

# Making Policy

Policy as process encompasses policy making and implementation. In general, process studies are concerned with understanding how relationships and interactions among political, governmental, and interest groups affect policy formation and adoption of policy products. Process studies examine how policies are adopted by legislative bodies, the subject of Chapter 8. Process studies are also concerned with understanding how adopted or proposed policies are or would be carried out. Studies aimed at understanding the current or prospective ways of carrying out mandates of policy products examine implementation processes, the subject of Chapter 9.

In this chapter, we consider salient aspects of the policy-making process in representative democracies. For illustrative purposes, it focuses on the role of the U.S. Congress, highlighting how laws are made, the sources of legislation, forms of congressional action, and the nature and role of committees. We discuss conceptual frameworks and theories about policy-making processes that have implications for policy analysis, including *elite theory*, *interest group theory*, *institutional rational choice theory*, *path (state) dependence theory*, *advocacy coalition*, and *social construction frameworks*. We also delineate the nature of policy formation and agenda setting, highlighting the roles of the public at large and elected officials. Finally, we present a typology of political feasibility, suggesting that when deliberating about the likelihood of adopting any given policy product, policymakers and policy analysts should assess such practical concerns as strategic, institutional, psychological, and behavioral feasibility. Upon completion of the chapter, students will be able to (1) identify coherently meaningful components of political processes associated with policy formation and adoption, and (2) know how to account for political and other self-interest in the policymaking process.

Upon successful completion of the skill building exercises, students will have mastered the following CSWE Competencies and Practice Behaviors:

**Chapter 8** Council on Social Work Education Core Competencies

#	Description
2.1.3	<p><b>Apply Critical Thinking to Inform and Communicate Professional Judgments</b></p> <p>Distinguish, appraise, and integrate multiple sources of knowledge, including research-based knowledge and practice wisdom</p> <p>Analyze models of assessment, prevention, intervention and evaluation</p> <p>Demonstrate effective oral and written communication in working with individuals, families, groups, organizations, communities, and colleagues</p>

(Continued)

## Chapter 8 (Continued)

#	Description
2.1.4	<p><b>Engage Diversity and Difference In Practice</b></p> <p>Recognize the extent to which a culture's structures and values may oppress, marginalize, alienate, or create or enhance privilege and power</p>
2.1.5	<p><b>Advance Human Rights and Social and Economic Justice</b></p> <p>Understand the forms and mechanisms of oppression and discrimination</p>
2.1.7	<p><b>Apply Knowledge of Human Behavior and the Social Environment</b></p> <p>Utilize conceptual frameworks to guide the processes of assessment, intervention, and evaluation</p> <p>Critique and apply knowledge to understand person and environment</p>
2.1.8	<p><b>Engage in Policy Practice to Advance Social and Economic Well-Being and to Deliver Effective Social Work Services</b></p> <p>Analyze, formulate, and advocate for policies that advance social well-being</p>
2.1.9	<p><b>Respond to Contexts That Shape Practice</b></p> <p>Continuously discover, appraise, and attend to changing locales, populations, scientific and technological development, and emerging societal trends to provide relevant services</p>

Source: Adapted from Council on Social Work Education (2012). *Educational policy and accreditation standards*. Washington, DC: Author. Retrieved from <http://www.cswe.org/file.aspx?id=13780>

## MAKING POLICY AND RESPONDING TO SOCIAL PROBLEMS

As social problems are formulated and recommended policies and programs proposed, deliberative or legislative processes aimed at adopting appropriate responses are also set in motion. As can be seen in Table 8.1, characteristics of representative political systems such as democracies suggest that making public policy is based on policymakers' considerations other than a careful weighing of social costs and social benefits, as important as these are.

Many of these considerations are a function of the nature and types of interests that are brought to bear on proposals for or changes to any given policy or set of policies, general election incentives of representatives, and electoral incentives of district-based representatives. Accounting for political self-interest in the policy-making process is one of the contributions that policy analysts can make to the social good by helping to craft politically feasible alternatives that are better than those that might otherwise be adopted. As Weimer and Vining (2011) demonstrate, the analysis of policy adoption entails consideration of what constitutes the "big picture"—that is, frameworks and theories—as well as practical approaches to assessing and influencing political feasibility. Before considering conceptual and theoretical issues, it is helpful

**Table 8.1** Divergence Between Social and Political Accounting

<b>Nature of Interests in Policy</b>	Concentrated interests have strong incentive to monitor and lobby—too much weight likely to be given to their costs and benefits
	Diffuse interests generally have weak incentives to monitor and lobby—too little weight likely to be given to their costs and benefits
	Organized diffuse interests often overcome collective action problem in monitoring and lobbying—too much weight given to their costs and benefits
	Mobilization of diffuse interests through intermittent media attention—too much weight given to their costs and benefits
<b>General Election Incentives of Representatives</b>	Attempt to realize tangible benefits before elections—too much weight to short-run benefits and too little weight to long-run costs
	Emphasize potential costs of opponents' policy proposals to take advantage of loss-aversion—too much weight given to potential costs
<b>Electoral Incentives of District-Based Representatives</b>	Seek positive net benefits for district—positive net benefits for majority of districts may nonetheless result in negative net social benefits
	Seek support from factor supplies in district—expenditures within district may be viewed as political benefits despite being economic costs

Source: Weimer, David; Vining Aidan R., *Policy Analysis: Concepts and Practice*, 5th Edition, © 2011, pp. 134, 177, 294. Reprinted by permission of Pearson Education, Inc., Upper Saddle River, NJ.

to have a general overview of how laws get made in democracies such as the United States. Equipped with such an overview, prospective policy analysts will be in a better position to identify what part or parts of the process they want to focus on for purposes of analysis. That is, they will be able to partialize the problem of analyzing political processes of policy formation and adoption into coherently meaningful components, as social workers are trained to do as a matter of practice.

## Making Laws

This section examines federal lawmaking processes. It relies on the most recent related report of the U.S. House of Representatives (2007), which since 1953 has provided periodically updated basic outlines of the numerous steps of the federal lawmaking process from the source of an idea for a legislative proposal through its publication as a statute. This section also draws on Oleszek (1996), who provides a more

extensive description and summary of congressional procedures than that provided in the House report. What follows is an overview of the process of policy making at the national level of government, with a full understanding that “behind the scenes” bargaining or “horse trading” goes on—and it does so well below the radar screen of public visibility—making systematic analysis and public accountability problematic.

It should be noted that legislative histories provide a good source of information about the dynamics of legislative policy deliberation by national and state governments (e.g., Mendez, 2006). Although what follows focuses on the legislative branch of government, it is also important to keep in mind that executive and judicial branches of government are involved in the policy-making process and as such can be the subject of policy analysis during the adoption stage of the policy process, as well as in the implementation stage of the policy process (discussed further below).

### ***Congress***

In the United States, the federal legislative or lawmaking body is Congress, which consists of two chambers or Houses, the Senate and the House of Representatives. The Senate is composed of 100 members, two from each state, elected by the people in accordance with the Seventeenth Amendment of the Constitution, with each senator having one vote and the vice president of the United States serving as tie-breaker, in the unusual event that the Senate vote is tied. At the start of the 113th Congress on January 3, 2013 (each Congress lasts two years, with the first year referred to as the first session and the second year referred to as the second session of that Congress), the House of Representatives had 433 Members (due to vacancies, 2 shy of the full 435), each elected for a two-year term. Each member of the House of Representatives serves the people of a specific congressional district, and proportionately represents the population of the 50 states. The decennial U.S. Census is the basis for the apportionment of congressional districts, and as of the 2010 Census, the average population of a congressional district was about 750,000 people, with the largest number of people in the Montana congressional district and the smallest number in the Rhode Island district. In addition, there are five (non-voting) delegates representing the District of Columbia, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, and a resident commissioner representing Puerto Rico, also in a non-voting capacity.

The U.S. Constitution authorizes each chamber to determine the rules of its proceedings. Pursuant to that authority, the House of Representatives adopts its rules anew each Congress, ordinarily on the opening day of the first session. The Senate operates under continuous standing rules that it amends from time to time. Unlike some other parliamentary bodies, both the Senate and the House of Representatives have equal legislative functions and powers with certain exceptions. For example, the Constitution provides that only the House of Representatives may originate revenue bills (i.e., tax legislation), though in practice the Senate Finance Committee and other Senate committees also develop tax legislation. By tradition, the House also originates appropriations bills, which allocate (or appropriate) federal monies to executive departments and agencies and groups of programs in each area of government, such as defense, environmental protection, and education.

### ***Sources of Legislation***

Sources of ideas for legislation are essentially unlimited and quite varied, including a legislator's own concerns and those of immediate constituents during and after campaigns and by petition, those generated and proliferated by think tanks, as well as those developed and proposed through “executive

communication.” Although the president, the president’s cabinet, and heads of independent agencies cannot directly introduce legislative proposals to Congress, they can nonetheless send a message, letter, or draft of a bill to committee chairs or any sympathetic member of Congress who can then seek other supporters and introduce it. Many such communications follow the State of the Union Address the president delivers to Congress, the Cabinet, the Supreme Court, and guests, as well as the nation (through the media) annually. These communications are referred to congressional standing committees or to other committees having jurisdiction over the subject matter. The committee chairperson or ranking minority member of the relevant committee usually introduces the bill, either in its original form or a modified version of it with desired changes. The most important “executive communication” is the annual message from the president transmitting the proposed budget to Congress. The president’s budget proposal, together with testimony by officials from departments, agencies, and commissions of the executive branch of government before the Appropriations committees of the House and Senate, provide the basis of the appropriations bills that are drafted by the Appropriations committees of the House and Senate. Each year Congress passes a set of 12 appropriations bills, which collectively fund government programs from October 1 of one year to September 30 of the next (also known as the fiscal year, as distinct from the calendar year). In practice, in recent decades Congress has often been unable to agree on funding of programs, and appropriations bills have not been passed. In these years, short-term continuing resolutions are passed instead, which allow funding at the level of the previous year for a limited period of time.

Much of government spending is on mandatory programs, whose establishment and continued existence have been authorized by Congress. Such programs—including Social Security and Medicare—do not require a new appropriation of funds each year but grow according to rules within the authorizing legislation. In this sense, funds for Social Security and Medicare rise automatically and do not require congressional approval. These ongoing, congressionally authorized programs are also referred to as entitlement programs because all eligible recipients are entitled to benefits from these programs. Changing these mandatory programs requires Congress to pass legislation. It is for this reason that presidents often say that most of the budget (approximately two-thirds) is not within their control.

The House and Senate Appropriations committees are powerful: the determination about the level of discretionary funding (about one-third of total U.S. spending) to allocate to specific provisions in passed legislation is subject to political influence and pressures. Even though two-thirds of federal outlays go to entitlement programs such as Social Security and Medicare that are for the most part outside annual appropriation deliberations and as such make fundamental changes in social welfare provisioning more difficult, the budget process nonetheless warrants analysis despite claims otherwise (Patashnik, 2001; Pierson, 2001). Many clients of social workers and populations of people in need about whom social workers are concerned as a matter of social justice are affected by annual budget allocation decisions, such as low-income individuals and families, women, and minorities.

When Republicans regained control of the Congress in 1994 for the first time in forty years, they used the House Appropriations Committee to advance their policy agenda (Aldrich & Rohde, 2000; Kiewiet & McCubbins, 1985). The National Association for the Repeal of Abortion Laws (NARAL) Pro-Choice America (2012a, 2012b) also notes that anti-choice legislators continually use these “must pass” bills as vehicles to deny coverage for abortion services to millions of women whose health care is subject to federal control. Since 1980, restrictions on use of federal Medicaid funds for abortion services have been imposed through the Hyde amendment, which was attached to the annual Labor, Health and Human Services, and Education appropriations bill (P.L. 94–439). The Hyde amendment was named after Congressman Henry

Hyde (R-IL), who initially introduced it in 1976; it was then routinely attached to annual appropriation bills. Between 1981 and 1993 the Hyde amendment prohibited federal Medicaid dollars from being used to provide abortion services except to preserve a woman's life. In 1993, the exception was expanded to include situations where the pregnancy resulted from rape or incest (P.L. 103-12). In 1997, Congress adopted language to make it clear that the Hyde amendment applied to Medicaid recipients enrolled in managed care plans. Congress also passed a permanent Hyde amendment in the Budget Reconciliation Act of 1997 (P.L. 105-33), which applies to the State's Children Health Insurance Program.

### ***Forms of Congressional Action***

Proposals initiating the work of Congress can take one of four forms: the bill, the joint resolution, the concurrent resolution, and the simple resolution. The bill is the most customary form used in both chambers of Congress. Over 10,000 bills were introduced in the 111th Congress (the vast majority of which were not acted upon; about 10% getting some action, and about 3% being passed), 100 each of House concurrent, joint, and simple resolutions, and 78 Senate concurrent resolutions, 42 Senate joint resolutions, and 100 Senate simple resolutions (Library of Congress, 2012; Tauberer, 2011). With one exception, bills may originate in either chamber of Congress. Bills for raising revenue are constitutionally mandated to originate in the House of Representatives and may be amended or concurred on by the Senate. By tradition, general appropriations bills originate in the House of Representatives. Public bills are those that affect the public generally. Private bills are those that affect specified individuals or private entities rather than the public at large. Bills originating in the House of Representatives have the designation "H.R." followed by a number that each bill retains throughout its parliamentary stages. A Senate bill is designated by "S." followed by its number. Companion bills are those that originate in one chamber of Congress but are similar or identical to one originating in the other chamber.

Bills agreed to and passed in identical form by both chambers of Congress become law only after (1) presidential approval (by signature); or (2) failure by the president to return the bill with objections to the congressional chamber in which it originated within ten days (Sundays excepted) while Congress is in session, an action referred to as a "pocket veto"; or (3) the overriding of a presidential veto by two-thirds vote of each chamber of Congress.

An enacted bill or enrolled bill (the final copy of a bill or joint resolution passed by both chambers of Congress in identical form) is referred to as a Public Law (in matters governing the relation between individuals and the state) or Private Law (in matters governing relations between individuals), followed by its number, with the number of the Congress (as in the 113th Congress) coming first and then the number of the law following, and these running in sequence as they become law. For example, Public Law 112-1, or P.L. 112-1, signifies the first Public Law of the 112th Congress.

Joint resolutions may originate in either chamber of Congress; they are similar to bills and are often used interchangeably. Unlike bills, however, joint resolutions may include a preamble preceding the resolving clause. Preambles are "whereas" clauses indicating the necessity for or desirability of the joint resolution. Statutes introduced as bills may be amended by joint resolutions and vice versa. Both are subject to the same procedures, except in the case of a joint resolution proposing an amendment to the Constitution. When such an amendment is approved by two-thirds of the members of each chamber of Congress, it is not presented to the president for approval. Instead, such a joint resolution is sent directly to the archivist of the United States for submission to the states, where

### Case in Point 8.1: The Comprehensive Child Development Act—Vetoed

On September 9, 1971, the U.S. Senate adopted S. 2007, the Economic Opportunity Amendments of 1971, which, among other things, incorporated under Title V major provisions of S. 1512, the Comprehensive Child Development Act of 1971 (Child Development Plan Vetoed, 1972). S. 1512 had been introduced in 1970 by Senators Walter Mondale (D-MN), Jacob Javits (R-NY), Gaylord Nelson (D-WI), and Richard Schweiker (R-PA), along with twenty-nine co-sponsors. S. 2007 passed both houses of Congress and involved a comprehensive approach to child development, beginning with prenatal care and ending with after-school centers for young teens. On December 9, 1971, President Richard Nixon vetoed the bill, citing, in regard to the “most deeply flawed provision of this legislation . . . Title V, ‘Child Development Programs,’” costs (estimated at \$20 billion a year), a new army of bureaucrats to administer it, and, his distaste for communal approaches to child rearing (Nixon, 1971). The next day the Senate sustained the veto. Gilbert Steiner (1976), director of Government Studies at the Brookings Institution (see Appendix B) advised advocates that seeking comprehensive and innovative legislation was impractical after Nixon’s veto, advice rejected by a member of the Arkansas bar Hillary Rodham (1977), later Hillary Rodham Clinton, Secretary of State, New York Senator, and First Lady. More recently, *The New York Times* columnist Gail Collins (2013), noting Nixon’s 1971 veto, reported how delighted Walter Mondale was upon hearing President Obama’s 2013 State of the Union address in which he called for high quality pre-school for all 4-year-olds.

ratification by the legislators of three-fourths of the states within the period of time specified in the joint resolution is necessary for the amendment to become part of the Constitution. Joint resolutions originating in the House of Representatives have the designation “H.J. Res.” followed by a number they retain throughout its parliamentary stages; one originating in the Senate is designated by “S.J. Res.” followed by its number.

Concurrent resolutions are concerned with matters affecting the operations of both chambers of Congress. They are used to express facts, principles, opinions, and purposes of both chambers. As such concurrent resolutions are not legislative in character nor are they presented to the president for approval. They may originate in either chamber. Those originating in the House of Representatives are designated as “H. Con. Res.” followed by their original number; a Senate concurrent resolution is designated as “S. Con. Res.” followed by its number. On approval of both chambers of Congress, concurrent resolutions are signed by the clerk of the House and the secretary of the Senate and sent to the archivist of the United States for publication in a special part of the Statutes at Large volume covering that session of Congress.

Simple resolutions refer to matters concerning the rules, the operation, or the opinion of either chamber of Congress alone. Those affecting the House of Representatives are designated “H. Res.” followed by their number, while a Senate resolution is designated “S. Res.” together with its number. Simple resolutions

are considered only by the body in which they were introduced. Upon adoption, simple resolutions are attested to by the clerk of the House of Representatives or the secretary of the Senate and are published in *The Congressional Record*, a complete reporting of legislative activity in Congress and available in most libraries. Online access to The Congressional Record (including legislation being considered in the current congressional session, as well as past congressional sessions from 1989—and in summary form from 1973) may be found at the Library of Congress Web site known as THOMAS (<http://thomas.loc.gov/home/thomas.php>).

### ***Introduction and Referral to Committee***

Any member, delegate, or the resident commissioner from Puerto Rico in the House of Representatives may introduce a bill at any time while the House is in session by simply placing it in the “hopper,” a wooden box provided for that purpose located on the side of the rostrum in the House Chamber. Permission is not required to introduce the measure. The member introducing the bill is known as the primary sponsor. In the Senate, a senator usually introduces a bill or resolution by presenting it to one of the clerks at the Presiding Officer’s desk, without commenting on it from the floor of the Senate. However, a senator may use a more formal procedure by rising and introducing the bill or resolution from the floor, usually accompanied by a statement about the measure. After some formal processes of getting a bill officially on record, it is sent to a committee whose clerk enters it on the committee’s legislative agenda for deliberation and action. Congressional committees provide intensive consideration to a proposed measure and by way of hearings they serve as the forum where the public is given an opportunity to be heard. Each chamber of Congress has a standing committee structure and also makes use of ad hoc committees as warranted.

As of the first session of the 113th Congress, the Senate had 20 standing committees, including the Armed Services Committee, the Banking, Housing and Urban Affairs Committee, the Budget Committee, the Health, Education, Labor and Pensions Committee, and the Finance Committee; the House of Representatives had 21 standing committees, including the Appropriations Committee, the Budget Committee, the Education and Workforce Committee, and the Ways and Means Committee. Under these large committees are sixty-eight subcommittees that focus more narrowly on specialized aspects of the larger committees’ work and usually make recommendations about issues and bills to the larger committees. There are also four joint (House-Senate) committees (U.S. Senate, 2013). Both chambers of Congress have members on four standing committees without legislative jurisdiction, including the Joint Economic Committee and the Joint Committee on Taxation. Committees generate reports and summaries made available to the public through the Government Printing Office, in hard or electronic copies, many of which are freely available. Such reports provide a wealth of information about issues, facts, and opinions raised during deliberations about what actions to take on specific bills. Committee membership, which generally reflects a member’s qualifications and interests, is proportional to party affiliation in each chamber of Congress, with seniority in accordance with the order of their appointment to the full committee and the ranking majority member with the most continuous service often elected chairperson. Each committee is provided with professional staff, of up to 30 people for standing committees, to assist it in the many substantive and administrative matters involved in the consideration of bills within the committee’s area of oversight or responsibility. The majority party is allowed a larger staff than the minority party, and the committee’s chief of staff is generally appointed by the chair of the committee.

There are many rules and regulations that guide how and in what form bills get from committees to the floor of each chamber of Congress for debate, further modification, and voting. The particulars are beyond the scope of this text, although the dynamics of committee and subcommittee meetings as well as public hearings (if called for) are the subject of extensive scholarly observation, analysis, and comment as part of the policy-making process. Oleszek (1996) provides a useful description of the congressional environment, budget process, preliminary legislative action, scheduling of legislation in both chambers of Congress, procedures guiding discussion, debates, and amendments to bills in both chambers of Congress, resolution of House-Senate differences, and legislative oversight of how effectively the executive branch of government is carrying out congressional mandates. Suffice it to say that most bills die in committee or subcommittee, never reaching the floor of either chamber of Congress for deliberation by that legislative body, and even if introduced never being reintroduced in the next legislative session if not acted upon favorably. For those that do make it to the floor of either or both chambers of Congress, one can follow proceedings and learn about the status of bills in current and prior legislative sessions through *The Congressional Record*, available in libraries and online through the Library of Congress service, THOMAS (<http://thomas.loc.gov/home/thomas.php>). In addition, committees voting to report out a bill must prepare a report that describes the purpose and scope of the bill and the reasons for its recommended approval; changes to existing laws must be indicated and the text of laws being repealed set out. Such reports provide information about the rationale for the law, as well as its intended aims and objectives.

### **Case in Point 8.2: Affordable Care Act (ACA) Repeal Bill H.R. 45 Referred to Congressional Committees**

Think again of the Affordable Care Act and H.R. 45 introduced in Congress by Representative Michele Bachmann on January 3, 2013, to repeal it. After H.R. 45 was introduced, it was referred to the House Energy and Commerce Committee, Subcommittee on Health and has been referred to the House Education and Workforce Committee, the House Ways and Means Committee, the House Judiciary Committee, the House Rules Committee, the House Administration Committee, the House Budget Committee, and to the House Natural Resources Committee, Subcommittee on Indian and Alaska Native Affairs. Research all congressional actions since January 31, 2013, when H.R. 45 went to the Subcommittee on Indian and Alaska Native Affairs and how H.R. 45 fared in the 1st session of the 113th Congress by going to The Library of Congress Web site, THOMAS, URL: <http://thomas.loc.gov/>

Another source of information that policy analysts will find useful is provided by the Congressional Research Service (CRS), a legislative branch agency within the Library of Congress, which serves as shared staff to congressional committees and to members of Congress, issuing nonpartisan reports on major policy issues, providing expert congressional testimony and responses to individual inquiries.

The major research divisions of the Congressional Research Service are American law, domestic social policy, foreign affairs, defense and trade, government and finance, and resources, sciences, and industry. The domestic social policy division of CRS has six research sections: children and families, domestic security and immigration, education and labor, health insurance and financing, health services and research, and income security (Social Security, income for disabled persons, unemployment compensation, and retirement savings and pensions). Unfortunately, CRS does not provide direct public access to its reports, although citizens can request them from members of Congress. Unaffiliated sites, however, do make some CRS reports available to the public. The Digital Library at the University of North Texas, for example, provides integrated, searchable access to many of the full-text Congressional Research Service reports that have been available at a variety of different Web sites since 1990 (<http://digital.library.unt.edu/explore/collections/CRSR/>), covering such topics as abortion (45 reports between 1970 and 2012), job training (15 such reports between 1980 and 2009), federal and state budgets (379 between 1990 and 2012), economic policy (489 between 2000 and 2012; see e.g., Labonte, 2009, for a discussion about the role and size of government), religion (65 between 1970 and 2011), and welfare (199 reports between 1970 and 2012), among others such as energy (675 reports between 2000 and 2012) and environmental protection (428 reports between 2000 and 2012).

### Conceptual and Theoretical Considerations

This section highlights relevant conceptual frameworks and theories about policy-making processes that have implications for policy analysis. These include *elite theory*, *interest group theory*, *institutional rational choice theory*, *path (state) dependence theory*, *advocacy coalition*, and *social construction frameworks* (Dye, 1978, 2001; Sabatier, 1999, 2007; Weimer & Vining, 2011). Each framework has its own internal consistency and none is constructed to capture all relevant aspects of the policy-making process. In each framework some aspects of the policy-making process operate in the foreground while others are in the background or ignored completely.

#### ***Elite Theory***

*Elite theory* has been developed with contributions from notable social scientists such as Vilfredo Pareto (Higley, 2009), Robert Michels (1917/1962; 1927; Beetham, 1977a, 1977b), and C. Wright Mills (1967; Horowitz, 1981), among others (e.g., Domhoff, 1967). It has its own set of controversies, in part due to its implication for democracy as a sustainable form of electorally responsive self-governance (Ghiloni & Domhoff, 1984) and to methodological and substantive issues associated with building over time a credible body of empirical research (Domhoff, 2007; Dusek, 1969; Kerbo & Fave, 1979; Mintz, Freittag, Hendricks, & Schwartz, 1976; Polsby, 1968; Quadagno, 2007). It is distinct from pluralist or interest group theory in its unique starting point of viewing power rooted first and foremost in organizations, not in individuals or voluntary associations, or for that matter in class (Domhoff, 2007), although it should be noted that membership networks or “people-by-institutions” matrices are used for analytical purposes (Domhoff, 1983). Organizations are seen as the power bases for those at the top.

For purposes here, the **elite theory** of public policy portrays policy as a function of a governing elite whose preferences and values influence how social problems and policy responses get formulated by virtue of their control over and leadership roles among large corporate and financial institutions. Elites are the principal decision makers in the largest or otherwise most pivotally situated organizations in

society (Field, Higley, & Burton, 1990). The national policy outcomes they affect are the basic stability or instability of political regimes, the more specific democratic or authoritative forms regimes take, as well as the regime's main policies. Elites affect political outcomes substantially in the sense that without their support or opposition, the outcome (responsive to their interests) would be noticeably different. Elected officials, the "proximate policy makers" whose actions give official sanction to policy decisions, knowingly or unknowingly respond disproportionately and primarily to the values of the elite. Figure 8.1 highlights the hierarchical formation of the elite theory or top-down policy formulation process.

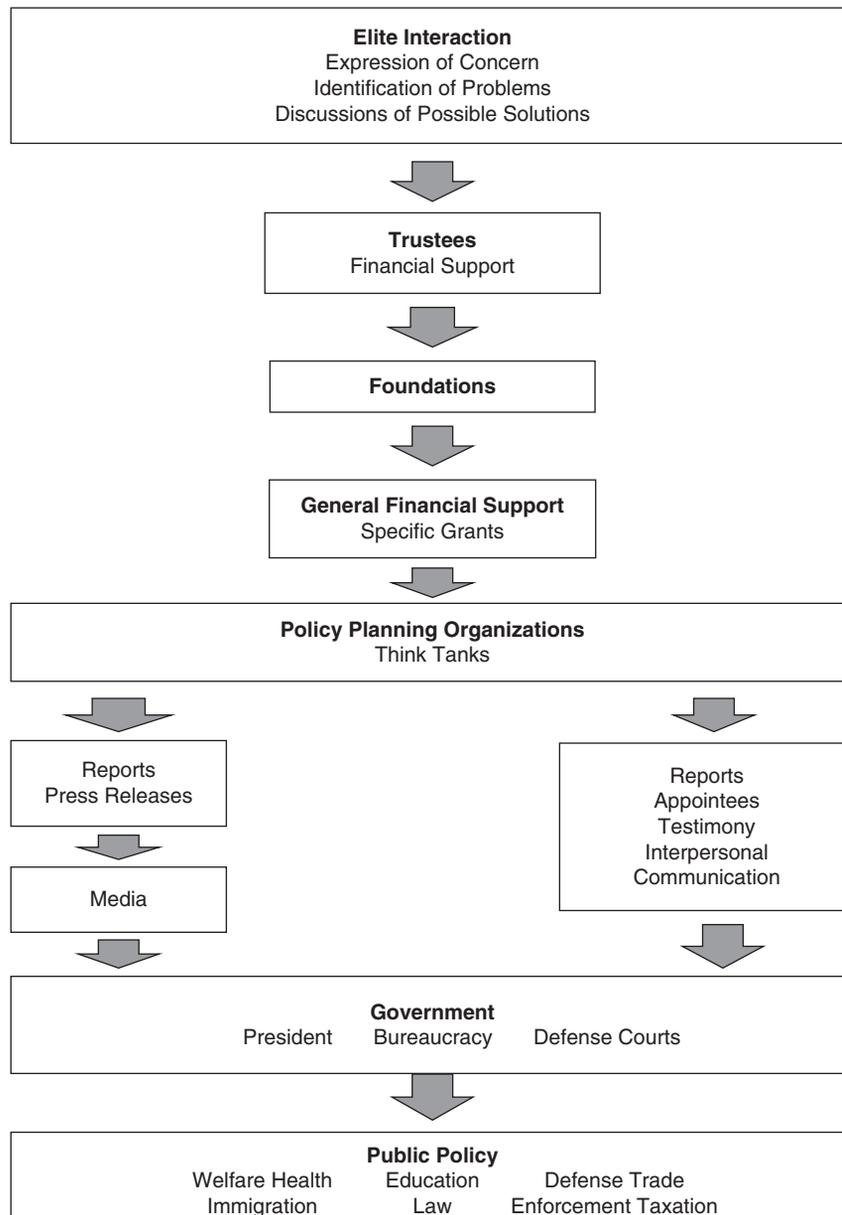
Although members of the governing elite may disagree over the specifics of any given public policy, this model assumes that they generally share a consensus over the major goals and direction of society, as well as appropriate means of working toward those goals and the desired direction. This is not to say that the elite has no factions or is ideologically monolithic, or is stagnant. Nor does the model suggest that government is "captured" by elites or vice versa, given that much of the related literature makes clear that sustainable democracy as a complex socio-political structure requires some degree of elite autonomy from government intervention per se (Domhoff, 1974; Etzioni-Halvey, 1990; Medvetz, 2012; Slann, 1988). The model posits that elites sponsor and finance associations and political action committees, and they underwrite the formation of organized interest group activities such as direct lobbying (testifying at committee hearings, contacting government officials directly, presenting research results, and assisting in writing legislation), litigation, filing amicus curiae briefs, and making campaign contributions (directly and through political parties, political action committees, and, more recently, SuperPacs). Such activities are directed at government officials and are meant to influence policy outcomes in such areas as welfare, health, education, defense, trade, immigration, law enforcement, taxation, international relations, and the like.

Elites also influence public opinion through their leadership of influential media institutions, national TV networks (ABC, CBS, NBC, CNN, FOX), national newspapers (*Washington Post*, *New York Times*, *Wall Street Journal*, *USA Today*), and broad-circulation news magazines (*The Atlantic*, *Newsweek*, *The New Republic*, *Time*, *U.S. News & World Report Weekly*, *Economist*). Such media institutions not only report newsworthy political interest stories and events but also, through commentary, interpret events and attempt to influence public attitudes about social problems and related policy interventions. Figure 8.1 suggests a downward flow of influence on policy outcomes. It is worth noting, however, as Jenkins and Eckert (2000) show in their study of the influence of business elites on economic policy, that social, industrial, and regional differences create policy divisions and political pressures from below that condition the dominance of elites.

### **Interest Group Theory**

**Interest group politics** entail those situations, as Figure 8.1 suggests, where both costs and benefits are concentrated, providing the relevant actors with incentives to participate in policy making, and policy analysts with a way of readily identifying and predicting their reactions to policy proposals (Lowi, 1972). In entrepreneurial politics (diffuse benefits and concentrated costs) and client politics (concentrated benefits and diffuse costs), analysts often face the problem of identifying and mobilizing diffuse interests on their own behalf (Weimer & Vining, 2011; Wilson, 1980). More diffuse interests require mobilization or the creation of representative organizations. They become effective by framing issues broadly or in terms of widely held values, or by creating sensational public events to attract attention. Analysts perform a valuable service by identifying those groups who would bear

**Figure 8.1** Top-Down or Elite Policy Formation Process



Source: Dye, T.R. (2001). *Top down policymaking*. New York, NY: Chatham House Publishers, p.40.

diffuse costs from policies if they were adopted. For example, failure to take into account diffuse costs associated with the Medicare Catastrophic Coverage Act passage in 1988, with support from both houses of Congress, resulted in its repeal in 1989, when strong opposition from wealthy elderly persons to progressive fees became apparent (Himelfarb, 1995; Oliver, Lee, & Lipton, 2004; Weimer & Vining, 2011).

### ***Institutional or Rational Choice Theory***

Analysts who rely on *institutional rational choice theory* focus on the role of institutions, defined roughly as “fairly stable sets of commonly recognized formal and informal rules that coordinate or constrain the behavior of individuals in social interactions” (Weimer 1995, as cited in Weimer & Vining, 2011, p. 267). The focus on rules differentiates *institutional rational choice theory* from *elite theory*, which, as previously discussed, focuses on the constitutive power bases for those at the top of substantively influential organizations. In *institutional rational choice theory*, four levels of rules that cumulatively affect actions taken and outcomes obtained in any setting but are most appropriate for policy analysis are considered (Ostrom, 2007). At the first or *operational level*, operational rules shape the actions of individuals who usually initiate public policy that has to do with situations concerned with provision, production, distribution, appropriation, or assignment of related goods and services. Such rules may be formal, as the rules and regulations adopted by a state, or informal, as conventions or norms about acceptable behavior. The main considerations here are individuals’ actions that directly affect policy-relevant variables (those that can be manipulated or are subject to government or influence).

Other types of rules that cumulatively affect actions and outcomes entail collective choice situations—that is, individuals’ actions that directly affect rules affecting operational definitions. Related rules are generated at the *collective choice level*—for our purposes, primarily by government bodies according to their legislative and executive authorities. Such rules may also be set at the *constitutional level*, which sets rules about collective choice. Finally, rules may be set at the *meta-constitutional level*—that is, actions taken that directly affect rules that affect constitutional situations.

It is important to keep in mind that there are formal and informal collective-choice arenas between and within which influences on the monitoring and enforcement of public policy actions occur. National, regional, and state/local formal collective-choice arenas include legislatures, regulatory agencies, and courts. Informal collective-choice arenas include private associations, civic institutions, and the like that provide information. At each level of rules, policy analysts examine the formal and informal processes by which a particular set of rules is decided upon and how they get communicated to those to whom they apply, while remaining aware that modifications of rules can be a source of policy changes within or across levels. For example, throughout the early 2000s in many states those opposed to same-sex marriage attempted to constrain their legislatures through constitutional bans via ballot initiatives, while proponents of marriage equality have often looked to the courts to pursue their policy goals. More recently, the issue went to polls in states including Maryland and Maine and was taken up by state legislators such as in Maryland, which approved same-sex marriage in 2013 (Same-Sex Marriage, 2013).

### ***Path Dependence Theory***

**Path dependence** refers to how past policy decisions affect the content and likely adoption of proposed policy alternatives; **state dependence** refers to how current policies affect the content and likely adoption of proposed policy alternatives (Weimer & Vining, 2011). In general, the identification of path

dependence involves both tracing a given outcome back to a particular set of historical events, and showing how these events are themselves contingent occurrences that cannot be explained on the basis of prior historical conditions (Mahoney, 2000). Because the presence or absence of contingency cannot be established independent of theory, the specification of path dependence is always a theory-laden process. For example, economists assume that utilitarian mechanisms of cost-benefit analysis underpin processes of institutional reproduction—that is, an institutional pattern once adopted delivers increasing benefits with its continual adoption, and over time it becomes more difficult to transform the pattern or to select previously available options even if they are deemed more efficient. Sociologists and other social scientists identify additional theoretically related mechanisms or causal factors that can underpin institutional reproduction, including functional relationships, power relationships, and legitimation or authority-related mechanisms.

Policy feedback is integral to both path and state dependence—changes in administrative capacity and the identities and resources of social groups make political processes dependent upon previous policy adoption. In addition, as Mettler (2002) shows in regard to the G.I. Bill for the World War II veterans, as Soss and Schram (2007) suggest about welfare reform efforts during the 1990s, and as Pierson (1993) and Mettler and Soss (2004) contend for politics in general, policy feedback may affect public opinion and civic engagement and thereby contribute to policy and political change, at times advancing it and other times reaffirming the status quo (Caputo, 2010). Path dependence calls for historical analysis examining the roads taken, by whom, as well as in what ways past efforts to change policy and influence future opportunities were successful or not. By contrast, a focus on state dependence requires only an assessment of the status quo. Path analysis highlights the importance of the timing of events and relates to when things happen, and to how they happen.

### **Case in Point 8.3: Ending the Aid to Families with Dependent Children Program**

Caputo (2011) observes that ending the entitlement nature of the Aid to Families with Dependent Children (AFDC) program had not been the intent of welfare reform legislation introduced by the Clinton administration, nor was it part of prior welfare reform efforts. Rather, once Republicans took control of Congress in 1994, the path to replacing AFDC with its successor, the time-limited and federally capped Temporary Assistance for Needy Families (TANF) program, was, while not inevitable, much more politically feasible and probable.

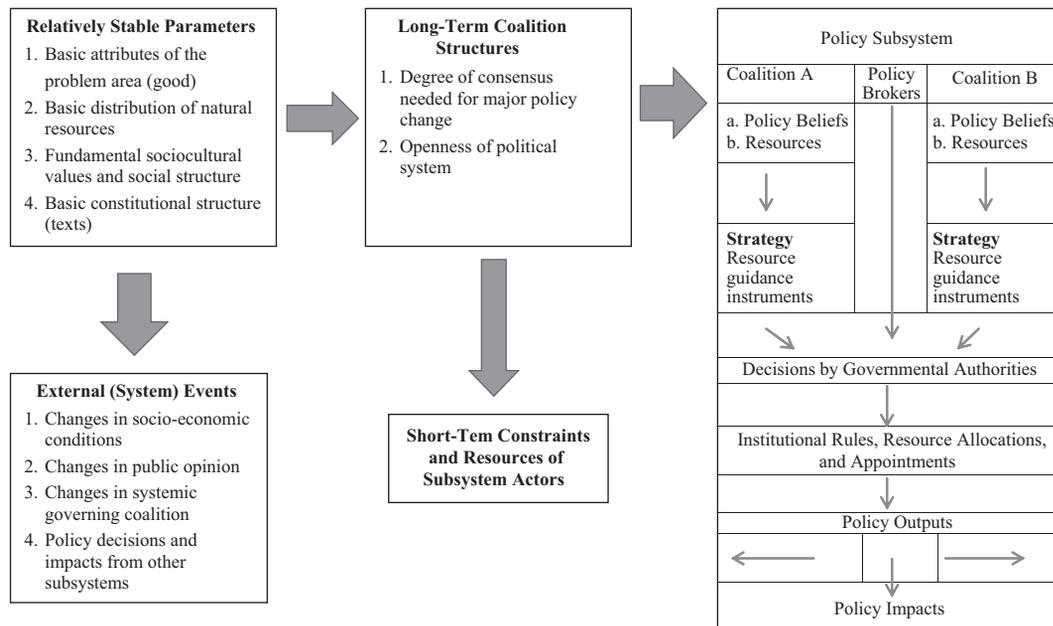
#### ***Advocacy Coalition Framework***

The **advocacy coalition framework** assesses the learning that occurs among coalition members and its relationship to policy change within *policy subsystems* over time (Sabatier & Jenkins-Smith, 1999; Sabatier & Weible, 2007; Weimer & Vining, 2011). *Policy subsystems* are collections of individuals and

organizations, such as advocacy or professional groups, who seek to influence public policy within a substantive domain such as health, education, or housing. Key elements of this framework include the policy subsystem as the unit of analysis, the focus on two or more relatively stable and opposed coalitions of actors within the subsystem, the belief systems of the coalitions, and the processes through which learning by the coalitions and policy change occur. Figure 8.2 shows a diagram of the framework.

Within the *advocacy coalition framework*, external events such as changes in the economy or in other subsystems of society, and electoral changes are acknowledged as contributors to policy change. The distinctive contribution of the *advocacy coalition framework*, however, is the focus on the relatively stable belief systems of the coalitions and the extent to which policy learning can affect those beliefs (Sabatier & Weible, 2007; Weimer & Vining, 2011). Coalitions may share deep core beliefs about the relative importance of fundamental values and human nature. Core beliefs span a variety of broad-based issues and concerns, such as the appropriate roles of markets and governments, the causes and seriousness of social problems, and the acceptability of policy instruments for dealing with those problems. Secondary policy beliefs are narrower in scope, concerning either specific issues about a policy or policies and processes in specific locales. For example, a coalition may have core beliefs about the causes of and proper responses

**Figure 8.2** The Advocacy Coalition Framework



Source: Sabatier, P.A., & Weible, C.M. (2007). The advocacy coalition framework: Innovations and clarifications. In P.S. Sabatier (Ed.), *Theories of the policy process* (2nd ed.), pp. 189-220. Boulder, CO.: Westview Press, p. 202.

to substance abuse in general, but secondary beliefs about specific policies appropriate in a particular geographical area. Changes in secondary beliefs tend to be more amenable to change than core beliefs. Further, successful experiences of change at the local level may serve as the basis among coalition members to facilitate change in core beliefs.

### ***Social Construction Framework***

The **social construction framework** relies on the notion that interpretive frameworks used to interpret our observations of the world can to some extent be altered by arguments, thereby providing an avenue for changing the political support for various policies (Weimer & Vining, 2011). It applies this notion to the distribution of benefits and burdens among the groups who are targets of public policies. As can be seen in Table 8.2, this framework identifies four target groups in reference to their social construction and political power (Schneider & Ingram, 1993). The four-fold classification, developed by Ingram, Schneider, and deLeon (2007), is not intended to produce sharp lines among the groups but rather conceptualizes a policy space, with groups slotted appropriately, contingent on time and context. Illegal immigrants in the United States, for example, are often portrayed by some as the backbone of the low-paying sector of its economy, whereas others often portray them as lawbreakers who take jobs from citizens and exploit the welfare system (Fox, 2009; Newton, 2002, 2005).

The *advantaged* are those groups with positive social constructions and strong political power, such as senior citizens, small businesses, homeowners, and the military; policies targeting these groups are viewed as benefits, not burdens. *Dependents* include groups with positive social constructions but weak political power, such as children and mothers; policies targeting these groups tend to be viewed as benefits, but they are smaller and less secure than those provided to the advantaged. *Contenders*, such as big business and labor unions, have negative social constructions but strong political power relative to other groups; the benefits they receive are not always obvious to the public and the burdens they bear (e.g., corporate taxes and linking wage increases to productivity gains, respectively) are often less severe than the rhetoric surrounding them would suggest. Finally, *outsiders*, such as welfare recipients and substance abusers, have negative social constructions and weak political power; they tend to be subject to burdens (least generous cash or in-kind benefits, stigma, social opprobrium) and have almost no influence on the policy-making process.

**Table 8.2** The Social Construction Framework of Target Populations

Social Construction	Political Power	
	+	-
+	Advantaged	Dependents
-	Contenders	Outsiders

Source: Adapted from Ingram, H., Schneider, A.L., & deLeon, P. (2007). Social construction and policy design. In P.A. Sabatier (Ed.), *Theories of the policy process* (2nd ed.), pp. 93–126. Boulder, CO: Westview Press, p. 102.

Maintaining and changing social constructions of target populations depends on framing, a process of selecting aspects of perceived reality and making them more salient in such a way as to promote a particular problem definition, causal interpretation, moral evaluation, or policy alternative (Entman, 1993; Weimer & Vining, 2011). In the public sphere, framing refers to the use of organizing concepts or storylines by the media or politicians to create specific meaning for events (Scheufele, 1999). Those seeking to highlight issues in public discourse choose language and metaphors that resonate with the frames shared by groups of individuals. For example, gaining support for public policies that impose burdens to reduce risk appear to be most effective when the issue is framed as involving risk that is involuntary (imposed rather than sought out), universal (affecting all of us rather than some others), environmental (external rather than internal to the individual), and knowingly created (burdens can be assigned to a culpable party) (Lawrence, 2004).

## Practical Considerations

### *General Concerns*

Practical considerations to take into account when analyzing policy-making processes include identifying the relevant actors, understanding their motivations and beliefs, assessing available resources, and identifying the arena or level at which rules governing the policy-making process occur (Weimer & Vining, 2011). Analysts need to pay attention to how populations targeted by policies are framed. For example, when children of illegal immigrants are cast as draining public coffers and services meant for children of U.S. citizens, the political feasibility of punitive policy alternatives increases among certain segments of and political constituencies within the U.S. population, whereas when they are cast as innocent victims of their parents' illegal behavior and hardworking students, the political feasibility of more empowering legislation is increased among other segments of and political constituencies within the U.S. population (Eligon, 2012; Fox, 2009; Steinhauer, 2011).

Each arena or level of the policy-making process has its own set of rules about how decisions are made and about which analysts should be aware. For example, legislatures have rules of order and agencies have administrative procedures. Unwritten traditions and standard practices about how decisions are made also need to be considered and understood. When choosing an arena, political strategies to consider include the use of co-optation, compromise, heresthetics (strategies that attempt to gain advantage through manipulation of the circumstances of political choice, by manipulating the context and structure of the decision-making process), and rhetoric. Assessing and influencing political feasibility requires the ability and opportunity to use tools and techniques of data collection and analysis and to make appropriate inferences for recommending actions.

### *A Typology of Political Feasibility*

Although some of the more technical related content is beyond the scope of this book, De Wispelaere and Noguera (2012) provide a useful theoretical framework of practical matters to consider when assessing political feasibility of policy proposals. Table 8.3 presents a typology or matrix of constraints and agency, yielding four types of political feasibility.

**Table 8.3** Typology of Political Feasibility

	<b>Prospective Constraints (achievability)</b>	<b>Retrospective Constraints (viability)</b>
Discreet Agency	A. Strategic Feasibility	B. Institutional Feasibility
Diffuse Agency	C. Psychological Feasibility	D. Behavioral Feasibility

*Source:* De Wispelaere, J., & Noguera, A. (2012). On the political feasibility of universal basic income: An analytic framework. In R.K. Caputo (Ed.), *Basic income guarantee and politics: International experiences and perspectives on the viability of income guarantee*. New York, NY: Palgrave Macmillan, p. 21.

Strategic and institutional feasibility share a focus on discrete agency, which refers to political agency addressed at readily identifiable actors with distinctive interests, roles, capacities, and intentions. However, where strategic feasibility requires a direct engagement to further a policy, institutional feasibility directs our attention to preexisting sets of rules and regulations that may affect the performance of a policy over time. Similarly, psychological and behavioral feasibility both concentrate on diffuse agency with the general public, which refers to political agency addressed at an amorphous set of actors, a “collective” in the loosest sense of the term, with little or no apparent coordination or collective intention. The former addresses the psychological processes that affect popular support of a policy in advance of implementation, while the latter is mostly concerned with how behavioral changes after the event affect the performance or continued survival of a policy (De Wispelaere & Noguera, 2012). For purposes here, the bottom line about the practical considerations for policy analysts charged with the responsibility of providing useful advice to policymakers about the policy-making process is to pay attention to the political environment and account for the interests of actors in the relevant political arenas.

### ***Policy Instruments at the Disposal of Government***

As a practical matter, analysts focusing on the policy-making process should be aware of the policy instruments that governments have to help policymakers assess the merits of appropriate instruments, given the problem or set of problems a policy is meant to address. Such instruments include regulation, tax and spending mechanisms (fiscal policy), market mechanisms, educating and persuading the public (using the bully pulpit), subsidy through tax credits or direct payments, contracting out, charging fees, and conducting or supporting research. In addition, national level governments exert control over their money supply. In the United States, the Federal Reserve Board, which has oversight responsibility for the rate of inflation and price stability in the nation, sets the interest rates on big banks—that is, the prices banks pay for the money they want to make available for investors and to meet the levels of cash reserves banks are required to have on hand to ensure depositors can withdraw their money (Orphanides, 2006).

In the policy-making process, the policy analyst can examine and lay out the political feasibility of relying on alternative instruments. Libertarian-oriented policymakers are more likely than Keynesian-oriented policymakers to seek and support policies that rely less on direct government involvement

per se and more on market mechanisms, even if government intervention in the form of incentives is required for the market to work. In an acknowledged oxymoronic twist, Thaler and Sunstein (2008) argue for “libertarian paternalism”—that is, for efforts by institutions in the private sector and *also by government* (emphasis added), to make people’s lives better as judged by themselves in their own eyes.

### Skill Building Exercises

1. Describe how a congressional bill becomes a law.
  - a. Identify key areas in the process that might be amendable to influence, whether by social work advocates or others who want to influence what eventually gets enacted into law.
  - b. How would you go about influencing the policy-making process?
2. Describe how your analysis of a given policy would vary by adopting each of the following theoretical frameworks:
  - a. elite theory
  - b. interest group theory
  - c. institutional rational choice theory
  - d. path (state) dependence theory
  - e. advocacy coalition theory
  - f. social construction framework
3. Assess the political feasibility of Congress passing and the president approving legislation adopting an unconditional guaranteed annual income for each citizen in the United States, given that the State of Alaska already provides each of its citizens such income, the level or amount of which is based on a percentage of profits from the annual sale of oil divided by the number of citizens, regardless of labor force attachment, current income, or total wealth of recipients.
  - a. Specify prospective constraints (achievability)
  - b. Specify retrospective constraints (viability)