative government began in Jamestown, Virginia, with the election of the House of Burgesses (forerunner of the Virginia General Assembly) in 1619. English Puritans who migrated from 1620 established colonies in New England whose local governance was democratic and which contributed to the democratic development of the United States; although these local assemblies had some small amounts of devolved power, the ultimate authority was held by the Crown and the English Parliament. The Puritans (Pilgrim Fathers), Baptists, and Quakers who founded these colonies applied the democratic organisation of their congregations also to the administration of their communities in worldly matters.

The establishment of universal male suffrage in France in 1848 was an important milestone in the history of democracy.

The first Parliament of Great Britain was established in 1707, after the merger of the Kingdom of England and the Kingdom of Scotland under the Acts of Union 1707. The formation of this Parliament marked the continued expansion of parliamentary power, and decrease of monarchical power.

The creation of the short-lived Corsican Republic in 1755 marked the first nation in modern history to adopt a democratic constitution. This Corsican Constitution was the first based on Enlightenment principles and included female suffrage, something that was not granted in most other democracies until the 20th century.

In the American colonial period before 1776, and for some time after, often only adult white male property owners could vote; enslaved Africans, most free black people and most women were not extended the franchise. On the American frontier, democracy became a way of life, with more widespread social, economic and political equality. Although not described as a democracy by the founding fathers, they shared a determination to root the American experiment in the principles of natural freedom and equality.

The American Revolution led to the adoption of the United States Constitution in 1787. The Constitution provided for an elected government and protected civil rights and liberties for some, but did not end slavery nor give voting rights to women. This constitution is the oldest surviving, still active, governmental codified constitution in the world. The Bill of Rights in 1791 set limits on government power to protect personal freedoms.

In 1789, Revolutionary France adopted the Declaration of the Rights of Man and of the Citizen and, although short-lived, the National Convention was elected by all males in 1792. Universal male suffrage was established in France in March 1848 in the wake of the French Revolution of 1848. In 1848, several revolutions broke out in Europe as rulers were confronted with popular demands for liberal constitutions and more democratic government.

During this period, slavery remained a social and economic institution in places around the world. This was particularly the case in the eleven states of the American South. A variety of organisations were established advocating the movement of black people from the United States to locations where they would enjoy greater freedom and equality.

The U.K. Slave Trade Act 1807 banned the trade across the British Empire from 1807 after which the Royal Navy began to combat foreign slave traders. In 1833, the U.K. passed the Slavery Abolition Act.

As the voting franchise in the U.K. was increased, it also was made more uniform; many rotten boroughs, with a small number of voters electing a Member of Parliament, were eliminated in the Reform Act of 1832.

In the 1860 United States Census, the slave population in the United States had grown to four million, and in Reconstruction after the Civil War (late 1860s), the newly freed slaves became citizens with a nominal right to vote for men. Full enfranchisement of citizens was not secured until after the African-American Civil Rights Movement (1955–1968) gained passage by the United States Congress of the Voting Rights Act of 1965.

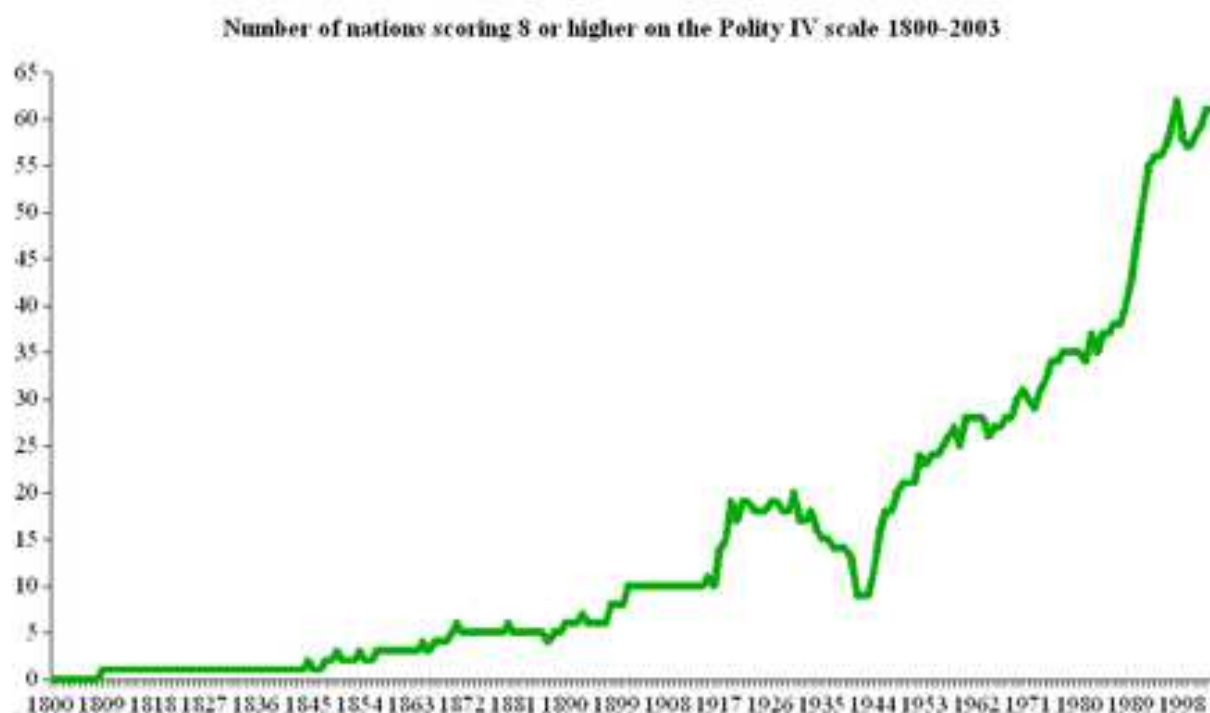


Fig. 2 – The number of nations 1800–2003 scoring 8 or higher on Polity IV scale, another widely used measure of democracy.

20th-century transitions to liberal democracy have come in successive "waves of democracy," variously resulting from wars, revolutions, decolonisation, religious and economic circumstances. World War I and the dissolution of the Ottoman and Austro-Hungarian empires resulted in the creation of new nation-states from Europe, most of them at least nominally democratic.

In the 1920s democracy flourished, but the Great Depression brought disenchantment, and most of the countries of Europe, Latin America, and Asia turned to strong-man rule or dictatorships. Fascism and dictatorships flourished in Nazi Germany, Italy, Spain and Portugal, as well as nondemocratic regimes in the Baltics, the Balkans, Brazil, Cuba, China, and Japan, among others.

World War II brought a definitive reversal of this trend in western Europe. The democratisation of the American, British, and French sectors of occupied Germany, Austria, Italy, and the occupied Japan served as a model for the later theory of regime change.

However, most of Eastern Europe, including the Soviet sector of Germany fell into the non-democratic Soviet bloc. The war was followed by decolonisation, and again most of the new independent states had nominally democratic constitutions. India emerged as the world's largest democracy and continues to be so.

By 1960, the vast majority of country-states were nominally democracies, although most of the world's populations lived in nations that experienced sham elections, and other forms of subterfuge (particularly in Communist nations and the former colonies.)

A subsequent wave of democratisation brought substantial gains toward true liberal democracy for many nations. Spain, Portugal (1974), and several of the military dictatorships in South America returned to civilian rule in the late 1970s and early 1980s (Argentina in 1983, Bolivia, Uruguay in 1984, Brazil in 1985, and Chile in the early 1990s). This was followed by nations in East and South Asia by the mid-to-late 1980s.

Economic malaise in the 1980s, along with resentment of Soviet oppression, contributed to the collapse of the Soviet Union, the associated end of the Cold War, and the democratisation and liberalisation of the former Eastern bloc countries. The most successful of the new democracies were those geographically and culturally closest to western Europe, and they are now members or candidate members of the European Union. Some researchers consider that contemporary Russia is not a true democracy and instead resembles a form of dictatorship.

The liberal trend spread to some nations in Africa in the 1990s, most prominently in South Africa. Some recent examples of attempts of liberalisation include the Indonesian Revolution of 1998, the Bulldozer Revolution in Yugoslavia, the Rose Revolution in Georgia, the Orange Revolution in Ukraine, the Cedar Revolution in Lebanon, the Tulip Revolution in Kyrgyzstan, and the Jasmine Revolution in Tunisia.

According to Freedom House, in 2007 there were 123 electoral democracies (up from 40 in 1972). According to World Forum on Democracy, electoral democracies now represent 120 of the 192 existing countries and constitute 58.2 percent of the world's population. At the same time liberal democracies i.e. countries Freedom House regards as free and respectful of basic human rights and the rule of law are 85 in number and represent 38 percent of the global population.

In 2010 the United Nations declared September 15 the International Day of Democracy.

CHAPTER 12

MUNICIPAL GOVERNMENTS

A municipality is usually an urban administrative division having corporate status and usually powers of self-government or jurisdiction. The term municipality is also used to mean the governing body of a municipality. A municipality is a general-purpose administrative subdivision, as opposed to a special-purpose district. The term is derived from French "municipalité" and Latin "municipalis".

The English word "Municipality" derives from the Latin social contract "Municipium", meaning duty holders, referring to the Latin communities that supplied Rome with troops in exchange for their own incorporation into the Roman state (granting Roman citizenship to the inhabitants) while permitting the communities to retain their own local governments (a limited autonomy).

A municipality can be any political jurisdiction from a sovereign state, such as the Principality of Monaco, or a small village, such as West Hampton Dunes, New York.

The territory over which a municipality has jurisdiction may encompass:

- only one populated place such as a city, town, or village
- several of such places (e.g., early jurisdictions in the state of New Jersey (1798-1899) as townships governing several villages, Municipalities of Mexico)
- only parts of such places, sometimes boroughs of a city such as the 34 municipalities of Santiago, Chile.

A municipal corporation is the legal term for a local governing body, including (but not necessarily limited to) cities, counties, towns, townships, charter townships, villages, and boroughs.

Municipal incorporation occurs when such municipalities become self-governing entities under the laws of the state or province in which they are located. Often, this event is marked by the award or declaration of a municipal charter.

With the notable exceptions of the City of London Corporation and the Laugharne Corporation, the term has fallen out of favour in the United Kingdom, but the concept remains central to local government in the United Kingdom, as well as former British colonies such as India and Canada.

Municipal charters

A city charter or town charter (generically, municipal charter) is a legal document establishing a municipality such as a city or town. The concept developed in Europe during the middle ages and is considered to be a municipal version of a constitution.

Traditionally the granting of a charter gave a settlement and its inhabitants the right to town privileges under the feudal system. Townspeople who lived in chartered towns were burghers, as opposed to serfs who lived in villages. Towns were often "free", in the sense that they were directly protected by the king or emperor, and were not part of a feudal fief.

Today the process for granting charters is determined by the type of government of the state in question. In monarchies, charters are still often a royal charter given by the Crown or the state authorities acting on behalf of the Crown. In federations, the granting of charters may be within the jurisdiction of the lower level of government such as a state or province.

CHAPTER 13

BUREAUCRACY IN PUBLIC ADMINISTRATION

A bureaucracy is "a body of non elective government officials" and/or "an administrative policy-making group." Historically, bureaucracy referred to government administration managed by departments staffed with nonelected officials. In modern parlance, bureaucracy refers to the administrative system governing any large institution.

Since being coined, the word "bureaucracy" has developed negative connotations for some. Bureaucracies are criticized when they become too complex, inefficient, or too inflexible. The dehumanizing effects of excessive bureaucracy were a major theme in the work of Franz Kafka, and were central to his masterpiece *The Trial*. The elimination of unnecessary bureaucracy is a key concept in modern managerial theory, and has been a central issue in numerous political campaigns.

Others have defended the necessity of bureaucracies. The German sociologist Max Weber argued that bureaucracy constitutes the most efficient and rational way in which human activity can be organized, and that systematic processes and organized hierarchies were necessary to maintain order, maximize efficiency and eliminate favoritism. But even Weber saw unfettered bureaucracy as a threat to individual freedom, in which an increase in the bureaucratization of human life can trap individuals in an "iron cage" of rule-based, rational control.

The term "bureaucracy" is French in origin, and combines the French word bureau – desk or office – with the Greek word κράτος *kratos* – rule or political power. It was coined sometime in the mid-1700s by the French economist Jacques Claude Marie Vincent de Gournay, and was a satirical pejorative from the outset. Gournay never wrote the term down, but was later quoted at length in a letter from a contemporary:

The late M. de Gournay...sometimes used to say: "We have an illness in France which bids fair to play havoc with us; this illness is called bureaumania." Sometimes he used to invent a fourth or fifth form of government under the heading of "bureaucracy."

— Baron von Grimm

The first known English-language use was in 1818. The 19th-century definition referred to a system of governance in which offices were held by unelected

career officials, and in this sense "bureaucracy" was seen as a distinct form of government, often subservient to a monarchy. In the 1920s, the definition was expanded by the German sociologist Max Weber to include any system of administration conducted by trained professionals according to fixed rules. Weber saw the bureaucracy as a relatively positive development; however by 1944, the Austrian economist Ludwig von Mises noted that the term bureaucracy was "always applied with an opprobrious connotation," and by 1957 the American sociologist Robert Merton noted that the term "bureaucrat" had become an epithet.

Although the term "bureaucracy" was not coined until the mid-1700s, the idea of organized and consistent administrative systems is much older. The development of writing (ca. 3500 BCE) and the use of documents was critical to the administration of this system, and the first definitive emergence of bureaucracy is in ancient Sumer, where an emergent class of scribes used clay tablets to administer the harvest and allocate its spoils. Ancient Egypt also had a hereditary class of scribes that administered the civil service bureaucracy. Much of what is known today of these cultures comes from the writing of the scribes.

Ancient Rome was administered by a hierarchy of regional proconsuls and their deputies. The reforms of Diocletian doubled the number of administrative districts and led to a large-scale expansion in Roman bureaucracy. The early Christian author Lactantius claimed that Diocletian's reforms led to widespread economic stagnation, since "the provinces were divided into minute portions, and many presidents and a multitude of inferior officers lay heavy on each territory." After the Empire split, the Byzantine Empire developed a notoriously complicated administrative hierarchy, and in time the term "byzantine" came to refer to any complex bureaucratic structure.

In Ancient China, the scholar Confucius established a complex system of rigorous procedures governing relationships in family, religion and politics. Confucius sought to construct an organized state free from corruption. In Imperial China, the bureaucracy was headed by a Chief Counselor. Within the bureaucracy, the positions were of a "graded civil service" and competitive exams were held to determine who held positions. The upper levels of the system held nine grades, and the officials wore distinctive clothing. The Confucian Classics codified a set of values held by the officials.

A modern form of bureaucracy evolved in the expanding Department of Excise in the United Kingdom, during the 18th century. The relative efficiency and professionalism in this state-run authority allowed the government to impose a very

large tax burden on the population and raise great sums of money for war expenditure. According to Niall Ferguson, the bureaucracy was based on "recruitment by examination, training, promotion on merit, regular salaries and pensions, and standardized procedures". The system was subject to a strict hierarchy and emphasis was placed on technical and efficient methods for tax collection.

Instead of the inefficient and often corrupt system of tax farming that prevailed in absolutist states such as France, the Exchequer was able to exert control over the entire system of tax revenue and government expenditure. By the late 18th century, the ratio of fiscal bureaucracy to population in Britain was approximately 1 in 1300, almost four times larger than the second most heavily bureaucratized nation, France. The implementation of Her Majesty's Civil Service as a systematic, meritocratic civil service bureaucracy, followed the Northcote-Trevelyan Report of 1854, which recommended that recruitment should be on the basis of merit and promotion should be won through achievement. This system was modeled on the imperial examinations system and bureaucracy of China based on the suggestion of Northcote-Trevelyan Report.

France also saw a rapid and dramatic expansion of government in the 18th-century, accompanied by the rise of the French civil service; a phenomenon that became known as "bureaumania", in which complex systems of bureaucracy emerged. In the early 19th century, Napoleon attempted to reform the bureaucracies of France and other territories under his control by the imposition of the standardized Napoleonic Code. But paradoxically, this led to even further growth of the bureaucracy.

By the mid-19th century, bureaucratic forms of administration were firmly in place across the industrialized world. Thinkers like John Stuart Mill and Karl Marx began to theorize about the economic functions and power-structures of bureaucracy in contemporary life. Max Weber was the first to endorse bureaucracy as a necessary feature of modernity, and by the late 19th century bureaucratic forms had begun their spread from government to other large-scale institutions.

The trend toward increased bureaucratization continued in the 20th century, with the public sector employing over 5% of the workforce in many Western countries. Within capitalist systems, informal bureaucratic structures began to appear in the form of corporate power hierarchies, as detailed in mid-century works like *The Organization Man* and *The Man in the Grey Flannel Suit*. Meanwhile, in the Soviet Union and Eastern Bloc, a powerful class of bureaucratic administrators termed *nomenklatura* governed nearly all aspects of public life.

The 1980s brought a backlash against bureaucratic forms of rule. Politicians like Margaret Thatcher and Ronald Reagan gained power by promising to eliminate government regulatory bureaucracies, which they saw as overbearing, and return economic production to a more purely capitalistic mode, which they saw as more efficient. In the business world, managers like Jack Welch gained fortune and renown by eliminating bureaucratic structures inside the corporations themselves.

Still, in the modern world practically all organized institutions rely on bureaucratic systems to manage information, process and manage records, and administer complex systems and interrelationships in an increasingly globalized world, although the decline of paperwork and the widespread use of electronic databases is transforming the way bureaucracies function.

Theories of bureaucracy.

Karl Marx theorized about the role and function of bureaucracy in his Critique of Hegel's Philosophy of Right, published in 1843. In his Philosophy of Right, Hegel had supported the role of specialized officials in the role of public administration, although he never used the term "bureaucracy" himself. Marx by contrast was opposed to the bureaucracy. He saw the development of bureaucracy in government as a natural counterpart to the development of the corporation in private society. Marx posited that while the corporation and government bureaucracy existed in seeming opposition, in actuality they mutually relied on one another to exist. He wrote that "The Corporation is civil society's attempt to become state; but the bureaucracy is the state which has really made itself into civil society".

John Stuart Mill. Writing in the early 1860s, political scientist John Stuart Mill theorized that successful monarchies were essentially bureaucracies, and found evidence of their existence in Imperial China, the Russian Empire, and the regimes of Europe. Mill referred to bureaucracy as a distinct form of government, separate from representative democracy. He believed bureaucracies had certain advantages, most importantly the accumulation of experience in those who actually conduct the affairs. Nevertheless, he thought bureaucracy as a form of governance compared poorly to representative government, as it relied on appointment rather than direct election. Mill wrote that ultimately the bureaucracy stifles the mind, and that "A bureaucracy always tends to become a pedantocracy".

Max Weber. The German sociologist Max Weber described many ideal-typical forms of public administration, government, and business in his 1922 work Economy and Society. His critical study of the bureaucratisation of society became one of the most enduring parts of his work. It was Weber who began the studies of bureaucracy

and whose works led to the popularization of this term. Many aspects of modern public administration go back to him, and a classic, hierarchically organized civil service of the Continental type is called "Weberian civil service". As the most efficient and rational way of organizing, bureaucratization for Weber was the key part of the rational-legal authority, and furthermore, he saw it as the key process in the ongoing rationalization of the Western society. Although he is not necessarily an admirer of bureaucracy, Weber does argue that bureaucracy constitutes the most efficient and (formally) rational way in which human activity can be organized, and that thus is indispensable to the modern world.

Bureaucratic administration means fundamentally domination through knowledge — Max Weber.

Weber listed several preconditions for the emergence of bureaucracy. The growth in space and population being administered, the growth in complexity of the administrative tasks being carried out, and the existence of a monetary economy requiring a more efficient administrative system. Development of communication and transportation technologies make more efficient administration possible but also in popular demand, and democratization and rationalization of culture resulted in demands that the new system treats everybody equally.

Weber's ideal-typical bureaucracy is characterized by hierarchical organization, delineated lines of authority in a fixed area of activity, action taken on the basis of and recorded in written rules, bureaucratic officials need expert training, rules are implemented by neutral officials, career advancement depends on technical qualifications judged by organization, not individuals.

While recognizing bureaucracy as the most efficient form of organization, and even indispensable for the modern state, Weber also saw it as a threat to individual freedoms, and the ongoing bureaucratization as leading to a "polar night of icy darkness", in which increasing rationalization of human life traps individuals in a soulless "iron cage" of bureaucratic, rule-based, rational control.

Woodrow Wilson. Writing as an academic while a professor at Bryn Mawr College, his essay "The Study of Administration" argued for a bureaucracy as a professional cadre, devoid of allegiance to fleeting politics of the day. Wilson advocated a bureaucracy that "is a part of political life only as the methods of the counting house are a part of the life of society; only as machinery is part of the manufactured product. But it is, at the same time, raised very far above the dull level of mere technical detail by the fact that through its greater principles it is directly

connected with the lasting maxims of political wisdom, the permanent truths of political progress."

Wilson did not advocate a replacement of rule by the governed, he simply advised "Administrative questions are not political questions. Although politics sets the tasks for administration, it should not be suffered to manipulate its offices." This essay became the foundation for the study of public administration in America.

Ludwig von Mises. In his 1944 work *Bureaucracy*, the Austrian economist Ludwig von Mises was highly critical of all bureaucratic systems. He believed that bureaucracy should be the target of universal opprobrium, and noticed that in the political sphere it had few defenders, even among progressives. Mises saw bureaucratic processes at work in both the private and public spheres; however he believed that bureaucratization in the private sphere could only occur as a consequence of government interference. He wrote that "No private enterprise will ever fall prey to bureaucratic methods of management if it is operated with the sole aim of making profit."

Robert K. Merton. The American sociologist Robert K. Merton expanded on Weber's theories of bureaucracy in his work *Social Theory and Social Structure*, published in 1957. While Merton agreed with certain aspects of Weber's analysis, he also considered the dysfunctional aspects of bureaucracy, which he attributed to a "trained incapacity" resulting from "overconformity". He saw bureaucrats as more likely to defend their own entrenched interests than to act to benefit the organization as a whole. He also believed bureaucrats took pride in their craft, which led them to resist changes in established routines. Merton also noted that bureaucrats emphasized formality over interpersonal relationships, and had been trained to ignore the special circumstances of particular cases, causing them to come across as "arrogant" and "haughty".

CHAPTER 14

CIVIL SOCIETY

Civil society is the aggregate of non-governmental organizations and institutions that manifest interests and will of citizens Civil society includes the family and the private sphere, referred to as the "third sector" of society, distinct from government and business. Dictionary.com's 21st Century Lexicon defines civil society as 1) the aggregate of non-governmental organizations and institutions that manifest interests and will of citizens or 2) individuals and organizations in a society which are independent of the government.

Sometimes the term civil society is used in the more general sense of "the elements such as freedom of speech, an independent judiciary, etc, that make up a democratic society" (Collins English Dictionary). Especially in the discussions among thinkers of Eastern and Central Europe, civil society is as well seen as a concept of civic values. One widely known representative of this concept is the Polish former dissident Adam Michnik.

Volunteering is often considered a defining characteristic of the organizations that constitute civil society, which in turn are often called NGOs, or NPOs. Most authorities have in mind the realm of public participation in voluntary associations, trade unions and the like,[4] but it is not necessary to belong to all of these to be a part of civil society.

The term civil society goes back to Aristotle's phrase *koinōnía politik* (κοινωνία πολιτική), occurring in his *Politics*, where it refers to a 'community', commensurate with the Greek city-state (polis) characterized by a shared set of norms and ethos, in which free citizens on an equal footing lived under the rule of law. The telos or end of civil society, thus defined, was common wellbeing (τ ε ζν τὸ εὐ ζῆν), in as man was defined as a 'political (social) animal' (ζὼν πολιτικόν *zōon politikón*). Though the concept was mentioned in Roman writers, such as Cicero, it entered into Western political discourse following the translation of Aristotle's works into Latin (*societas civilis*) by late medieval and early Renaissance writers such as William of Moerbeke and Leonardo Bruni, where it often referred to the ancient notion of a republic (*res publica*). With the rise of a distinction between monarchical autonomy and public law, the term then gained currency to denote the corporate estates (*Ständestaat*) of a feudal elite of land-holders as opposed to the powers exercised by the prince. [9] It had a long history in state theory, and was revived with particular force in recent times, in Eastern Europe, where dissidents such as Václav

Havel employed it to denote the sphere of civic associations threatened by the intrusive holistic state-dominated regimes of Communist Eastern Europe.

The literature on relations between civil society and democratic political society have their roots in early classical liberal writings like those of Alexis de Tocqueville. However they were developed in significant ways by 20th century theorists like Gabriel Almond and Sidney Verba, who identified the role of political culture in a democratic order as vital.

They argued that the political element of political organizations facilitates better awareness and a more informed citizenry, who make better voting choices, participate in politics, and hold government more accountable as a result. The statutes of these organizations have often been considered micro-constitutions because they accustom participants to the formalities of democratic decision making.

More recently, Robert D. Putnam has argued that even non-political organizations in civil society are vital for democracy. This is because they build social capital, trust and shared values, which are transferred into the political sphere and help to hold society together, facilitating an understanding of the interconnectedness of society and interests within it.

Others, however, have questioned how democratic civil society actually is. Some have noted that the civil society actors have now obtained a remarkable amount of political power without anyone directly electing or appointing them. It has also been argued that civil society is biased towards the global north. Partha Chatterjee has argued that, in most of the world, "civil society is demographically limited." For Jai Sen civil society is a neo-colonial project driven by global elites in their own interests. Finally, other scholars have argued that, since the concept of civil society is closely related to democracy and representation, it should in turn be linked with ideas of nationality and nationalism. Latest analyses suggest that civil society is a neoliberal ideology legitimizing antidemocratic attack of economic elites on institutions of the welfare state through development of third sector as its substitute.

Constitutional economics is a field of economics and constitutionalism which describes and analyzes the specific interrelationships between constitutional issues and functioning of the economy including budget process. The term "constitutional economics" was used by American economist – James M. Buchanan – as a name for a new academic sub-discipline that in 1986 brought him the Nobel Prize in Economic Sciences for his "development of the contractual and constitutional bases for the theory of economic and political decision-making." Buchanan rejects "any organic conception of the state as superior in wisdom, to the individuals who are its

members." Buchanan believes that a constitution, intended for use by at least several generations of citizens, must be able to adjust itself for pragmatic economic decisions and to balance interests of the state and society against those of individuals and their constitutional rights to personal freedom and private happiness. The standards of constitutional economics when used during annual budget planning, as well as the latter's transparency to the civil society, are of the primary guiding importance to the implementation of the rule of law. Also, the availability of an effective court system, to be used by the civil society in situations of unfair government spending and executive impoundment of any previously authorized appropriations, becomes a key element for the success of any influential civil society.

Globalization. Critics and activists currently often apply the term civil society to the domain of social life which needs to be protected against globalization, and to the sources of resistance thereto, because it is seen as acting beyond boundaries and across different territories. However, as civil society can, under many definitions, include and be funded and directed by those businesses and institutions (especially donors linked to European and Northern states) who support globalization, this is a contested use. Rapid development of civil society on the global scale after the fall of the communist system was a part of neo-liberal strategies linked to the Washington Consensus. Some studies have also been published, which deal with unresolved issues regarding the use of the term in connection with the impact and conceptual power of the international aid system (see for example Tvedt 1998).

On the other hand, others see globalization as a social phenomenon expanding the sphere of classical liberal values, which inevitably led to a larger role for civil society at the expense of politically derived state institutions.

The integrated Civil Society Organizations (iCSO) System, developed by the Department of Economic and Social Affairs (DESA), facilitates interactions between civil society organizations and DESA.

From a historical perspective, the actual meaning of the concept of civil society has changed twice from its original, classical form. The first change occurred after the French Revolution, the second during the fall of communism in Europe.

The concept of civil society in its pre-modern classical republican understanding is usually connected to the early-modern thought of Age of Enlightenment in the 18th century. However, it has much older history in the realm of political thought. Generally, civil society has been referred to as a political association governing social conflict through the imposition of rules that restrain

citizens from harming one another. In the classical period, the concept was used as a synonym for the good society, and seen as indistinguishable from the state. For instance, Socrates taught that conflicts within society should be resolved through public argument using 'dialectic', a form of rational dialogue to uncover truth. According to Socrates, public argument through 'dialectic' was imperative to ensure 'civility' in the polis and 'good life' of the people. For Plato, the ideal state was a just society in which people dedicate themselves to the common good, practice civic virtues of wisdom, courage, moderation and justice, and perform the occupational role to which they were best suited. It was the duty of the 'philosopher king' to look after people in civility. Aristotle thought the polis was an 'association of associations' that enables citizens to share in the virtuous task of ruling and being ruled. His *koinonia politike* as political community.

The concept of *societas civilis* is Roman and was introduced by Cicero. The political discourse in the classical period, places importance on the idea of a 'good society' in ensuring peace and order among the people. The philosophers in the classical period did not make any distinction between the state and society. Rather they held that the state represented the civil form of society and 'civility' represented the requirement of good citizenship. Moreover, they held that human beings are inherently rational so that they can collectively shape the nature of the society they belong to. In addition, human beings have the capacity to voluntarily gather for the common cause and maintain peace in society. By holding this view, we can say that classical political thinkers endorsed the genesis of civil society in its original sense.

The Middle Ages saw major changes in the topics discussed by political philosophers. Due to the unique political arrangements of feudalism, the concept of classical civil society practically disappeared from mainstream discussion. Instead conversation was dominated by problems of just war, a preoccupation that would last until the end of Renaissance.

The Thirty Years' War and the subsequent Treaty of Westphalia heralded the birth of the sovereign states system. The Treaty endorsed states as territorially-based political units having sovereignty. As a result, the monarchs were able to exert domestic control by emasculating the feudal lords and to stop relying on the latter for armed troops. Henceforth, monarchs could form national armies and deploy a professional bureaucracy and fiscal departments, which enabled them to maintain direct control and supreme authority over their subjects. In order to meet administrative expenditures, monarchs controlled the economy. This gave birth

to absolutism. Until the mid-eighteenth century, absolutism was the hallmark of Europe.

The absolutist concept of the state was disputed in the Enlightenment period. As a natural consequence of Renaissance, Humanism, and the scientific revolution, the Enlightenment thinkers raised fundamental questions such as "What legitimacy does heredity confer?", "Why are governments instituted?", "Why should some human beings have more basic rights than others?", and so on. These questions led them to make certain assumptions about the nature of the human mind, the sources of political and moral authority, the reasons behind absolutism, and how to move beyond absolutism. The Enlightenment thinkers believed in the inherent goodness of the human mind. They opposed the alliance between the state and the Church as the enemy of human progress and well-being because the coercive apparatus of the state curbed individual liberty and the Church legitimated monarchs by positing the theory of divine origin. Therefore, both were deemed to be against the will of the people.

Strongly influenced by the atrocities of Thirty Years' War, the political philosophers of the time held that social relations should be ordered in a different way from natural law conditions. Some of their attempts led to the emergence of social contract theory that contested social relations existing in accordance with human nature. They held that human nature can be understood by analyzing objective realities and natural law conditions. Thus they endorsed that the nature of human beings should be encompassed by the contours of state and established positive laws. Thomas Hobbes underlined the need of a powerful state to maintain civility in society. For Hobbes, human beings are motivated by self-interests. Moreover, these self-interests are often contradictory in nature. Therefore, in state of nature, there was a condition of a war of all against all. In such a situation, life was "solitary, poor, nasty, brutish and short". Upon realizing the danger of anarchy, human beings became aware of the need of a mechanism to protect them. As far as Hobbes was concerned, rationality and self-interests persuaded human beings to combine in agreement, to surrender sovereignty to a common power. Hobbes called this common power, state, Leviathan.

John Locke had a similar concept to Hobbes about the political condition in England. It was the period of the Glorious Revolution, marked by the struggle between the divine right of the Crown and the political rights of Parliament. This influenced Locke to forge a social contract theory of a limited state and a powerful society. In Locke's view, human beings led also an unmerciful life in the state of

nature. However, it could be maintained at the sub-optimal level in the absence of a sufficient system. From that major concern, people gathered together to sign a contract and constituted a common public authority. Nevertheless, Locke held that the consolidation of political power can be turned into autocracy, if it is not brought under reliable restrictions. Therefore, Locke set forth two treaties on government with reciprocal obligations. In the first treaty, people submit themselves to the common public authority. This authority has the power to enact and maintain laws. The second treaty contains the limitations of authority, i.e., the state has no power to threaten the basic rights of human beings. As far as Locke was concerned, the basic rights of human beings are the preservation of life, liberty and property. Moreover, he held that the state must operate within the bounds of civil and natural laws.

Both Hobbes and Locke had set forth a system, in which peaceful coexistence among human beings could be ensured through social pacts or contracts. They considered civil society as a community that maintained civil life, the realm where civic virtues and rights were derived from natural laws. However, they did not hold that civil society was a separate realm from the state. Rather, they underlined the co-existence of the state and civil society. The systematic approaches of Hobbes and Locke (in their analysis of social relations) were largely influenced by the experiences in their period. Their attempts to explain human nature, natural laws, the social contract and the formation of government had challenged the divine right theory. In contrast to divine right, Hobbes and Locke claimed that humans can design their political order. This idea had a great impact on the thinkers in the Enlightenment period.

The Enlightenment thinkers argued that human beings are rational and can shape their destiny. Hence, no need of an absolute authority to control them. Both Jean-Jacques Rousseau, a critic of civil society, and Immanuel Kant argued that people are peace lovers and that wars are the creation of absolute regimes. As far as Kant was concerned, this system was effective to guard against the domination of a single interest and check the tyranny of the majority.

Modern history. G. W. F. Hegel completely changed the meaning of civil society, giving rise to a modern liberal understanding of it as a form of market society as opposed to institutions of modern nation state. Unlike his predecessors, the leading thinker of the Romanticism movement considered civil society (German: *bürgerliche Gesellschaft*) as a separate realm, a "system of needs", that is the, " difference which intervenes between the family and the state." Civil society is the realm of economic relationships as it exists in the modern industrial capitalist society, for it had emerged

at the particular period of capitalism and served its interests: individual rights and private property. Hence, he used the German term "bürgerliche Gesellschaft" to denote civil society as "civilian society" – a sphere regulated by the civil code. This new way of thinking about civil society was followed by Alexis de Tocqueville and Karl Marx as well. For Hegel, civil society manifested contradictory forces. Being the realm of capitalist interests, there is a possibility of conflicts and inequalities within it (ex: mental and physical aptitude, talents and financial circumstances). He argued that these inequalities influence the choices that members are able to make in relation to the type of work they will do. The diverse positions in Civil Society fall into three estates: the substantial estate (agriculture), the formal estate (trade and industry), and the universal estate (civil society). A man is able to choose his estate, though his choice is limited by the aforementioned inequalities. However, Hegel argues that these inequalities enable all estates in Civil Society to be filled, which leads to a more efficient system on the whole.

Karl Marx followed Hegelian way of using concept of civil society. For Marx, civil society was the 'base' where productive forces and social relations were taking place, whereas political society was the 'superstructure'. Agreeing with the link between capitalism and civil society, Marx held that the latter represents the interests of the bourgeoisie. Therefore, the state as superstructure also represents the interests of the dominant class; under capitalism, it maintains the domination of the bourgeoisie. Hence, Marx rejected the positive role of state put forth by Hegel. Marx argued that the state cannot be a neutral problem solver. Rather, he depicted the state as the defender of the interests of the bourgeoisie. He considered the state to be the executive arm of the bourgeoisie, which would wither away once the working class took democratic control of society.

The above view about civil society was criticized by Antonio Gramsci. Departing somehow from Marx, Gramsci did not consider civil society as coterminous with the socio-economic base of the state. Rather, Gramsci located civil society in the political superstructure. He viewed civil society as the vehicle for bourgeois hegemony, when it just represents a particular class. He underlined the crucial role of civil society as the contributor of the cultural and ideological capital required for the survival of the hegemony of capitalism. Rather than posing it as a problem, as in earlier Marxist conceptions, Gramsci viewed civil society as the site for problem-solving. Misunderstanding Gramsci, the New Left assigned civil society a key role in defending people against the state and the market and in asserting the democratic will to influence the state. At the same time, Neo-liberal thinkers consider civil society as a site for struggle to subvert Communist and authoritarian regimes.

Thus, the term civil society occupies an important place in the political discourses of the New Left and Neo-liberals.

Post-modern history. It is commonly believed that the post-modern way of understanding civil society was first developed by political opposition in the former Soviet bloc East European countries in the 1980s. However, research shows that communist propaganda had the most important influence on the development and popularization of the idea instead, in an effort to legitimize neoliberal transformation in 1989. According to theory of restructurization of welfare systems, a new way of using the concept of civil society became a neoliberal ideology legitimizing development of the third sector as a substitute for the welfare state. The recent development of the third sector is a result of this welfare systems restructuring, rather than of democratization.

From that time stems a practice within the political field of using the idea of civil society instead of political society. Henceforth, postmodern usage of the idea of civil society became divided into two main : as political society and as the third sector – apart from plethora of definitions. The Washington Consensus of the 1990s, which involved conditioned loans by the World Bank and IMF to debt-laden developing states, also created pressures for states in poorer countries to shrink. This in turn led to practical changes for civil society that went on to influence the theoretical debate. Initially the new conditionality led to an even greater emphasis on "civil society" as a panacea, replacing the state's service provision and social care, Hulme and Edwards suggested that it was now seen as "the magic bullet".

By the end of the 1990s civil society was seen less as a panacea amid the growth of the anti-globalization movement and the transition of many countries to democracy; instead, civil society was increasingly called on to justify its legitimacy and democratic credentials. This led to the creation by the UN of a high level panel on civil society. However, in the 1990s with the emergence of the nongovernmental organizations and the new social movements (NSMs) on a global scale, civil society as a third sector became treated as a key terrain of strategic action to construct 'an alternative social and world order.' Post-modern civil society theory has now largely returned to a more neutral stance, but with marked differences between the study of the phenomena in richer societies and writing on civil society in developing states.

Jürgen Habermas said that the public sphere encourages rational will-formation; it is a sphere of rational and democratic social interaction. Habermas argues that even though society was representative of capitalist society, there are some institutions that were part of political society. Transformations in economy

brought transformations to the public sphere. Though these transformations happen, a civil society develops when it emerges as non-economic and has a populous aspect, and when the state is not represented by just one political party. There needs to be a locus of authority, and this is where society can begin to challenge authority. Jillian Schwedler points out that civil society emerges with the resurrection of the public sphere when individuals and groups begin to challenge boundaries of permissible behaviour — for example, by speaking out against the regime or demanding a government response to social needs — civil society begins to take shape.

Enemies of civil society.

John A. Hall lists 5 distinct enemies of civil society:

- Despotism: this is this idea of fear which discourages any type of group that's formed between society and government.
- Revival of the tradition of republican civic virtues: these are qualities that hold a moral value or moral principle and amount to dispositions to obey.
- Specific forms of nationalism: this would be where the rule of majority wins, and assimilation is used in order to form an ideal society.
- Totalizing ideologies
- Essentialist cultural ideals: these would be social cages of individuals that determine the function and value of that person in society.

CHAPTER 15

HUMAN RIGHTS

Human rights are moral principles that set out certain standards of human behaviour, and are regularly protected as legal rights in national and international law. They are "commonly understood as inalienable fundamental rights to which a person is inherently entitled simply because she or he is a human being." Human rights are thus conceived as universal (applicable everywhere) and egalitarian (the same for everyone). The doctrine of human rights has been highly influential within international law, global and regional institutions. Policies of states and in the activities of non-governmental organizations and have become a cornerstone of public policy around the world. The idea of human rights suggests, "if the public discourse of peacetime global society can be said to have a common moral language, it is that of human rights." The strong claims made by the doctrine of human rights continue to provoke considerable skepticism and debates about the content, nature and justifications of human rights to this day. Indeed, the question of what is meant by a "right" is itself controversial and the subject of continued philosophical debate.

Many of the basic ideas that animated the human rights movement developed in the aftermath of the Second World War and the atrocities of The Holocaust, culminating in the adoption of the Universal Declaration of Human Rights in Paris by the United Nations General Assembly in 1948. The ancient world did not possess the concept of universal human rights. The true forerunner of human rights discourse was the concept of natural rights which appeared as part of the medieval Natural law tradition that became prominent during the Enlightenment with such philosophers as John Locke, Francis Hutcheson, and Jean-Jacques Burlamaqui, and featured prominently in the English Bill of Rights and the political discourse of the American Revolution and the French Revolution.

From this foundation, the modern human rights arguments emerged over the latter half of the twentieth century.

Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world.

1st sentence of the Preamble to the Universal Declaration of Human Rights - All human beings are born free and equal in dignity and rights.

—Article 1 of the United Nations Universal Declaration of Human Rights (UDHR).

Although ideas of rights and liberty have existed in some form for much of human history, they do not resemble the modern conception of human rights. According to Jack Donnelly, in the ancient world, "traditional societies typically have had elaborate systems of duties... conceptions of justice, political legitimacy, and human flourishing that sought to realize human dignity, flourishing, or well-being entirely independent of human rights. These institutions and practices are alternative to, rather than different formulations of, human rights". The modern sense of human rights can be traced to Renaissance Europe and the Protestant Reformation, alongside the disappearance of the feudal authoritarianism and religious conservatism that dominated the Middle Ages. One theory is that human rights were developed during the early Modern period, alongside the European secularization of Judeo-Christian ethics. The most commonly held view is that concept of human rights evolved in the West, and that while earlier cultures had important ethical concepts, they generally lacked a concept of human rights. For example, McIntyre argues there is no word for "right" in any language before 1400. Medieval charters of liberty such as the English Magna Carta were not charters of human rights, rather they were the foundation and constituted a form of limited political and legal agreement to address specific political circumstances, in the case of Magna Carta later being recognised in the course of early modern debates about rights. One of the oldest records of human rights is the statute of Kalisz (1264), giving privileges to the Jewish minority in the Kingdom of Poland such as protection from discrimination and hate speech.

The earliest conceptualization of human rights is credited to ideas about natural rights emanating from natural law. In particular, the issue of universal rights was introduced by the examination of extending rights to indigenous peoples by Spanish clerics, such as Francisco de Vitoria and Bartolomé de Las Casas. In the Valladolid debate, Juan Ginés de Sepúlveda, who maintained an Aristotelian view of humanity as divided into classes of different worth, argued with Las Casas, who argued in favor of equal rights to freedom of slavery for all humans regardless of race or religion.

17th-century English philosopher John Locke discussed natural rights in his work, identifying them as being "life, liberty, and estate (property)", and argued that such fundamental rights could not be surrendered in the social contract. In Britain in 1689, the English Bill of Rights and the Scottish Claim of Right each made illegal a range of oppressive governmental actions. Two major revolutions occurred during the 18th century, in the United States (1776) and in France (1789), leading to the adoption of the United States Declaration of Independence and the French Declaration of the Rights of Man and of the Citizen respectively, both of

which established certain legal rights. Additionally, the Virginia Declaration of Rights of 1776 encoded into law a number of fundamental civil rights and civil freedoms.

We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness.

—United States Declaration of Independence, 1776

These were followed by developments in philosophy of human rights by philosophers such as Thomas Paine, John Stuart Mill and G.W.F. Hegel during the 18th and 19th centuries. The term human rights probably came into use some time between Paine's *The Rights of Man* and William Lloyd Garrison's 1831 writings in *The Liberator*, in which he stated that he was trying to enlist his readers in "the great cause of human rights". Although the term had been used by at least one author as early as 1742.

In the 19th century, human rights became a central concern over the issue of slavery. A number of reformers, such as William Wilberforce in Britain, worked towards the abolition of slavery. This was achieved in the British Empire by the Slave Trade Act 1807 and the Slavery Abolition Act 1833. In the United States, all the northern states had abolished the institution of slavery between 1777 and 1804, although southern states clung tightly to the "peculiar institution". Conflict and debates over the expansion of slavery to new territories constituted one of the reasons for the southern states' secession and the American Civil War. During the reconstruction period immediately following the war, several amendments to the United States Constitution were made. These included the 13th amendment, banning slavery, the 14th amendment, assuring full citizenship and civil rights to all people born in the United States, and the 15th amendment, guaranteeing African Americans the right to vote.

Many groups and movements have achieved profound social changes over the course of the 20th century in the name of human rights. In Europe and North America, labour unions brought about laws granting workers the right to strike, establishing minimum work conditions and forbidding or regulating child labor. The women's rights movement succeeded in gaining for many women the right to vote. National liberation movements in many countries succeeded in driving out colonial powers. One of the most influential was Mahatma Gandhi's movement to

free his native India from British rule. Movements by long-oppressed racial and religious minorities succeeded in many parts of the world, among them the African American Civil Rights Movement, and more recent diverse identity politics movements, on behalf of women and minorities in the United States.

The establishment of the International Committee of the Red Cross, the 1864 Lieber Code and the first of the Geneva Conventions in 1864 laid the foundations of International humanitarian law, to be further developed following the two World Wars.

The World Wars, and the huge losses of life and gross abuses of human rights that took place during them, were a driving force behind the development of modern human rights instruments. The League of Nations was established in 1919 at the negotiations over the Treaty of Versailles following the end of World War I. The League's goals included disarmament, preventing war through collective security, settling disputes between countries through negotiation and diplomacy, and improving global welfare. Enshrined in its charter was a mandate to promote many of the rights later included in the Universal Declaration of Human Rights.

At the 1945 Yalta Conference, the Allied Powers agreed to create a new body to supplant the League's role; this was to be the United Nations. The United Nations has played an important role in international human-rights law since its creation. Following the World Wars, the United Nations and its members developed much of the discourse and the bodies of law that now make up international humanitarian law and international human rights law.

The philosophy of human rights attempts to examine the underlying basis of the concept of human rights and critically looks at its content and justification. Several theoretical approaches have been advanced to explain how and why human rights have become a part of social expectations.

One of the oldest Western philosophies of human rights is that they are a product of a natural law, stemming from different philosophical or religious grounds. Other theories hold that human rights codify moral behavior which is a human social product developed by a process of biological and social evolution (associated with Hume). Human rights are also described as a sociological pattern of rule setting (as in the sociological theory of law and the work of Weber). These approaches include the notion that individuals in a society accept rules from legitimate authority in exchange for security and economic advantage (as in Rawls) – a social contract.

The two theories that dominate contemporary human rights discussion are the interest theory and the will theory. Interest theory argues that the principal function of human rights is to protect and promote certain essential human interests, while will theory attempts to establish the validity of human rights based on the unique human capacity for freedom.

Criticism. The claims made by human rights to universality have led to criticism. Philosophers who have criticized the concept of human rights include Jeremy Bentham, Edmund Burke, Friedrich Nietzsche and Karl Marx. Political philosophy professor Charles Blattberg argues that discussion of human rights, being abstract, demotivates people from upholding the values that rights are meant to affirm. The Internet Encyclopedia of Philosophy gives particular attention to two types of criticisms: the one questioning universality of human rights and the one denying them objective ground. Alain Pellet, an international law scholar, criticizes "human rightism" approach as denying the principle of sovereignty and claiming a special place for human rights among the branches of international law; Alain de Benoist questions human rights premises of human equality. David Kennedy had listed pragmatic worries and polemical charges concerning human rights in 2002 in Harvard Human Rights Journal.

Classification. Human rights can be classified and organized in a number of different ways. At an international level the most common categorisation of human rights has been to split them into civil and political rights, and economic, social and cultural rights.

Civil and political rights are enshrined in articles 3 to 21 of the Universal Declaration of Human Rights (UDHR) and in the International Covenant on Civil and Political Rights (ICCPR). Economic, social and cultural rights are enshrined in articles 22 to 28 of the Universal Declaration of Human Rights (UDHR) and in the International Covenant on Economic, Social and Cultural Rights (ICESCR).

Indivisibility

The UDHR included both economic, social and cultural rights and civil and political rights because it was based on the principle that the different rights could only successfully exist in combination:

The ideal of free human beings enjoying civil and political freedom and freedom from fear and want can only be achieved if conditions are created whereby

everyone may enjoy his civil and political rights, as well as his social, economic and cultural rights.

—International Covenant on Civil and Political Rights and the International Covenant on Economic Social and Cultural Rights, 1966

This is held to be true because without civil and political rights the public cannot assert their economic, social and cultural rights. Similarly, without livelihoods and a working society, the public cannot assert or make use of civil or political rights (known as the full belly thesis).

The indivisibility and interdependence of all human rights has been confirmed by the 1993 Vienna Declaration and Programme of Action:

All human rights are universal, indivisible and interdependent and related. The international community must treat human rights globally in a fair and equal manner, on the same footing, and with the same emphasis.

—Vienna Declaration and Programme of Action, World Conference on Human Rights, 1993

This statement was again endorsed at the 2005 World Summit in New York (paragraph 121).

Although accepted by the signatories to the UDHR, most do not in practice give equal weight to the different types of rights. Some Western cultures have often given priority to civil and political rights, sometimes at the expense of economic and social rights such as the right to work, to education, health and housing. Similarly the ex Soviet bloc countries and Asian countries have tended to give priority to economic, social and cultural rights, but have often failed to provide civil and political rights.

Categorization.

Opponents of the indivisibility of human rights argue that economic, social and cultural rights are fundamentally different from civil and political rights and require completely different approaches. Economic, social and cultural rights are argued to be:

- aspirations or goals, as opposed to real 'legal' rights

- ideologically divisive/political, meaning that there is no consensus on what should and shouldn't be provided as a right

- non-justiciable, meaning that their provision, or the breach of them, cannot be judged in a court of law

- positive, meaning that they require active provision of entitlements by the state (as opposed to the state being required only to prevent the breach of rights)

- progressive, meaning that they will take significant time to implement

- resource-intensive, meaning that they are expensive and difficult to provide

- socialist, as opposed to capitalist

- vague, meaning they cannot be quantitatively measured, and whether they are adequately provided or not is difficult to judge.

Similarly civil and political rights are categorized as:

- capitalist

- cost-free

- immediate, meaning they can be immediately provided if the state decides to

- justiciable

- negative, meaning the state can protect them simply by taking no action

- non-ideological/non-political

- precise, meaning their provision is easy to judge and measure

- real 'legal' rights

Olivia Ball and Paul Gready argue that for both civil and political rights and economic, social and cultural rights, it is easy to find examples which do not fit into the above categorisation. Among several others, they highlight the fact that maintaining a judicial system, a fundamental requirement of the civil right to due process before the law and other rights relating to judicial process, is positive,

resource-intensive, progressive and vague, while the social right to housing is precise, justiciable and can be a real 'legal' right.

Three generations.

Another categorization, offered by Karel Vasak, is that there are three generations of human rights: first-generation civil and political rights (right to life and political participation), second-generation economic, social and cultural rights (right to subsistence) and third-generation solidarity rights (right to peace, right to clean environment). Out of these generations, the third generation is the most debated and lacks both legal and political recognition. This categorisation is at odds with the indivisibility of rights, as it implicitly states that some rights can exist without others. Prioritisation of rights for pragmatic reasons is however a widely accepted necessity. Human rights expert Philip Alston argues:

If every possible human rights element is deemed to be essential or necessary, then nothing will be treated as though it is truly important.

He, and others, urge caution with prioritisation of rights:

Some human rights are said to be "inalienable rights". The term inalienable rights (or unalienable rights) refers to "a set of human rights that are fundamental, are not awarded by human power, and cannot be surrendered."

International protection.

In the aftermath of the atrocities of World War II, there was increased concern for the social and legal protection of human rights as fundamental freedoms. The foundation of the United Nations and the provisions of the United Nations Charter provided a basis for a comprehensive system of international law and practise for the protection of human rights. Since then, international human rights law has been characterized by a linked system of conventions, treaties, organisations, and political bodies, rather than any single entity or set of laws.

United Nations Charter

The provisions of the United Nations Charter provided a basis for the development of international human rights protection. The preamble of the charter provides that the members "reaffirm faith in fundamental human rights, in the equal rights of men and women" and Article 1(3) of the United Nations charter states that

one of the purposes of the UN is: "to achieve international cooperation in solving international problems of an economic, social, cultural, or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion". Article 55 provides that:

The United Nations shall promote: a) higher standards of living, full employment, and conditions of economic and social progress and development; b) solutions of international economic, social, health, and related problems; c) international cultural and educational cooperation; d) universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion.

Of particular importance is Article 56 of the charter": All Members pledge themselves to take joint and separate action in co-operation with the Organization for the achievement of the purposes set forth in Article 55." This is a binding treaty provision applicable to both the Organization and its members and has been taken to constitute a legal obligation for the members of the United Nations. Overall, the references to human rights in the Charter are general and vague. The Charter does not contain specific legal rights, nor does it mandate any enforcement procedures to protect these rights. Despite this, the significance of the espousal of human rights within the UN charter must not be understated. The importance of human rights on the global stage can be traced to the importance of human rights within the United Nations framework and the UN Charter can be seen as the starting point for the development of a broad array of declarations, treaties, implementation and enforcement mechanisms, UN organs, committees and reports on the protection of human rights. The rights espoused in the UN charter would be codified and defined in the International Bill of Human Rights, composing the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights.

Universal Declaration of Human Rights

The Universal Declaration of Human Rights (UDHR) was adopted by the United Nations General Assembly in 1948, partly in response to the atrocities of World War II. Although the UDHR was a non-binding resolution, it is now considered by some to have acquired the force of international customary law which may be invoked in appropriate circumstances by national and other judiciaries. The

UDHR urges member nations to promote a number of human, civil, economic and social rights, asserting these rights as part of the "foundation of freedom, justice and peace in the world." The declaration was the first international legal effort to limit the behavior of states and press upon them duties to their citizens following the model of the rights-duty duality.

...recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world.

—Preamble to the Universal Declaration of Human Rights, 1948

The UDHR was framed by members of the Human Rights Commission, with former First Lady Eleanor Roosevelt as Chair, who began to discuss an International Bill of Rights in 1947. The members of the Commission did not immediately agree on the form of such a bill of rights, and whether, or how, it should be enforced. The Commission proceeded to frame the UDHR and accompanying treaties, but the UDHR quickly became the priority. Canadian law professor John Humphrey and French lawyer René Cassin were responsible for much of the cross-national research and the structure of the document respectively, where the articles of the declaration were interpretative of the general principle of the preamble. The document was structured by Cassin to include the basic principles of dignity, liberty, equality and brotherhood in the first two articles, followed successively by rights pertaining to individuals; rights of individuals in relation to each other and to groups; spiritual, public and political rights; and economic, social and cultural rights. The final three articles place, according to Cassin, rights in the context of limits, duties and the social and political order in which they are to be realized. Humphrey and Cassin intended the rights in the UDHR to be legally enforceable through some means, as is reflected in the third clause of the preamble:

Whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law.

—Preamble to the Universal Declaration of Human Rights, 1948

Some of the UDHR was researched and written by a committee of international experts on human rights, including representatives from all continents and all major religions, and drawing on consultation with leaders such as Mahatma Gandhi. The

inclusion of civil, political, economic, social and cultural rights was predicated on the assumption that all human rights are indivisible and that the different types of rights listed are inextricably linked. This principle was not then opposed by any member states (the declaration was adopted unanimously, Byelorussian SSR, Czechoslovakia, Poland, Saudi Arabia, Ukrainian SSR, Union of South Africa, USSR, Yugoslavia.); however, this principle was later subject to significant challenges.

The Universal Declaration was bifurcated into treaties, a Covenant on Civil and Political Rights and another on social, economic, and cultural rights, due to questions about the relevance and propriety of economic and social provisions in covenants on human rights. Both covenants begin with the right of people to self-determination and to sovereignty over their natural resources. This debate over whether human rights are more fundamental than economic rights has continued to the present day.

The drafters of the Covenants initially intended only one instrument. The original drafts included only political and civil rights, but economic and social rights were also proposed. The disagreement over which rights were basic human rights resulted in there being two covenants. The debate was whether economic and social rights are aspirational, as contrasted with basic human rights which all people possess purely by being human, because economic and social rights depend on wealth and the availability of resources. In addition, which social and economic rights should be recognised depends on ideology or economic theories, in contrast to basic human rights, which are defined purely by the nature (mental and physical abilities) of human beings. It was debated whether economic rights were appropriate subjects for binding obligations and whether the lack of consensus over such rights would dilute the strength of political-civil rights. There was wide agreement and clear recognition that the means required to enforce or induce compliance with socio-economic undertakings were different from the means required for civil-political rights.

This debate and the desire for the greatest number of signatories to human-rights law led to the two covenants. The Soviet bloc and a number of developing countries had argued for the inclusion of all rights in a so-called Unity Resolution. Both covenants allowed states to derogate some rights.[citation needed] Those in favor of a single treaty could not gain sufficient consensus.

International treaties

In 1966, the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR) were adopted by the United Nations, between them making the rights contained in the UDHR binding on all states that have signed this treaty, creating human-rights law.

Since then numerous other treaties (pieces of legislation) have been offered at the international level. They are generally known as human rights instruments. Some of the most significant, referred to (with ICCPR and ICESCR) as "the seven core treaties", are:

- Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) (adopted 1979, entry into force: 1981)
- Convention on the Elimination of All Forms of Racial Discrimination (CERD) (adopted 1966, entry into force: 1969)
- Convention on the Rights of Persons with Disabilities (CRPD) (adopted 2006, entry into force: 2008)
- Convention on the Rights of the Child (CRC) (adopted 1989, entry into force: 1989)
- United Nations Convention Against Torture (CAT) (adopted 1984, entry into force: 1984)
- International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (ICRMW or more often MWC) (adopted 1990, entry into force: 2003).

Customary international law

In addition to protection by international treaties, customary international law may protect some human rights, such as the prohibition of torture, genocide and slavery and the principle of non-discrimination.

International humanitarian law

The Geneva Conventions came into being between 1864 and 1949 as a result of efforts by Henry Dunant, the founder of the International Committee of the Red Cross. The conventions safeguard the human rights of individuals involved in armed conflict, and build on the Hague Conventions of 1899 and 1907, the international community's first attempt to formalize the laws of war and war crimes in the nascent body of secular international law. The conventions were revised as a result of World War II and readopted by the international community in 1949.

Under the mandate of the UN charter, the and the multilateral UN human rights treaties, the United Nations (UN) as an intergovernmental body seeks to apply international jurisdiction for universal human-rights legislation. Within the UN machinery, human-rights issues are primarily the concern of the United Nations Security Council and the United Nations Human Rights Council, and there are numerous committees within the UN with responsibilities for safeguarding different human-rights treaties. The most senior body of the UN in the sphere of human rights is the Office of the High Commissioner for Human Rights. The United Nations has an international mandate to:

achieve international co-operation in solving international problems of an economic, social, cultural, or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, gender, language, or religion.

—Article 1–3 of the United Nations Charter

The United Nations Security Council has the primary responsibility for maintaining international peace and security and is the only body of the UN that can authorize the use of force. It has been criticised for failing to take action to prevent human rights abuses, including the Darfur crisis, the Srebrenica massacre and the Rwandan Genocide. For example, critics blamed the presence of non-democracies on the Security Council for its failure regarding.

On April 28, 2006 the Security Council adopted resolution 1674 that reaffirmed the responsibility to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity" and committed the Security Council to action to protect civilians in armed conflict.

The United Nations General Assembly, under Article 13 of the UN Charter, has the power to initiate studies and make recommendations on human rights issues. Under this provision, the general assembly passed the Universal Declaration of Human Rights in 1948, and since then a wide variety of other human rights instruments. The assembly has several subsidiary organs that deal with specific human rights issues, such as the Special Committee on Decolonisation and the Special Commission against Apartheid (no longer operational). In addition the general assembly has set up a number of subsidiary organs that consider human rights issues in a number of high-profile contexts: such as the UN Council on Namibia, the Special Committee to Investigate Israeli Practices in the Occupied territories and the Committee on the Exercise of the Inalienable rights of the Palestine People.

Human Rights Council

The United Nations Human Rights Council, created at the 2005 World Summit to replace the United Nations Commission on Human Rights, has a mandate to investigate violations of human rights. The Human Rights Council is a subsidiary body of the General Assembly and reports directly to it. It ranks below the Security Council, which is the final authority for the interpretation of the United Nations Charter. Forty-seven of the one hundred ninety-one member states sit on the council, elected by simple majority in a secret ballot of the United Nations General Assembly. Members serve a maximum of six years and may have their membership suspended for gross human rights abuses. The Council is based in Geneva, and meets three times a year; with additional meetings to respond to urgent situations.

Independent experts (rapporteurs) are retained by the Council to investigate alleged human rights abuses and to provide the Council with reports.

The Human Rights Council may request that the Security Council take action when human rights violations occur. This action may be direct actions, may involve sanctions, and the Security Council may also refer cases to the International Criminal Court (ICC) even if the issue being referred is outside the normal jurisdiction of the ICC.

Treaty bodies

In addition to the political bodies whose mandate flows from the UN charter, the UN has set up a number of treaty-based bodies, comprising committees of independent experts who monitor compliance with human rights standards and norms

flowing from the core international human rights treaties. They are supported by and are created by the treaty that they monitor, With the exception of the CESCR, which was established under a resolution of the Economic and Social Council to carry out the monitoring functions originally assigned to that body under the Covenant, they are technically autonomous bodies, established by the treaties that they monitor and accountable to the state parties of those treaties - rather than subsidiary to the United Nations. Though in practise they are closely intertwined with the United Nations system and are supported by the UN High Commissioner for Human Rights (UNHCHR) and the UN Center for Human Rights.

- The Human Rights Committee promotes participation with the standards of the ICCPR. The eighteen members of the committee express opinions on member countries and make judgments on individual complaints against countries which have ratified an Optional Protocol to the treaty. The judgments, termed "views", are not legally binding.

- The Committee on Economic, Social and Cultural Rights monitors the ICESCR and makes general comments on ratifying countries performance. It will have the power to receive complaints against the countries that opted into the Optional Protocol once it has come into force. It is important to note that unlike the other treaty bodies, the economic committee is not an autonomous body responsible to the treaty parties, but directly responsible to the Economic and Social Council and ultimately to the General Assembly. This means that the Economic Committee faces particular difficulties at its disposal only relatively "weak" means of implementation in comparison to other treaty bodies. Particular difficulties noted by commentators include: perceived vagueness of the principles of the treaty, relative lack of legal texts and decisions, ambivalence of many states in addressing economic, social and cultural rights, comparatively few non-governmental organisations focused on the area and problems with obtaining relevant and precise information.[50][51]

- The Committee on the Elimination of Racial Discrimination monitors the CERD and conducts regular reviews of countries' performance. It can make judgments on complaints against member states allowing it, but these are not legally binding. It issues warnings to attempt to prevent serious contraventions of the convention.

- The Committee on the Elimination of Discrimination against Women monitors the CEDAW. It receives states' reports on their performance and comments on them,

and can make judgments on complaints against countries which have opted into the 1999 Optional Protocol.

- The Committee Against Torture monitors the CAT and receives states' reports on their performance every four years and comments on them. Its subcommittee may visit and inspect countries which have opted into the Optional Protocol.

- The Committee on the Rights of the Child monitors the CRC and makes comments on reports submitted by states every five years. It does not have the power to receive complaints.

- The Committee on Migrant Workers was established in 2004 and monitors the ICRMW and makes comments on reports submitted by states every five years. It will have the power to receive complaints of specific violations only once ten member states allow it.

- The Committee on the Rights of Persons with Disabilities was established in 2008 to monitor the Convention on the Rights of Persons with Disabilities. It has the power to receive complaints against the countries which have opted into the Optional Protocol to the Convention on the Rights of Persons with Disabilities.

Each treaty body receives secretariat support from the Human Rights Council and Treaties Division of Office of the High Commissioner on Human Rights (OHCHR) in Geneva except CEDAW, which is supported by the Division for the Advancement of Women (DAW). CEDAW formerly held all its sessions at United Nations headquarters in New York but now frequently meets at the United Nations Office in Geneva; the other treaty bodies meet in Geneva. The Human Rights Committee usually holds its March session in New York City.

Regional human rights regimes

International human rights regimes are in several cases "nested" within more comprehensive and overlapping regional agreements. These regional regimes can be seen as relatively independently coherent human rights sub-regimes. Three principal regional human rights instruments can be identified; the African Charter on Human and Peoples' Rights, the American Convention on Human Rights (the Americas) and the European Convention on Human Rights. The European Convention on Human Rights has since 1950 defined and guaranteed human rights and fundamental freedoms in Europe.[53] All 47 member states of the Council of Europe have signed

the Convention and are therefore under the jurisdiction of the European Court of Human Rights in Strasbourg.[53]

International non-governmental human rights organizations such as Amnesty International, Human Rights Watch, International Service for Human Rights and FIDH monitor what they see as human rights issues around the world and promote their views on the subject. Human rights organizations have been said to ""translate complex international issues into activities to be undertaken by concerned citizens in their own community". Human rights organizations frequently engage in lobbying and advocacy in an effort to convince the United Nations, supranational bodies and national governments to adopt their policies on human rights. Many human-rights organizations have observer status at the various UN bodies tasked with protecting human rights. A new (in 2009) nongovernmental human-rights conference is the Oslo Freedom Forum, a gathering described by The Economist as "on its way to becoming a human-rights equivalent of the Davos economic forum." The same article noted that human-rights advocates are more and more divided amongst themselves over how violations of human rights are to be defined, notably as regards the Middle East.

There is criticism of human-rights organisations who use their status but allegedly move away from their stated goals. For example, Gerald M. Steinberg, an Israel-based academic, maintains that NGOs take advantage of a "halo effect" and are "given the status of impartial moral watchdogs" by governments and the media.[56] Such critics claim that this may be seen at various governmental levels, including when human-rights groups testify before investigation committees. [57]

A human rights defender is someone who, individually or with others, acts to promote or protect human rights. Human rights defenders are those men and women who act peacefully for the promotion and protection of those rights.

Corporations. Multinational companies play an increasingly large role in the world, and have been responsible for numerous human rights abuses. Although the legal and moral environment surrounding the actions of governments is reasonably well developed, that surrounding multinational companies is both controversial and ill-defined. Multinational companies' primary responsibility is to their shareholders, not to those affected by their actions. Such companies may be larger than the economies of some of the states within which they operate, and can wield significant economic and political power. No international treaties exist to specifically cover the

behavior of companies with regard to human rights, and national legislation is very variable. Jean Ziegler, Special Rapporteur of the UN Commission on Human Rights on the right to food stated in a report in 2003:

The growing power of transnational corporations and their extension of power through privatization, deregulation and the rolling back of the State also mean that it is now time to develop binding legal norms that hold corporations to human rights standards and circumscribe potential abuses of their position of power.

—Jean Ziegler

In August 2003 the Human Rights Commission's Sub-Commission on the Promotion and Protection of Human Rights produced draft Norms on the responsibilities of transnational corporations and other business enterprises with regard to human rights. These were considered by the Human Rights Commission in 2004, but have no binding status on corporations and are not monitored. [61]

Human rights violations occur when actions by state (or non-state) actors abuse, ignore, or deny basic human rights (including civil, political, cultural, social, and economic rights). Furthermore, violations of human rights can occur when any state or non-state actor breaches any part of the UDHR treaty or other international human rights or humanitarian law. In regard to human rights violations of United Nations laws, Article 39 of the United Nations Charter designates the UN Security Council (or an appointed authority) as the only tribunal that may determine UN human rights violations.

Human rights abuses are monitored by United Nations committees, national institutions and governments and by many independent non-governmental organizations, such as Amnesty International, International Federation of Human Rights, Human Rights Watch, World Organisation Against Torture, Freedom House, International Freedom of Expression Exchange and Anti-Slavery International. These organisations collect evidence and documentation of alleged human rights abuses and apply pressure to enforce human rights laws.

Wars of aggression, war crimes and crimes against humanity, including genocide, are breaches of International humanitarian law and represent the most serious of human rights violations.

In efforts to eliminate violations of human rights, building awareness and protesting inhumane treatment has often led to calls for action and sometimes improved conditions. The UN Security Council has interceded with peace keeping forces, and other states and treaties (NATO) have intervened in situations to protect human rights.

Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.

—Article 6.1 of the International Covenant on Civil and Political Rights

The right to life is the essential right that a human being has the right not to be killed by another human being. The concept of a right to life is central to debates on the issues of abortion, capital punishment, euthanasia, self defense and war. According to many human rights activists, the death penalty violates this right. The United Nations has called on states retaining the death penalty to establish a moratorium on capital punishment with a view to its abolition. States which do not do so face considerable moral and political pressure.

Freedom from torture

Throughout history, torture has been used as a method of political re-education, interrogation, punishment, and coercion. In addition to state-sponsored torture, individuals or groups may be motivated to inflict torture on others for similar reasons to those of a state; however, the motive for torture can also be for the sadistic gratification of the torturer, as in the Moors murders.

Torture is prohibited under international law and the domestic laws of most countries in the 21st century. It is considered to be a violation of human rights, and is declared to be unacceptable by Article 5 of the UN Universal Declaration of Human Rights. Signatories of the Geneva Conventions of 1949 and the Additional Protocols I and II of 8 June 1977 officially agree not to torture captured persons in armed conflicts, whether international or internal. Torture is also prohibited by the United Nations Convention Against Torture, which has been ratified by 155 countries.

National and international legal prohibitions on torture derive from a consensus that torture and similar ill-treatment are immoral, as well as impractical. Despite these international conventions, organizations that monitor abuses of human rights (e.g. Amnesty International, the International Rehabilitation Council for Torture

Victims) report widespread use condoned by states in many regions of the world. Amnesty International estimates that at least 81 world governments currently practice torture, some of them openly.

Freedom from slavery

Freedom from slavery is internationally recognized as a human right. Article 4 of the Universal Declaration of Human Rights states:

No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.

Despite this, the number of slaves today is higher than at any point in history, remaining as high as 12 million to 27 million. Most are debt slaves, largely in South Asia, who are under debt bondage incurred by lenders, sometimes even for generations. Human trafficking is primarily for prostituting women and children into sex industries.

Groups such as the American Anti-Slavery Group, Anti-Slavery International, Free the Slaves, the Anti-Slavery Society, and the Norwegian Anti-Slavery Society continue to campaign to rid the world of slavery.

Right to a fair trial

Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.

The right to a fair trial has been defined in numerous regional and international human rights instruments. It is one of the most extensive human rights and all international human rights instruments enshrine it in more than one article. The right to a fair trial is one of the most litigated human rights and substantial case law has been established on the interpretation of this human right. Despite variations in wording and placement of the various fair trial rights, international human rights instrument define the right to a fair trial in broadly the same terms. The aim of the right is to ensure the proper administration of justice. As a minimum the right to fair trial includes the following fair trial rights in civil and criminal proceedings:

- the right to be heard by a competent, independent and impartial tribunal

- the right to a public hearing
- the right to be heard within a reasonable time
- the right to counsel
- the right to interpretation[80]

Freedom of speech.

Freedom of speech is the freedom to speak freely without censorship. The term freedom of expression is sometimes used synonymously, but includes any act of seeking, receiving and imparting information or ideas, regardless of the medium used. In practice, the right to freedom of speech is not absolute in any country and the right is commonly subject to limitations, such as on libel, slander, obscenity, incitement to commit a crime, etc. The right to freedom of expression is recognized as a human right under Article 19 of the Universal Declaration of Human Rights and recognized in international human rights law in the International Covenant on Civil and Political Rights (ICCPR). Article 19 of the ICCPR states that " everyone shall have the right to hold opinions without interference" and "everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice".

Freedom of thought, conscience and religion

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

—Article 18 of the International Covenant on Civil and Political Rights

Freedom of thought, conscience and religion are closely related rights that protect the freedom of an individual or community, in public or private, to think and freely hold conscientious beliefs and to manifest religion or belief in teaching, practice, worship, and observance; the concept is generally recognized also to include the freedom to change religion or not to follow any religion. The freedom to leave or discontinue membership in a religion or religious group—in religious terms called

"apostasy"—is also a fundamental part of religious freedom, covered by Article 18 of the Universal Declaration of Human Rights.

Human rights groups such as Amnesty International organises campaigns to protect those arrested and or incarcerated as a prisoner of conscience because of their conscientious beliefs, particularly concerning intellectual, political and artistic freedom of expression and association. In legislation, a conscience clause is a provision in a statute that excuses a health professional from complying with the law (for example legalising surgical or pharmaceutical abortion) if it is incompatible with religious or conscientious beliefs.

Freedom of movement

Freedom of movement asserts that a citizen of a state in which that citizen is present has the liberty to travel, reside in, and/or work in any part of the state where one pleases within the limits of respect for the liberty and rights of others, and to leave that state and return at any time.

Rights debates

Events and new possibilities can affect existing rights or require new ones. Advances of technology, medicine, and philosophy constantly challenge the status quo of human rights thinking.

Right to keep and bear arms

The right to keep and bear arms for defense is described in the philosophical and political writings of Aristotle, Cicero, John Locke, Machiavelli, the English Whigs and others. In countries with an English common law tradition, a long standing common law right to keep and bear arms has long been recognized, as pre-existing in common law, prior even to the existence of national constitutions.

CHAPTER 16

PUBLIC ADMINISTRATION IN UKRAINE

With the proclamation of its independence on 24 August 1991, and adoption of a constitution on 28 June 1996, Ukraine became a semi-presidential republic. However, in 2004, deputies introduced changes to the Constitution, which tipped the balance of power in favour of a parliamentary system. From 2004 to 2010, the legitimacy of the 2004 Constitutional amendments had official sanction, both with the Constitutional Court of Ukraine, and most major political parties. Despite this, on 30 September 2010 the Constitutional Court ruled that the amendments were null and void, forcing a return to the terms of the 1996 Constitution and again making Ukraine's political system more presidential in character.

The ruling on the 2004 Constitutional amendments became a major topic of political discourse. Much of the concern was due to the fact that neither the Constitution of 1996 nor the Constitution of 2004 provided the ability to "undo the Constitution", as the decision of the Constitutional Court would have it, even though the 2004 constitution arguably has an exhaustive list of possible procedures for constitutional amendments (articles 154–159). In any case, the current Constitution could be modified by a vote in Parliament.

On 21 February 2014 an agreement between President Viktor Yanukovich and opposition leaders saw the country return to the 2004 Constitution. The historic agreement, brokered by the European Union, followed protests that began in late November 2013 and culminated in a week of violent clashes in which scores of protesters were killed. In addition to returning the country to the 2004 Constitution, the deal provided for the formation of a coalition government, the calling of early elections, and the release of former Prime Minister Yulia Tymoshenko from prison. A day after the agreement was reached the Ukraine parliament dismissed Yanukovich and installed its speaker Oleksandr Turchynov as interim president and Arseniy Yatsenyuk as the Prime Minister of Ukraine. [178]

The President is elected by popular vote for a five-year term and is the formal head of state. Ukraine's legislative branch includes the 450-seat unicameral parliament, the Verkhovna Rada. The parliament is primarily responsible for the formation of the executive branch and the Cabinet of Ministers, headed by the Prime Minister. However, the President still retains the authority to nominate the Ministers

of the Foreign Affairs and of Defence for parliamentary approval, as well as the power to appoint the Prosecutor General and the head of the Security Service.

Laws, acts of the parliament and the cabinet, presidential decrees, and acts of the Crimean parliament may be abrogated by the Constitutional Court, should they be found to violate the constitution. Other normative acts are subject to judicial review. The Supreme Court is the main body in the system of courts of general jurisdiction. Local self-government is officially guaranteed. Local councils and city mayors are popularly elected and exercise control over local budgets. The heads of regional and district administrations are appointed by the President in accordance with the proposals of the Prime Minister. This system virtually requires an agreement between the President and the Prime Minister, and has in the past led to problems, such as when President Yushchenko exploited a perceived loophole by appointing so-called 'temporarily acting' officers, instead of actual governors or local leaders, thus evading the need to seek a compromise with the Prime Minister. This practice was controversial and was subject to Constitutional Court review.

Ukraine has a large number of political parties, many of which have tiny memberships and are unknown to the general public. Small parties often join in multi-party coalitions (electoral blocs) for the purpose of participating in parliamentary elections.

The courts enjoy legal, financial and constitutional freedom guaranteed by measures adopted in Ukrainian law in 2002. Judges are largely well protected from dismissal (except in the instance of gross misconduct). Court justices are appointed by presidential decree for an initial period of five years, after which Ukraine's Supreme Council confirms their positions for life in an attempt to insulate them from politics. Although there are still problems with the performance of the system, it is considered to have been much improved since Ukraine's independence in 1991. The Supreme Court is regarded as being an independent and impartial body, and has on several occasions ruled against the Ukrainian government. The World Justice Project ranks Ukraine 66 out of 99 countries surveyed in its annual Rule of Law Index.

Prosecutors in Ukraine have greater powers than in most European countries, and according to the European Commission for Democracy through Law 'the role and functions of the Prosecutor's Office is not in accordance with Council of Europe standards'. In addition to this, from 2005 until 2008 the criminal judicial system maintained an average 99.5% conviction rate and this number grew to 99.83% in 2012, equal to the conviction rate of the Soviet Union, with suspects often being

incarcerated for long periods before trial. On 24 March 2010, President Yanukovych formed an expert group to make recommendations how to "clean up the current mess and adopt a law on court organization". One day after setting this commission Yanukovych stated "We can no longer disgrace our country with such a court system." [186] Judicial and penal institutions play a fundamental role in protecting citizens and safeguarding the common good. The criminal judicial system and the prison system of Ukraine remain quite punitive. In contemporary Ukraine prison ministry of chaplains does not exist de jure.

Since 1 January 2010 it has been permissible to hold court proceedings in Russian by mutual consent of the parties. Citizens unable to speak Ukrainian or Russian may use their native language or the services of a translator. Previously all court proceedings had to be held in Ukrainian, the nation's only language with any truly official administrative status.

Law enforcement agencies in Ukraine are typically organised under the authority of the Ministry of Internal Affairs. They consist primarily of the national police force (Міліція) and various specialised units and agencies such as the State Border Guard and the Coast Guard services. In recent years the law enforcement agencies, particularly the police, have faced criticism for their heavy handling of the 2004 Orange Revolution, this criticism stems from the use by the Kuchma government's contemplated use of Berkut special operations units and internal troops in a plan to put an end to demonstrations on Kiev's Maidan Nezalezhnosti. The actions of the government saw many thousands of police officers mobilised and stationed throughout the capital, primarily to dissuade protesters from challenging the state's authority but also to provide a quick reaction force in case of need; most officers were armed and another 10,000 were held in reserve nearby. Bloodshed was only avoided when Lt. Gen. Sergei Popkov heeded his colleagues' calls to withdraw.

The Ministry of Internal Affairs is also responsible for the maintenance of the State Security Service; Ukraine's domestic intelligence agency, which has on occasion been accused of acting like a secret police force serving to protect the country's political elite from media criticism. On the other hand however, it is widely accepted that members of the service provided vital information about government plans to the leaders of the Orange Revolution to prevent the collapse of the movement.

In 1999–2001, Ukraine served as a non-permanent member of the UN Security Council. Historically, Soviet Ukraine joined the United Nations in 1945 as one of the original members following a Western compromise with the Soviet Union, which had asked for seats for all 15 of its union republics. Ukraine has consistently supported peaceful, negotiated settlements to disputes. It has participated in the quadripartite talks on the conflict in Moldova and promoted a peaceful resolution to conflict in the post-Soviet state of Georgia. Ukraine also has made a substantial contribution to UN peacekeeping operations since 1992.

Ukraine currently considers Euro-Atlantic integration its primary foreign policy objective, but in practice balances its relationship with the European Union and the United States with strong ties to Russia. The European Union's Partnership and Cooperation Agreement (PCA) with Ukraine went into force on 1 March 1998. The European Union (EU) has encouraged Ukraine to implement the PCA fully before discussions begin on an association agreement. The EU Common Strategy toward Ukraine, issued at the EU Summit in December 1999 in Helsinki, recognizes Ukraine's long-term aspirations but does not discuss association. On 31 January 1992, Ukraine joined the then-Conference on Security and Cooperation in Europe (now the Organization for Security and Cooperation in Europe(OSCE)), and on 10 March 1992, it became a member of the North Atlantic Cooperation Council. Ukraine also has a close relationship with NATO and had previously declared interest in eventual membership; however, this was removed from the government's foreign policy agenda upon election of Viktor Yanukovych to the presidency, in 2010. It is the most active member of the Partnership for Peace (PfP). All major political parties in Ukraine support full eventual integration into the European Union. The Association Agreement with the EU was expected to be signed into effect by the end of 2011, but the process has been suspended as of 2012 due to recent political developments.

Ukraine maintains peaceful and constructive relations with all its neighbours; it had enjoyed especially close ties with Russia and Poland, although relations with the former were complicated by energy dependence and payment arrears. However, following the events of March 2014, Ukraine now disputes sovereignty over the Crimean Peninsula with Russia.

Ukraine is included in the European Union's European Neighbourhood Policy (ENP) which aims at bringing the EU and its neighbours closer.

The government of Ukraine is often associated with the Cabinet of Ministers of Ukraine. However it should be considered that Ukraine is a country under a semi-presidential system with separate legislative, executive, and judicial branches of

government. And like a lot of European countries with the semi-presidential system a head of state, the President of Ukraine, has a great influence on the executive branch of the government. The highest government body of the executive branch is the Cabinet of Ministers of Ukraine not the president. The legislative branch is represented by a unicameral parliament, Verkhovna Rada, consisting of 450 People's Deputies (members of parliament). The judicial branch is very complex and has two independent court systems such as constitutional, the Constitutional Court of Ukraine, and general, the Supreme Court of Ukraine.

The administrative reforms that followed the Orange Revolution sought to give more influence of the parliament over the cabinet and in the way creating a drift within the executive branch between the president and the cabinet. Those reforms were discontinued through the cancellation of constitutional amendments in 2010. There were also some ideas to reform the parliament into bicameral, however there was not much of public support for its realization. A reform to local self-government has been suggested, but is yet to be formally approved.

Cabinet of Ukraine.

The Cabinet of Ministers of Ukraine (Ukrainian: Кабінет Міністрів України, Kabinet ministriv Ukrayiny) is the highest body of state executive power in Ukraine also referred to as the Government of Ukraine (Ukrainian: Уряд України, Uryad Ukrayiny). The first modern national government of Ukraine was established in 1917 as the regional government of the Russian Republic General Secretariat.

The Cabinet is a collegiate body consisting of the Cabinet's presidium composed of five individual and several ministries that are represented by their respective minister. Some ministries may be headed by members of the Cabinet presidium (Vice Prime Ministers). The presidium of Cabinet is composed of the Prime Minister of Ukraine who presides over the Cabinet and who is assisted by his First Vice Prime and other Vice Prime ministers. The Secretariat of Cabinet of Ministers ensures the operations of the cabinet.

The number of ministries in the cabinet has changed over time, some ministries were abolished, others combined with others or degraded to state committees or agencies. The Cabinet is responsible to the President of Ukraine and is under the control and being held accountable to the Verkhovna Rada (Ukrainian parliament). It consists of the Prime Minister, the First Vice-Prime Minister, three Vice-Prime Ministers, and other Ministers, who head their assigned Ministries (departments). At one point of time there also was an institute of "state ministries" that was majorly abolished on February 25, 1992 by the Presidential Decree. The Secretariat of

Cabinet of Ministers supports the effective operation of the government. Structural part of the secretariat is also the office of the Prime Minister of Ukraine.

Parts of Cabinet meetings are broadcast live on Ukrainian TV.

The duties of the cabinet of ministers are described in the Article 116 of the Constitution of Ukraine. Members of the government (cabinet) are citizens of Ukraine, who have the right of vote, higher education, and possess the state language (Ukrainian language). The members of the government cannot have judgement against them that has not been extinguished and taken away in the established legal order. Members of the Cabinet and chief officers of central and local bodies of executive power may not combine their official activity with other work, except teaching, scholarly and creative activity outside of working hours, and/or to be members of an administrative body or board of supervisors of an enterprise that is aimed at making profit. In case if a People's Deputy of Ukraine was appointed to the Cabinet of Ministers of Ukraine he or she resigns as a member of parliament and his/hers letter of resignation is reviewed immediately at the next session of the Ukrainian parliament.

At the sessions of the Cabinet may participate the President of Ukraine or his representative. During the plenary sessions of the Ukrainian parliament People's Deputies of Ukraine have the Time of questions to the Government during which the whole Cabinet participates and answers to all queries of members of parliament.

The Cabinet issues resolutions and orders that are mandatory for execution. Normative legal acts of the Cabinet, ministries, and other central bodies of executive power are subject to registration. Failure to register invalidates the act. (see Article 117) The Cabinet also possesses the power of legislative initiative and may introduce its own bills to the parliament (Verkhovna Rada). The members of Cabinet and deputy ministers may be present at the sessions of the parliament and participate in discussions. Every year no later than September 15 the Cabinet submits a bill on the State Budget of Ukraine to the Verkhovna Rada.

The sessions of the Cabinet are considered plenipotentiary if more than a half of the Cabinet's members participate in them. In case if a minister cannot participate at the sessions he or she may be replaced by a deputy with a consultative capacity. On propositions of other members of the Cabinet a consultative capacity may be awarded to other participants who allowed at the sessions of the Cabinet. Over the sessions presides the Prime Minister of Ukraine, while in his(hers) absent – the First Vice Prime Minister.

The decisions of the Cabinet are adopted by the majority of the Cabinet's composition. In case of votes equality the vote of the Prime Minister is considered to be decisive.

Appointment and dismissal

The Verkhovna Rad (parliament) has five days to approve the Prime Minister after the President proposes a candidate. A vote in parliament is required to approve the Prime Minister, but ministerial appointments do not need such a vote. The President can dismiss any government minister or deputy minister unilaterally at any time.

The entire Cabinet has to be dismissed following the prime minister's resignation.

The president can ordered the Cabinet to carry out its duties until a new Cabinet begins to work. But then it will only be able to implement its duties for no more than 60 days.

The composition of Cabinet is determined by the President of Ukraine on the petition of the Prime Minister of Ukraine. The legislation on Labor and State Service do not cover regulations of Cabinet's members. Positions of Cabinet of Ministers are political and are regulated by the Constitution of Ukraine and the Law of Ukraine on the Cabinet of Ministers of Ukraine.

2004 Constitutional amendments

Under the terms of Article 83 of Ukraine's Constitution a governing coalition needs to be formed by factions (rather than by individuals) that represent a majority of the parliament (Verkhovna Rada), a "coalition of parliamentary factions" (Ukrainian: Коаліція парламентських партій). A February 2010 law on the parliament's regulations does demand both a decision by the factions and 226 signatures by Members of Parliament. On October 1, 2010, the Constitutional Court of Ukraine declared the constitutional amendments of 2004 illegal, thus abolishing the principle of coalition creation in the parliament (Constitution of Ukraine). In February 2014 the parliament passed a law that reinstated the 2004 amendments of the constitution. Three days later they also terminated the powers of five judges of the Constitutional Court of Ukraine appointed from the parliament's quota, for violating their oath.

The system of Ukrainian subdivisions reflects the country's status as a unitary state (as stated in the country's constitution) with unified legal and administrative regimes for each unit.

Ukraine is subdivided into twenty-four oblasts (provinces) and one autonomous republic (*avtonomna respublika*), Crimea. Additionally, the cities of Kiev, the capital, and Sevastopol, both have a special legal status. The 24 oblasts and Crimea are subdivided into 490 raions (districts), or second-level administrative units. The average area of a Ukrainian raion is 1,200 square kilometers (460 sq mi); the average population of a raion is 52,000 people.

Urban areas (cities) can either be subordinated to the state (as in the case of Kiev and Sevastopol), the oblast or raion administrations, depending on their population and socio-economic importance. Lower administrative units include urban-type settlements, which are similar to rural communities, but are more urbanized, including industrial enterprises, educational facilities and transport connections, and villages.

Following 2014 Crimean crisis Crimea and Sevastopol became *de facto* administrated by the Russian Federation, which claims them as Republic of Crimea and federal city of Sevastopol. Internationally they are still recognised as parts of Ukraine.

MAIN USED SOURCES

1. Random House Unabridged Dictionary
2. *Handbook of Public Administration*. Eds Jack Rabin, W. Bartley Hildreth, and Gerard J. Miller. 1989: Marcel Dekker, NY.
3. Robert and Janet Denhardt. *Public Administration: An Action Orientation*. 6th Ed. 2009: Thomson Wadsworth, Belmont CA.
4. Kettl, Donald and James Fessler. 2009. *The Politics of the Administrative Process*. Washington D.C.: CQ Press.
5. Jerome B. McKinney and Lawrence C. Howard. *Public Administration: Balancing Power and Accountability*. 2nd Ed. 1998: Praeger Publishing, Westport, CT. P. 62
6. UN Economic and Social Council. Committee of Experts on Public Administration. Definition of basic concepts and terminologies in governance and public administration. 2006
7. Wilson, Woodrow. June, 1887. The Study of Administration, *Political Science Quarterly* 2.
8. Public administration. (2010) In *Encyclopaedia Britannica*. Retrieved August 18, 2010, from Encyclopaedia Britannica Online.
9. Shafritz, J.M., A.C. Hyde. 2007. *Classics of Public Administration*. Wadsworth: Boston.
10. Appleby, Paul 1947. "Toward Better Public Administration," *Public Administration Review* Vol. 7, No. 2 PP. 93-99.
11. Clapp, Gordon. 1948. "Public Administration in an Advancing South." *Public Administration Review* Vol. 8. no. 2 PP. 169-175. Clapp attributed part of this definition to Charles Beard.
12. Shields, Patricia. 1998. "Pragmatism as a Philosophy of Science: A Tool for Public Administration" *Research in Public Administration* Vol. 4. PP. 195-225.
13. Shields, Patricia. 1998. "Pragmatism as a Philosophy of Science: A Tool for Public Administration" *Research in Public Administration* Vol. 4. PP. 199.
14. Kernaghan, Kenneth. "Public administration" in *The Canadian Encyclopedia*. Available online at: <http://thecanadianencyclopedia.com/index.cfm?PgNm=TCE&Params=A1ARTA0006540> Accessed August 20, 2010.
15. THE FUTURE OF PUBLIC ADMINISTRATION by Donald F. Kettl. Available online at: <http://www.h-net.org/~pubadmin/tfreport/kettl.pdf> Accessed on October 25, 2010.

16. Definition Public Administration (NAICS 91). Available online at: <http://www.ic.gc.ca/cis-sic/cis-sic.nsf/IDE/cis-sic91defe.html> Accessed October 25, 2010
17. <http://nces.ed.gov/ipeds/cipcode/cipdetail.aspx?y=55&cipid=88560> accessed 09.03.2011
18. Second Treatise on Government
19. Declaration of Independence
20. Ryan, M., Mejia, B., and Georgiev, M. (Ed). 2010. AM Gov 2010. McGraw Hill: New York.
21. Jeong Chun Hai @Ibrahim, & Nor Fadzlina Nawi. (2007). *Principles of Public Administration: An Introduction*. Kuala Lumpur: Karisma Publications. ISBN 978-983-195-253-5
22. Frederick W. Taylor. (1856-1915). 'Principles of Scientific Management.' New York & London: Harper Brothers; Also see, Jeong Chun Hai @Ibrahim, & Nor Fadzlina Nawi. (2007). *Principles of Public Administration: An Introduction*. Kuala Lumpur: Karisma Publications. ISBN 978-983-195-253-5
23. Fry, Brian R. 1989. Mastering Public Administration; from Max Weber to Dwight Waldo. Chatham, New Jersey: Chatham House Publishers, Inc. page 80
24. Public Administration Review, Vol. 56, No. 3 (May – Jun., 1996), PP. 247–255
25. Patrick Dunleavy, Helen Margetts et al, 'New public management is dead: Long live digital era governance', *Journal of Public Administration Research and Theory*, (July 2006).
26. Diane Stone, (2008) 'Global Public Policy, Transnational Policy Communities and their Networks,' *Journal of Policy Sciences*.
27. Denhardt , Robert B. and Janet Vinzant Denhardt (2000). "The New Public Service: Serving Rather than Steering." Public Administration Review 60(6)
28. Aucoin, Peter (2008). *New Public Management and the Quality of Government: Coping with the New Political Governance in Canada*, Conference on "New Public Management and the Quality of Government", SOG and the Quality of Government Institute, University of Gothenburg, Sweden, 13–15 November 2008, P. 14.
29. Corduneanu-Huci, Cristina,; Alexander Hamilton and Issel Masses Ferrer (2012) *Understanding Policy Change: How to Apply Political Economy Concepts in Practice*. The World Bank: Washington DC. [1]

30. Dubois, Hans F. W.; Fattore, Giovanni (2009). *International Journal of Public Administration* **32** (8). Routledge Taylor & Francis Group. PP. 704–727. doi:10.1080/01900690902908760. "The field of public administration knows many concepts. By focusing on one such concept, this research shows how definitions can be deceptive..."
31. Haroon A. Khan. *Introduction to Public Administration*. University Press of America, 2008. P. 33
32. Haroon A. Khan. *Introduction to Public Administration*. University Press of America, 2008 P. 34
33. <http://www.GlobalMPA.net>
34. <http://www.clad.org.ve>
35. <http://www.ebape.fgv.br/inpae>
36. http://www.nispa.sk/_portal/homepage.php
37. <http://www.apsanet.org>
38. <http://www.aspanet.org>
39. <http://www.iipa.org.in>

Навчальне видання

ГРИНЕНКО Володимир Володимирович

**PUBLIC ADMINISTRATION
ПУБЛІЧНЕ АДМІНІСТРУВАННЯ**

ТЕКСТ ЛЕКЦІЙ

*(для спеціалістів і магістрів галузі знань
0306 – Менеджмент і адміністрування за спеціальностями
7.03060101 та 8.03060101 – Менеджмент організацій і адміністрування
(за видами економічної діяльності))*

(англ. мовою)

Відповідальний за випуск М. М. Новікова

За авторською редакцією

Комп'ютерне верстання І. В. Волосожарова

План 2014, поз. 137 Л

Підп. до друку 04.12.2014
Друк на ризографі
Зам. №

Формат 60x84/16
Ум. друк. арк. 7,5
Тираж 50 пр.

Видавець і виготовлювач:
Харківський національний університет
міського господарства імені О. М. Бекетова,
вул. Революції, 12, Харків, 61002
Електронна адреса: rectorat@kname.edu.ua
Свідоцтво суб'єкта видавничої справи:
ДК № 4705 від 28.03.2014 р.