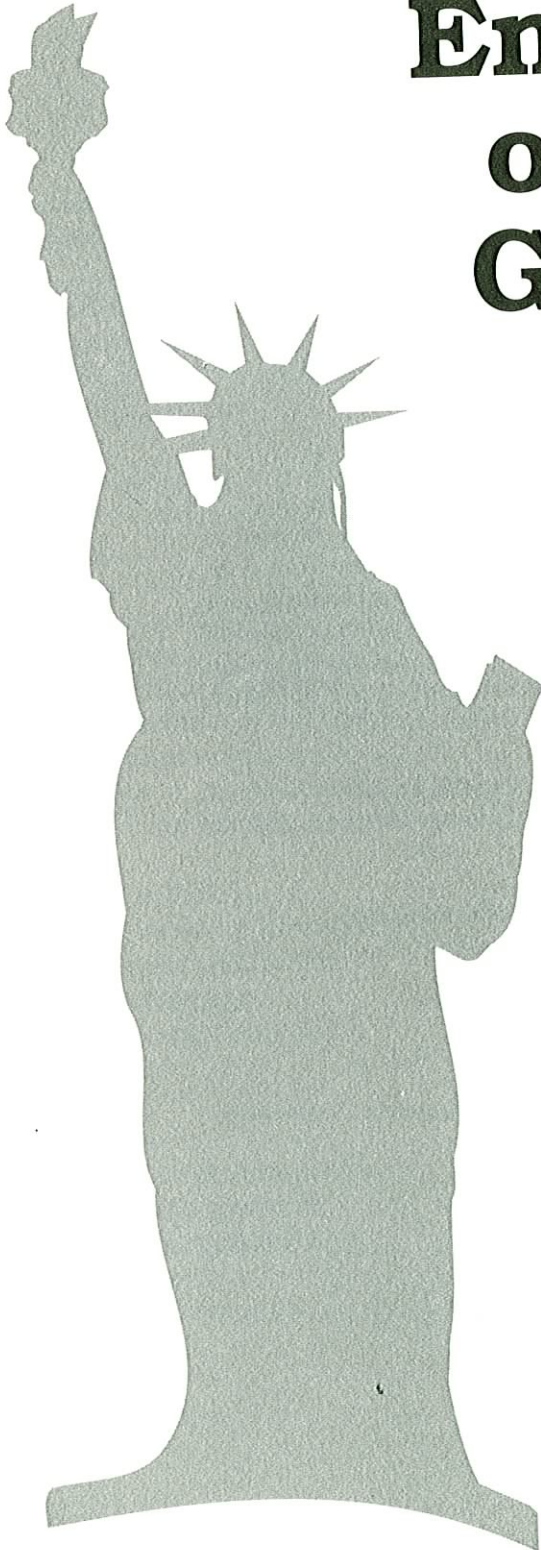


Encyclopedia of American Government



Volume II Declaration of Independence – Juvenile Justice

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for all covered products before they could be marketed.

To decrease external pressures on the FDA it was moved first to the Federal Security Agency in 1940, to the Department of Health Education and Welfare in 1953, and to the Department of Health and Human Services in 1980.

Landmarks in FDA empowerment include requiring the testing of food additives (1957). The Delaney clause of the Food, Drug, and Cosmetic Act (1958) prohibited substances in food causing cancer in animals. In 1962 the FDA ruled that new drugs must be proved both effective and safe. The Orphan Drug Act of 1983 induced drug companies to develop therapies for diseases that affect only small segments of the U.S. population. A 1992 law required more definitive food labeling.

FDA Operations. Headquartered in Washington, D.C., the FDA is headed by a commissioner appointed by the secretary of Health and Human Services and approved by the U.S. president. A deputy commissioner and associate commissioners assist the commissioner. FDA divisions include Offices of Management and Operations, Health Affairs, Science, Legislative Affairs, Planning, Public Affairs, Consumer Affairs, and Regulatory Affairs. In the early 1990's the FDA employed approximately seven thousand administrative, technical, and service employees who were members of the CIVIL SERVICE. For enforcement purposes the United States is divided into FDA regions. Each has its own headquarters.

FDA inspectors visit many manufacturing facilities suspected of illegal actions; however, routine examination of all 150,000 businesses the agency is empowered to police is infrequent because of its relatively small staff. Many enforcement visits reportedly deal with companies that perform poorly or regularly manufacture suspect items. Usually, legal requirements for FDA approval before the dissemination of products to the consumer,

publicity, and the honesty of most manufacturers suffice to prevent such problems. When problems do occur, the agency can move quickly to obtain cease-and-desist orders through the courts.

Varying Opinions of the FDA. Public opinion of the FDA has varied greatly. Initially, it was argued that a strong FDA would stifle innovation in the food, drug, and cosmetic industries. Much evidence indicates that the reverse situation has occurred, as exemplified by the large variety and generally high quality of U.S. food industry offerings. Most Americans do not realize that labels on FDA-covered items as to contents and use directions (including various types of warnings) probably would not exist without the agency.

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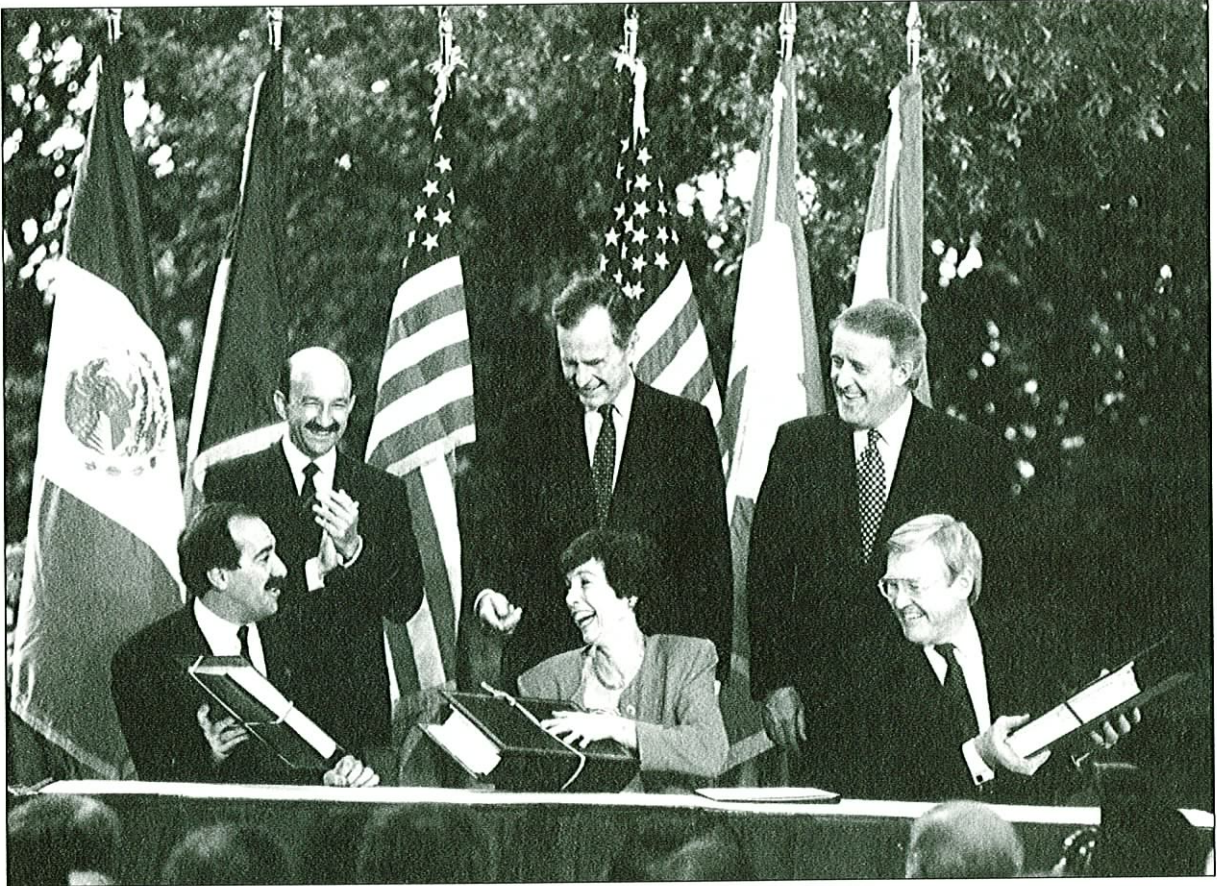
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Sanford S. Singer

Foreign Relations

A primary function of a national government is to direct relationships with foreign nations. Foreign relations can take a variety of forms—friendly or hostile, mutually beneficial or highly exploitative.

Domestic functions of government tend to be many and varied. By contrast, international functions—particularly management of foreign relations—are more centralized in the political leadership and less subject to the con-



Mexican president Carlos Salinas de Gortari (standing, left), U.S. president George Bush (center), Canadian prime minister Brian Mulroney (right), and trade representatives of their three nations at the initialing of the first draft of the North American Free Trade Agreement (NAFTA) in San Antonio, Texas, in October, 1992. (AP/Wide World Photos)

flicts of domestic policies. It is through foreign relations that the U.S. government relates to the outside world, attempting to ensure security and prosperity. Its foreign relations involve issues of war, peace, and money.

Diplomacy is traditionally thought of as the essential conduit of foreign relations. Emissaries, AMBASSADORS, and other representatives bring the somewhat impersonal concept of foreign relations to a more human level. Diplomacy employs face-to-face discussions and negotiations between representatives of different governments to resolve disputes and expand cooperation between nations. It seeks to codify the resultant agreements in treaties and

protocols. These agreements generally are placed within a framework of INTERNATIONAL LAW. Although nations are sovereign, that is, not answerable to a higher authority, generally there is an expectation that foreign relations be conducted within the parameters of international law.

Diplomacy involves various aspects of inter-governmental relations, from setting borders to coordinating visa policies to establishing procedures for extraditing fugitives. Although not all interactions between nations are conducted through diplomatic channels, diplomacy can be utilized to some extent in all dimensions of international relations—even



In September, 1993, U.S. president Bill Clinton (center) hosted a meeting at the White House at which Israeli prime minister Yitzhak Rabin (left) and Palestine Liberation Organization chairman Yasser Arafat signed a historic peace accord. (AP/Wide World Photos)

in warfare, during which diplomacy is often conducted as a means of securing a more advantageous peace. Diplomacy is the broadest and most personalized dimension of foreign relations.

Another sphere of foreign relations is security. The international community of nations is, for the most part, anarchical (that is, there is no world government to establish order and enforce laws). Nations therefore must be concerned with ensuring their own security. They often enlist the aid of friendly nations for the purpose of collective security, creating pacts and alliances. Such nations can be viewed as security partners. The North Atlantic Treaty

Organization (NATO), which the United States helped create in 1949, has been an especially strong and successful alliance between the United States, Canada, and Western European nations.

Trade Policy. Governments also focus on the economic and trade sphere of their foreign relations. Trade relations have always been an important responsibility of U.S. government. As the global economy becomes more complex and as advances in transportation and communication shrink the distance of international COMMERCE, trade relations have become more important to American economic strength. They have thus come to

occupy a greater part of the U.S. government's responsibilities. Trade relations, like the other aspects of foreign relations, can be friendly or unfriendly.

Governments employ a variety of tools, from trade treaties aimed at increasing commerce through the mutual opening of markets, to unilateral trade barriers such as quotas and **TARIFFS**, as well as more aggressive efforts such as "dumping"—government subsidy of exports so that the products can be sold abroad at less than the market price at home. Foreign relations in the area of trade should be thought also to include related economic channels, such as financial and monetary relations. Through these channels, the domestic economies of nations become connected, thus diminishing the isolation of domestic economic systems.

Democracy and Foreign Policy. The institutional structure of a government helps determine how foreign policy is made. As a democracy the United States is more sensitive to public opinion in its foreign policy than authoritarian regimes would be. Overall, stewardship of foreign policy is one of the most critical functions of the federal government, in that it directly bears upon the wealth and survival of the nation. However, because of its application in an anarchical world system, foreign policy involves subjective, ambiguous, and difficult decisions. This situation is becoming only more complex with the increasing number of nations in the world and the increasing ability among them to influence one another.

Subnational actors, such as state and local governments, engage in foreign relations in a limited way through sister city arrangements, cultural exchanges, tax incentives to attract foreign business, and other programs. Multinational corporations can have a large impact on economic and trade relations between the United States and other nations through foreign investment, establishing foreign offices,

hiring local workers, developing the local infrastructure in host countries, and otherwise becoming involved in foreign economies.

Particularly influential private citizens, such as industrialist Armand Hammer and former president Jimmy Carter, can have a significant influence on American foreign relations without holding official office. Even less eminent individuals can be thought of as affecting foreign relations through "tourist diplomacy," taking part in letter-writing and penpal arrangements, and participating in student exchange programs.

International Bodies. Foreign relations also can be affected by international organizations. The United Nations (U.N.) is one of the best-known international institutions designed to structure foreign relations among nations. Although the U.N. does not normally have formal, legal authority to override sovereign nations' foreign policies, it does provide an alternative to simple bilateral foreign relations and raw power politics, offering instead a widely embracing, multilateral framework for regularizing the interaction of nations.

There are also regional international organizations such as the Organization of American States (OAS), to which the United States belongs; the Organization for African Unity (OAU); and the European Union (E.U.). The OAS and OAU focus on coordinating regional policies. By contrast, the E.U. is working toward integrating its members into a confederation of nations. As the E.U. moves closer toward this goal, its members have sought to develop a common foreign policy.

These subnational and international influences demonstrate that foreign relations is not solely the purview of national governments. The changes within and among nations, as well as the increasing power of subnational and international organizations, are causing governmental foreign policy making to be more constrained by external conditions and actors.

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Steve D. Boilard

Freedom of Assembly and Association

The First Amendment guarantee of freedom to assemble and associate peaceably is a foundation of American democracy. It protects not only a group of people gathered in one place but also organizations whose members only rarely gather together. The right of association is thus derivative of the right of assembly.

The First Amendment divides the free expression of ideas into speech and press and “peaceable” assembly. Government may not exercise prior restraint (or censorship) over either speech or press. The presence of the word “peaceably” in connection with assembly means that assemblies can be, and routinely are, subject to prior restraint. Speech and press are assumed to have a more passive character, enabling the government to grant them greater protection.

In *On Liberty* (1859), John Stuart Mill argues that society has no right to silence a dissenting

view, even if it is held by only one individual. He maintains that no one would ever suggest that actions could be as unrestrained as speech, which loses its immunity if used to incite a riot. Many U.S. Supreme Court opinions on free speech, press, and assembly maintain this distinction between the expression of ideas and actions, although an absolutely clear line between the two may not be drawn in all cases.

The Fourteenth Amendment and Incorporation. Originally, none of the First Amendment rights applied to the states. Section 1 of the Fourteenth Amendment, however, required that no state deny any person the “right to life, liberty, or property without due process of law.” This language has been held to incorporate most of the important rights in the BILL OF RIGHTS and apply them to the states. Application of the INCORPORATION DOCTRINE has been on a case-by-case basis. The right of assembly was incorporated and applied to the states, at least partially, in the case of *DeJonge v. Oregon* (1937), but it was more clearly stated in *Hague v. Congress of Industrial Organizations* (1939).

The Constitution’s Framers never intended to prohibit prior restraints on assembly. Many federal, state, and local laws forbid or limit the size of assemblies—for example, limiting the numbers permitted to ride a bus or occupy an auditorium or an elevator. In a similar vein, regulations may require advance permission for parades or may prohibit parades to allow the free movement of traffic. Neither kind of regulation has anything to do with the content of ideas expressed in an assembly.

Difficulties arise when speakers address a peaceful assembly with no intention of starting a riot, but express ideas that move listeners to silence them with violence. When the Supreme Court first considered such a case in *Feiner v. New York* (1951), they decided that the police could arrest speakers even if the speakers had no intention of starting a riot. This