



UNITED STATES CONGRESS
NAMUN 2019



Director's Letter

Dear Delegates,

It is with great excitement that I welcome you to the US Congress Committee in the America 2024 Integrated Crisis. This committee will be a "GA Crisis committee", integrating aspects of both General Assemblies and Crisis Committees. Thus, it is imperative that you read the background guide and the associated US Congress Mechanics guide in their entirety to be fully prepared for this committee's discussions. Notably, this committee may be considered academically rigorous due its substantive focus on legislation and policy in addition to crisis elements. However, this should not discourage inexperienced delegates from participating; everyone has insight to share in discussions that strike at the very heart of American political culture and civil liberties. I would like to take this opportunity to briefly explain the structure and content of this background guide and highlight the nature of this committee's discussions.

Unlike other NAMUN GA Committees, this committee will feature four topics: Gun Control, Immigration, Healthcare, and Personal Information and Digital Privacy. This background guide is organized by topic and each topic follows the following format: Introduction, Definitions, Historical Background, Issues, International Reception, Tasks of the Committee, Sources, and Bibliography. Although each topic can be understood in isolation, delegates may benefit from analyzing the background guide in its entirety to discern any underlying and congruent themes.

Note that due to space constraints, these topics are not exhaustive. We recognize that we are not infallible, and these topics are deeply entrenched in American society and intersect many different compelling fields and interests. Thus, although the background guide has highlighted the key tensions we've identified in these topics, delegates are encouraged to propose issues within these topics, which the committee can discuss at the discretion of its dais. Regardless of the content of these discussions, the objective of these debates should be to craft legislation concerning these topics. This legislative process, however, may be preceded by broad discursive discussions; delegates are encouraged to balance thematic discussions with specific legislative and policy implications. It may be noted that the failure to propose comprehensive legislation is an acute reflection of the process American political institutions.

Additionally, we recognize that some of you may have personal experiences with these topics that may inform strongly held opinions. We ask that in all your discussions, you respect your fellow senators and your dais. If you ever have any concerns to this effect, we encourage you to reach out to your Directors or your dais.

Lastly, although delegates may be assigned a character or party, they do not have to constrain themselves to a strict political dichotomy. Bipartisan solutions and consensus-building tactics may be appropriate, but this is left to the discretion of individual senators.

If you have any questions or concerns about the academic content of this background guide, please feel to reach out to us. Otherwise, we look forward to seeing your skills of negotiation, rhetoric, leadership, and anything else you may bring to the table.



Warm regards,
Andrea Ho, Director of General Assemblies
Andrea.Ho@namun.org

Welcome Letter

Dear distinguished delegates and guests,

Greetings and welcome to the America 2024 US Senate Committee at NAMUN 2019! My name is Brandon Yih, and I am an undergraduate student double-majoring in Peace, Conflict, Justice Studies and Criminology with a minor in French. I have been involved in Model UN for six years now and this is my second time chairing at NAMUN as well as my second time using North American Model UN procedures. My Model UN experiences have taken me to Singapore, Berlin, Shanghai, Beijing, Taipei, and Taichung, which have all operated under THIMUN procedures. I am excited to return to NAMUN 2019 and even more excited to work with you all in our futuristic, policy-filled committee!

My co-chair is Karrie Chou, an undergraduate student majoring in Commerce with a specialization in Management and a minor in Statistics. She has been involved in Model UN for three years, and this will be her first time chairing at NAMUN. Much of her Model UN experience has been as a delegate, chair, and Secretariat member at various Canadian conferences. We both look forward to making your NAMUN2019 experience an unforgettable one as a senator of the US Senate!

Karrie and I are excited to meet you all in person and are excited to see your diverse perspectives and experiences. This committee will no doubt challenge you to address the current and future state of American politics by inviting you to craft feasible policy solutions to some of the most pressing issues of our generation. The US Senate is an institution central to American political culture and its policies have the potential to enact substantive change. Thus, this committee's agenda covers the gamut of contentious issues. Our committee will be focused on four specific topics: Medicare and the Future of Healthcare, Illegal Immigration, Information Privacy and Gun Control and the Second Amendment. The background guide will go into each of these topics in detail below.

We look forward to witnessing your skills of diplomacy, negotiation, and political maneuvering. We respect NAMUN's values of academic quality and as such, we hope that all delegates will push their academic boundaries to undertake additional research to build upon the information presented in this background guide. We hope to see delegates unite in their efforts to seek a resolution to these issues. See you at NAMUN 2019!

Sincerely,
Brandon Yih & Karrie Chou



“Gun Control”

By Karrie Chou

Introduction

To some Americans, there is no symbol more closely associated with liberty than a firearm. The latter is entrenched in American history; widespread ownership of guns followed the arrival of the Industrial Revolution in the United States.¹ Additionally, the American Civil War is often cited as the first conflict to use mass production techniques, specifically for arms production.²

However, due to an increasingly polarized political climate, gun ownership has become a contentious issue in the public discourse. While some Americans view gun ownership as an undeniable Constitutional right, others demand clearly delineated legislation on the trade and use of guns for private use. Although historically, gun control has been the focus of Supreme Court verdicts, the past decade has seen no ground-breaking modifications to gun control jurisprudence. The last major case brought before the Supreme Court was *District of Columbia v. Heller*, in which the legal regulations concerning the Second Amendment was formally changed.

Notably, Donald Trump’s ascension to power marked a drastic transformation in how American politics have become perceived; global and domestic audiences have been captivated by Trump’s presidency. Moreover, news of mass shootings, and of gun violence, have become increasingly common. As a result, the federal government faces increasing pressure from the public to gaping holes in gun regulation.

Definitions

Firearm

The legal definition of a firearm, according to Supreme Court Decision *United States v. Adams*, is “a shotgun or rifle having a barrel of less than eighteen inches in length, or any other weapon, except a pistol or revolver, from which a shot is discharged by an explosive if such weapon is capable of being concealed on the person, or a machine gun, and includes a muffler or silencer for any firearm whether or not such firearm is included within the foregoing definition”.³

Mass killing

A mass killing is an event that is defined by “3 or more killings in a single incident”.⁴

¹ “Arms and the man,” *The Economist*, last modified July 1, 1999, <https://www.economist.com/special/1999/07/01/arms-and-the-man>.

² *Ibid.*

³ “*United States v. Adams*, 11 F. Supp. 216 (S.D. Fla. 1935),” Justia, <https://law.justia.com/cases/federal/district-courts/FSupp/11/216/1975956/>.

⁴ “Public Law 112-265, 112th Congress,” Congress.gov, <https://www.congress.gov/112/plaws/publ265/PLAW-112publ265.pdf>.



Mass shooting

A mass shooting is classified as a type of mass killing.

Historical Background

On December 15, 1791, the Bill of Rights was passed under the United States Constitution. Its Second Amendment, stating that “a well-regulated militia, being necessary to the security of a free state, the right of the people to keep and bear arms, shall not be infringed”, is often perceived as the first iteration of gun control.⁵

The Supreme Court Decision *United States v. Cruikshank* rapidly racialized gun control because the decision justified the massacre of more than one hundred African Americans at the hands of armed white men in the Colfax Massacre of 1873.⁶ Initially, three white men were convicted under the Enforcement Act of 1870 of depriving the African Americans of their constitutional rights to assemble, vote, and bear arms. However, the white men’s convictions were overturned by the Supreme Court on the grounds that the African Americans’ rights were not violated. The decision stated that the Second Amendment does not prevent citizens from denying other citizens the right to bear arms because the Second Amendment only limits the federal government. To summarize, the Supreme Court held that African America’s rights to bear arms could be justifiably violated. As a result of this decision, Ku Klux Klan paramilitary attacks against African Americans increased because the latter could not protect themselves by bearing arms legally.⁷

In 1934, President Franklin D. Roosevelt passed the National Firearms Act (NFA), which included additions to gun control legislation such as federal taxation on the manufacture and sale of firearms within the United States and a requirement for all firearm owners to register their firearms.⁸ Roosevelt’s objective was to was to deter gang activities such as alcohol bootlegging and drug trafficking.⁹ This proliferation in organized crime is attributed to the end of Prohibition in 1933 after the Great Depression. An additional stipulation was the registration of firearms under the 1939 Supreme Court decision *United States v. Miller*, which ruled that Congress had the authority to regulate the sale of unregistered firearms.¹⁰ Notably, this decision cemented the subjectivity of gun control to future legal decisions.

⁵ “Bearing Arms Second Amendment,” Legal Information Institute, https://www.law.cornell.edu/constitution-conan/amendment-2#amdt2_hd2.

⁶ “U.S. v. Cruikshank,” Federal Judicial Center, <https://www.fjc.gov/history/timeline/us-v-cruikshank>.

⁷ “United States v. Cruikshank, 92 U.S. 542 (1875),” Justia, <https://supreme.justia.com/cases/federal/us/92/542/>.

⁸ “National Firearms Act,” Bureau of Alcohol, Tobacco, Firearms, and Explosives, <https://www.atf.gov/rules-and-regulations/national-firearms-act>.

⁹ Tim Nash, “Organized Crime in the 1920s and Prohibition,” *The Finer Times*, <http://www.thefinertimes.com/20th-Century-Crime/organised-crime-in-the-1920s.html>.

¹⁰ “United States v. Miller,” Legal Information Institute, <https://www.law.cornell.edu/supremecourt/text/307/174>.



The NFA was further amended in 1968 when President Lyndon B. Johnson passed the Gun Control Act (GCA).¹¹ As a direct federal response to the recent assassinations of prominent political and activist figures such as President John F. Kennedy, Robert Kennedy, and Martin Luther King, Jr., the NFA imposed stricter regulation on the sale and transfer of firearms between parties. A major revision to the GCA emerged twenty years later in the form of the Firearm Owners Protection Act. The latter majorly revised the GCA, especially any content concerning firearms. The act's secondary purpose was to expand definitions of specific firearms within the NFA's clauses, such as "destructive devices" – which now included bombs, mines, and grenades – and "machine gun".¹²

Gun regulation was further amended by Bill Clinton during his presidency when the Federal Assault Weapons Ban was passed as part of the Crime Control Act of 1994.¹³ This federal legislation formally "banned the manufacture, transfer, and possession of certain semiautomatic firearms designated as assault weapons and "large capacity" ammunition magazines".¹⁴ However, the current regime of gun control in the United States is due largely to the Brady Handgun Violence Prevention Act, or the Brady Bill, which was also passed by Clinton and outlines a specific process by which guns and other firearms must be exchanged for the trade to be considered legal.¹⁵

In more recent years, dialogue surrounding gun control legislation and policy has changed due in part to the 2008 Supreme Court decision of *District of Columbia v. Heller*. The decision in this case shifted the focus of gun control from collective arms ownership to individual arms ownership.¹⁶ Another Supreme Court case, *McDonald v. Chicago*, in which several citizens of the city of Chicago, Illinois, claimed that their inability to own handguns due to the state-imposed ban upon them infringed on their ability to live in safety, was brought forth in 2010.

Evidently, little has been done at the federal level to further address the issue of gun control after 2000. Despite the significant impact *District of Columbia v. Heller's*, no clear jurisprudence has significantly altered the use of guns in everyday life.

Issues

The primary Constitutional issue that has emerged from this issue concerns the poorly defined scope of Second Amendment rights. As it stands, there is no standard interpretation of

¹¹ "Gun Control Act," Bureau of Alcohol, Tobacco, Firearms, and Explosives, <https://www.atf.gov/rules-and-regulations/gun-control-act>.

¹² Sarah Gray, "Here's a Timeline of the Major Gun Control Laws in America," TIME, last modified February 22, 2018. <http://time.com/5169210/us-gun-control-laws-history-timeline/>.

¹³ Jeffrey A. Roth et al., "Impacts of the 1994 Assault Weapons Ban," National Institute of Justice, last modified March 1999, <https://www.ncjrs.gov/pdffiles1/173405.pdf>.

¹⁴ Ibid.

¹⁵ "Brady Law," Bureau of Alcohol, Tobacco, Firearms and Explosives, last modified April 28, 2017, <https://www.atf.gov/rules-and-regulations/brady-law>.

¹⁶ Sarah Gray, "Here's a Timeline of the Major Gun Control Laws in America," TIME, last modified February 22, 2018. <http://time.com/5169210/us-gun-control-laws-history-timeline/>.



Second Amendment rights in jurisprudence; individual citizens often assert that their conception should be the dominant interpretation. Thus, legal scholars and experts disagree about the aforementioned shift from restricting a state's collective use of firearms, known as collective rights theory, to restricting individual's rights to firearms in the name of self-defense.¹⁷

Consequently, scholars and citizens alike cannot come to a consensus on how gun control should be altered to improve general safety and protect rights. Online forums and social media have only exacerbated this dissension by highlighting the stark contrasts between American and international conceptions of gun control; other countries, such as Japan and Australia, are known for their stricter gun control regulations. Notably, the feasibility of "gun buyback" programs in the United States has gained popularity, since it parallels Australia's program, implemented in 1996. This knowledge has galvanized American activists to lobby for a similar program.¹⁸

In addition to these international perspectives, domestic advocacy groups have asserted a stronger position in gun control discourse. For example, groups such as the Liberal Gun Club, a "pro-Second Amendment voice for left-of-center gun owners in the national conversations on firearms", and the National Rifle Association, "the nation's largest, oldest, and most politically powerful interest group that opposes gun laws and favours gun rights", have provided political support for individuals who have non-traditional or bipartisan views on gun control.¹⁹ Although it is valuable to encourage these alternative and bipartisan viewpoints, the "market saturation" of such groups may stagnate progress on federally enacted legislation; this subtle differentiation of opinions precludes crafting legislation that sufficiently satisfies public interest.

National and International Media Reception

The United States has captivated the interest of many international media outlets, such as the British Broadcasting Corporation, which has commented on the "slim majority of Americans [who] now support protection for gun rights over gun control", due to the American governments inaction following a marked increase in gun violence incidents.²⁰ Since 1999, there

¹⁷ David T. Hardy, "The Rise and Demise of the Collective Right Interpretation of the Second Amendment," *Cleveland State Law Review*, last modified 2011,

<https://engagedscholarship.csuohio.edu/cgi/viewcontent.cgi?referer=https://www.google.ca/&httpsredir=1&article=1044&context=clevstlrev>, 317.

Sarah Gray, "Here's a Timeline of the Major Gun Control Laws in America," *TIME*, last modified February 22, 2018. <http://time.com/5169210/us-gun-control-laws-history-timeline/>.

¹⁸ Benjy Sarlin, "Australia's mandatory gun buyback inspires U.S. activists, but few lawmakers," *NBC News*, last modified March 12, 2018, <https://www.nbcnews.com/politics/congress/australia-s-mandatory-gun-buyback-inspires-u-s-activists-few-n855361>.

¹⁹ "The Liberal Gun Club," *The Liberal Gun Club*, <https://theliberalgunclub.com/>.

Gregg Lee Carter, *Guns in American Society: An Encyclopedia of History, Politics, Culture, and the Law Second Edition* (California: ABC-CLIO LLC, 2012),

https://books.google.ca/books?id=oD46JBOhMU0C&pg=PA616&redir_esc=y#v=onepage&q&f=false, 616.

²⁰ Taylor Kate Brown, "What's behind growing gun rights support in the US?," *BBC News*, last modified December 16, 2014. <https://www.bbc.com/news/magazine-30485978>.



have been 17 different mass shootings within the United States, including: the Columbine High School shooting (1999), the Virginia Tech shooting (2005), the Sandy Hook Elementary School shooting (2012), the San Bernardino attack (2015), the Pulse Nightclub shooting (2016), the Las Vegas shooting (2017), the Stoneman Douglas High School shooting (2018), and the Santa Fe High School shooting (2018).²¹ A study from Harvard University dating back to 2014 has indicated that the rate of mass shootings has tripled since 2011.²²

Notably, the discourse surrounding gun control became significantly more polarized following the Stoneman Douglas High School shooting. Before this event, agreement on gun control legislation had gained traction under Barack Obama's presidency. Conversely, although Donald Trump's presidency has seen an increase in the prevalence and relevance of gun control, a consensus is far from being reached. The visibility of mental health issues is also couched in gun control discourse; Trump has capitalized on this trend by focusing on the mental health of gun violence perpetrators in the aftermath of the Stoneman Douglas High School shooting.²³ Additionally, President Trump has been heavily criticized for his inability to respond to gun control through legislative solutions. His only substantive action on the subject – removing the need for background checks on mentally ill individuals before they purchase a gun, a policy advocated for by President Obama but never enacted– is regarded as a direct contradiction between rhetoric and tangible action.²⁴ Notably, associations between gun control and mental health may be doubly unproductive; framing gun control in terms of mental health issues may stigmatize mental health and fail to mitigate the substantive issues of gun control.

Tasks of the Committee

Delegates are encouraged to consider and craft a cohesive response to the following questions surrounding gun control and gun legislation:

- Should there be an attempt to establish a more consistent interpretation of Second Amendment rights?
- How can divergent conceptions of Second Amendment rights be transformed into federal legislation? Alternatively, should divergent interpretations be allowed to proliferate, under the purview of individual states?

²¹ Mark Follman et al. "US Mass Shootings, 1982-2018: Data from Mother Jones' Investigation," Mother Jones, last modified September 20, 2018, <https://www.motherjones.com/politics/2012/12/mass-shootings-mother-jones-full-data/>.

²² Amy P. Cohen et al. "Rate of Mass Shootings Has Tripled Since 2011, Harvard Research Shows", Mother Jones, last modified October 15, 2014, <https://www.motherjones.com/politics/2014/10/mass-shootings-increasing-harvard-research/#>.

²³ Katie Rogers, "After Florida Shooting, Trump Focuses on Mental Health over Guns," The New York Times, last modified February 15, 2018, <https://www.nytimes.com/2018/02/15/us/politics/trump-florida-shooting-guns.html>.

²⁴ Eric Lipton et al. "Trump Says His Regulatory Rollback Already Is the 'Most Far-Reaching'," The New York Times, last modified December 14, 2017, <https://www.nytimes.com/2017/12/14/us/politics/trump-federal-regulations.html?module=inline>.



- How has the presence of online media influenced the conversation surrounding gun control? Is there anything valuable from these discussions that should be brought to the forefront of this issue?
- How can the increase in the rate of mass shootings in America be legally mitigated?
- How should this issue be addressed? Legally? (Supreme Court cases? Federal legislation? State legislation?) Socially/politically?
 - Are there other underlying causes of mass shootings (i.e. socio-economic inequality, poor education, lack of community support etc.) that should be addressed?



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https://books.google.ca/books?id=oD46JBOhMU0C&pg=PA616&redir_esc=y#v=onepage&q&f=false, 616.
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“Illegal Immigration”

By: Brandon Yih

Introduction

Illegal immigration is perhaps one of the most emotionally charged topics of this committee. In response to this issue, there have been heart-wrenching pleas for help, outcries of support for families, or conversely, outrage and condemnation from across the political spectrum. Among all these emotional responses, senators need to identify the tensions inherent in this issue to craft feasible policy solutions. Thus, similar to the other issues at hand, illegal immigration has emerged at the forefront of political and cultural discourse because of its intersections in many areas of political life. Some salient issues to consider include whether illegal immigration poses a threat to national security, or perhaps more acutely, a threat to the stability of the economy, specifically the labour market. Additional issues to be addressed may include the contested responsibility to integrate immigrants into American society, regardless of the legality of their status, or the impact of illegal immigration on the social cohesion of American society. Additionally, senators may be advised to look into the criteria used to define “legal immigrants”, thereby dealing with the problem at the first step. For example, should we be using skill-based criteria, family connections etc. to deal with illegal immigration?

Definitions

Deferred Action for Childhood Arrivals (DACA)

A policy announced by the Secretary of Homeland Security that certain individuals who entered the US as children “may request consideration of deferred action for a period of two years,” but this does not grant them “lawful status.”²⁵

Department of Homeland Security (DHS)

A federal agency tasked with “Keeping America Safe” that is responsible for issues from cybersecurity and aviation security to emergency responses and border security.²⁶

Illegal Immigration

According to the United States Department of Homeland Security, illegal immigration is defined as “all foreign-born non-citizens who are not legal residents.”²⁷

Historical Background

The Chinese Exclusion Act of 1882 and the Geary Act of 1892

²⁵ "Consideration of Deferred Action for Childhood Arrivals (DACA)," U.S. Citizenship and Immigration Services, September 5, 2017, <https://www.uscis.gov/archive/consideration-deferred-action-childhood-arrivals-daca>.

²⁶ "About DHS," Department of Homeland Security, September 27, 2017, <https://www.dhs.gov/about-dhs>.

²⁷ "Topic Page: Illegal Immigration," Center for Immigration Studies, January 2010, <https://cis.org/Immigration-Topic/Illegal-Immigration>.



The Chinese Exclusion Act was the first major legislation that restricted immigration into the United States.²⁸ The 1882 Act required potential Chinese immigrants to obtain certification from the Chinese government that proved that they were qualified for immigration. Stipulations of the act included the exclusion of unskilled and skilled laborers, including those who were working in the mining industry.²⁹ The Chinese Exclusion Act expired in 1892, but Congress extended it for another 10 years through the Geary Act, which required people of Chinese origin to carry identification papers or face possible deportation.³⁰

Background to the Immigration Acts in the 20th Century

During World War I, a period marked by the pervasive “national security” mentality, Congress enacted the first “skills-based” restriction on immigration in 1917 by implementing a literacy test for all immigrations.³¹ Shortly thereafter, the notion of immigration quotas was introduced by Republican Senator William P. Dillingham of Vermont. Dillingham planned to limit the number of new immigrants to 350,000 per year by setting the quota at three percent of each nationality present in the US under the 1910 census.³²

The Immigration Act of 1924 (The Johnson-Reed Act) and the Magnuson Act of 1943

The Immigration Act of 1924 changed the requirements for immigration to include a national origins quota.³³ The advocates for immigration restriction won the congressional debates of the 1920s. Subsequently, the quota was set at two percent of the total number of people of each nationality in the US at the time of the 1890 national census.³⁴ Additionally, the Johnson-Reed Act changed the basis of quota calculations, which led to a decreased number of visas available for people from Southern and Eastern Europe, and most Asian ethnicities.³⁵ Although Asian nations articulated concerns, European nations did not contest this change, likely due to other pressing concerns such as the global economic depression of the 1930s and World War II.³⁶ The purpose of the 1924 Act was to “preserve the ideal of US homogeneity.”³⁷ Later, in 1943, the Magnuson Act repealed the Chinese Exclusion Act of 1882, but continued the quota of 105 visas per year.³⁸ The repeal faced little opposition because the Immigration Act of

²⁸ “Chinese Exclusion Act (1882),” The National Archives and Records Administration, 1989, <https://www.ourdocuments.gov/doc.php?flash=false&doc=47>.

²⁹ “Chinese Exclusion Act (1882),” The National Archives and Records Administration.

³⁰ “Chinese Exclusion Act (1882),” The National Archives and Records Administration.

³¹ “The Immigration Act of 1924 (The Johnson-Reed Act),” Office of the Historian, <https://history.state.gov/milestones/1921-1936/immigration-act>.

³² “The Immigration Act of 1924 (The Johnson-Reed Act),” Office of the Historian.

³³ “The Immigration Act of 1924 (The Johnson-Reed Act),” Office of the Historian.

³⁴ “The Immigration Act of 1924 (The Johnson-Reed Act),” Office of the Historian.

³⁵ “The Immigration Act of 1924 (The Johnson-Reed Act),” Office of the Historian.

³⁶ “The Immigration Act of 1924 (The Johnson-Reed Act),” Office of the Historian.

³⁷ “The Immigration Act of 1924 (The Johnson-Reed Act),” Office of the Historian.

³⁸ Yuning Wu, “Chinese Exclusion Act,” Encyclopædia Britannica, May 12, 2017, <https://www.britannica.com/topic/Chinese-Exclusion-Act#ref1187976>.



1925 was still in effect, rendering admission to the United States very unlikely due to the requirement of naturalization.³⁹

The Immigration and Naturalization Act of 1965

This Act abolished the quota system based on national origin and introduced a new policy based on “reuniting immigrant families and attracting skilled labor to the United States.”⁴⁰ During congressional debates, this Act was argued to be simply “a matter of principle to have a more open policy,” and even President Lyndon B. Johnson believed the Act would not be revolutionary.⁴¹ However, the 1965 Act led to the major change in American demographics as it led a sudden and lasting rise in immigrants from Asia, Africa, and Latin America.⁴² In fact, in the following three decades after the enactment of the Act, 18+ million immigrants entered the US legally, which was more than three times the number granted entry over the preceding 30 years.⁴³ Due to Cold War-era conflicts or other unstable political regimes in the 1960s and 1970s, millions fled to the United States from Vietnam, Cambodia, Cuba, and Eastern Europe.⁴⁴ Between 1965 and 2000, the highest number of immigrants (4.3 million) originate from Mexico.⁴⁵

The Immigration Debate in the 1990s and beyond

The issue of illegal immigration has been contentious in the political sphere since the 1980s.⁴⁶ The Immigration Reform Act of 1986 attempted to create more opportunities for legal immigration, including granting amnesty to three million illegal immigrants.⁴⁷ Additionally, the Immigration Act of 1990 expanded the number of immigrants set in the 1965 Act, to 700,000.⁴⁸ Due to economic recessions in the early 1990s, there was a resurgence in anti-immigrant sentiments as employment competitions rose.⁴⁹ The Illegal Immigration Reform and Immigrant Responsibility Act was passed in 1996 and was an attempt to strengthen border control.⁵⁰ The 1996 Act allowed the deportation of illegal immigrants who committed crimes within US

³⁹ "Repeal of the Chinese Exclusion Act, 1943," Office of the Historian, <https://history.state.gov/milestones/1937-1945/chinese-exclusion-act-repeal>.

⁴⁰ "U.S. Immigration Since 1965," History.com, March 5, 2010, <https://www.history.com/topics/immigration/us-immigration-since-1965>.

⁴¹ "U.S. Immigration Since 1965," History.com.

⁴² "U.S. Immigration Since 1965," History.com.

⁴³ "U.S. Immigration Since 1965," History.com.

⁴⁴ "U.S. Immigration Since 1965," History.com.

⁴⁵ "U.S. Immigration Since 1965," History.com.

⁴⁶ "U.S. Immigration Since 1965," History.com.

⁴⁷ "U.S. Immigration Since 1965," History.com.

⁴⁸ "U.S. Immigration Since 1965," History.com.

⁴⁹ "U.S. Immigration Since 1965," History.com.

⁵⁰ "Illegal Immigration Reform and Immigration Responsibility Act," Legal Information Institute of Cornell Law School, August 28, 2018, https://www.law.cornell.edu/wex/illegal_immigration_reform_and_immigration_responsibility_act.



borders.⁵¹ After the 9/11 terrorist attacks, the Homeland Security Act of 2002 was enacted and led to the creation of the Department of Homeland Security (DHS), which took control over many immigration and border control services.⁵² In 2012, the Deferred Action for Childhood Arrivals (DACA) policy was established, but this is still an ongoing issue.

Issues

Illegal Immigration

Immigration has consistently been a contentious issue in American political discourse. Under President Trump's administration, two key issues have arisen: the planned US-Mexico border wall, and the Administration's entry ban on most people from Iran, Libya, North Korea, Somalia, Syria, Venezuela, and Yemen.⁵³ In regards to the former, President Trump has repeatedly threatened a government shutdown if Congress fails to reserve enough money for his border wall agenda against unauthorized immigrants from Mexico and other Central American nations.⁵⁴ It is important to first look at statistics on unauthorized immigration:

In 2015, there were an estimated 11 million unauthorized immigrants, with more than half originating from Mexico.⁵⁵ However, the number of unauthorized immigrants has generally declined as can be seen from the estimated 12.2 million unauthorized immigrants in 2007.⁵⁶ Additionally, Mexicans "may no longer be the majority of US unauthorized immigrants," as their numbers have been decreasing in the past few years (from 6.4 million in 2009 down to 5.6 million in 2015 and 2016).⁵⁷

In fact, the number of immigrants from El Salvador, Guatemala, and Honduras, is rising at a faster rate than the number from Mexico.⁵⁸ Around 700,000 illegal immigrants have received "temporary work permits and protection from deportation through the Deferred Action from Childhood Arrivals (DACA)" policy since September 2017.⁵⁹

⁵¹ "Illegal Immigration Reform and Immigration Responsibility Act," Legal Information Institute of Cornell Law School.

⁵² "U.S. Immigration Since 1965," History.com.

⁵³ Susan Cornwell and Roberta Rampton, "In Quick Reversal, Trump Threatens Shutdown over Border Wall," Reuters, September 05, 2018, , <https://www.reuters.com/article/us-usa-trump-shutdown/in-quick-reversal-trump-threatens-shutdown-over-border-wall-idUSKCN1LL1YN>.

⁵⁴ Cornwell and Rampton, "In Quick Reversal, Trump Threatens Shutdown over Border Wall".

⁵⁵ Marc R. Rosenblum and Ariel G. Ruiz Soto, "An Analysis of Unauthorized Immigrants in the United States by Country and Region of Birth," Migration Policy Institute, November 13, 2017, <https://www.migrationpolicy.org/research/analysis-unauthorized-immigrants-united-states-country-and-region-birth>.

⁵⁶ Jens Manuel Krogstad, Jeffrey S. Passel, and D'Vera Cohn, "5 Facts about Illegal Immigration in the U.S.," Pew Research Center, April 27, 2017, <http://www.pewresearch.org/fact-tank/2017/04/27/5-facts-about-illegal-immigration-in-the-u-s/>.

⁵⁷ Krogstad, Passel & Cohn, "5 Facts about Illegal Immigration in the U.S.".

⁵⁸ D'Vera Cohn, Jeffrey S. Passel, and Ana Gonzalez-Barrera, "Immigration From Guatemala, Honduras, El Salvador Up," Pew Research Center's Hispanic Trends Project, June 04, 2018, <http://www.pewhispanic.org/2017/12/07/rise-in-u-s-immigrants-from-el-salvador-guatemala-and-honduras-outpaces-growth-from-elsewhere/>.

⁵⁹ Jens Manuel Krogstad and Ana Gonzalez-Barrera, "Key Facts about U.S. Immigration Policies and Proposed Changes," Pew Research Center, February 26, 2018, <http://www.pewresearch.org/fact-tank/2018/02/26/key-facts-about-u-s-immigration-policies-and-proposed-changes/>.



As such, for future considerations, it is important to understand that unauthorized immigration has not been rising in recent years and that as the years go by, there is a greater need to address the issue of deportation with considerations of entire families, and not simply single individuals.

International Activity

Canada

Prime Minister Justin Trudeau has condemned President Donald Trump's separation of migrant children from their parents at the border.⁶⁰ Additional backlash to this decision led to another executive order that allows families to remain together under custody, but the US continues to hold the "zero-tolerance" policy, which results in detention and/or criminal prosecution.⁶¹

Mexico

Mexican Ambassador to the US Gerónimo Gutiérrez stated that the Mexican government does not support or promote illegal immigration to the US.⁶² Mexico views the current situation as a humanitarian issue rather than an immigration issue.⁶³ The Trump Administration has similarly called upon the governments of Guatemala, Honduras and El Salvador to respond to the perceived issue.⁶⁴

United Nations

Spokeswoman for the Office of the United Nations High Commissioner for Human Rights (UNHCHR) Ravina Shamdasani stated that the Trump administration's separation of children from migrant families violated rights of the child and urged for an immediate halt to the activities.⁶⁵ The US is the only nation that has yet to ratify the Convention on the Rights of the Child.⁶⁶

Tasks of the Committee

Some key complexities under the issue of illegal immigration include the rights of the child, the economic implications of illegal immigration, the difference between refugee and illegal immigrant, and international cooperation on the issue.

⁶⁰ Teresa Wright, "Prime Minister Justin Trudeau Calls U.S. Child Migrant Policy 'wrong'," CTVNews, June 20, 2018, <https://www.ctvnews.ca/politics/prime-minister-justin-trudeau-calls-u-s-child-migrant-policy-wrong-1.3981373>.

⁶¹ Wright, "Prime Minister Justin Trudeau Calls U.S. Child Migrant Policy 'wrong'".

⁶² Megan Keller, "Mexican Ambassador on Caravan: We Do Not Promote Illegal Immigration," The Hill, October 22, 2018, <https://thehill.com/policy/international/412589-mexican-ambassador-on-caravan-we-do-not-promote-illegal-immigration>.

⁶³ Keller, "Mexican Ambassador on Caravan: We Do Not Promote Illegal Immigration".

⁶⁴ Keller, "Mexican Ambassador on Caravan: We Do Not Promote Illegal Immigration".

⁶⁵ Nick Cumming-Bruce, "Taking Migrant Children From Parents Is Illegal, U.N. Tells U.S.," The New York Times, June 05, 2018, <https://www.nytimes.com/2018/06/05/world/americas/us-un-migrant-children-families.html>.

⁶⁶ Cumming-Bruce, "Taking Migrant Children From Parents Is Illegal, U.N. Tells U.S.".



Delegates may choose to address these issues by reviewing current legislative proposals to mitigate these issues. Although this background guide has endeavored to highlight a few issues under illegal immigration, delegates are encouraged to propose other salient issues.

In light of these issues, here are some questions to consider:

- What will the future of DACA look like? Should a new program be considered?
- What kind of legislation should be crafted to address illegal immigrant families, especially those who have remained in the country for a long duration?
- Are immigration levels a serious problem to the United States? Is it a problem to the US economy and/or national security?
- What focus should immigration assume in the coming years?
- How does illegal immigration impact the American economy, specifically the labour market?
- What criteria is used to admit immigrants? Are changes necessary to current immigration policies? What is the difference between an illegal immigrant and a refugee?
- How will deportation policies impact the US economy?
- How can the US work collaboratively with Canada and Mexico to resolve the perceived problem? Should the US consider working with other foreign actors or entities?



Sources

Pew Research Center - <http://www.people-press.org/topics/immigration/>

This source provides accurate empirical data and analysis on immigration trends, both legal and illegal, that may be useful in looking at the current situation in the United States.

Migration Policy Institute - <https://www.migrationpolicy.org/topics/illegal-immigration-interior-enforcement>

This source provides insight into policy frameworks related to issues of immigration and enforcement policies. This may be useful in understanding economic and policy implications for these issues.



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<http://www.pewresearch.org/fact-tank/2018/02/26/key-facts-about-u-s-immigration-policies-and-proposed-changes/>.

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“Healthcare”

By Brandon Yih

Introduction:

As the United States sinks further into political turmoil, healthcare stands out because of its intimate connection with the daily lives of citizens. This committee will focus on a number of salient issues within the broader issue of healthcare, including Medicare and Medicaid funding, the opioid crisis, racial disparity in healthcare delivery, and the comparatively low wages of American doctors, among others. Delegates are encouraged to propose other relevant healthcare issues aside from the ones synthesized below. However, the background information below should guide delegates’ understanding of the scope and rigor of topics to be discussed. Healthcare policy has arguably stagnated due to its complex and multifaceted problems and its ability to strike deep at the heart of some of the most contentious issues in civil society, including equitable access to services, allocation of government funding, racial tensions, and identity politics. Additionally, although healthcare has traditionally been a polarized topic, with political parties taking markedly different stances, delegates are encouraged to look for any policies that unite positions across the political spectrum. For example, delegates may be interested in looking at the “Problem Solvers” a bipartisan group in the House of Representatives as it has proposed bipartisan solutions to the Affordable Health Care Act. Delegates are thus tasked with crafting coherent policies and legislation that may enact change in the area of healthcare.

Definitions

American Medical Association (AMA)

Founded in 1847 as part of a resolution by the New York Medical Association to advance scientific work, the AMA set standards for medical education and improved public health.⁶⁷

Medicaid

State administrations use Medicaid as healthcare support for “eligible low-income adults, children, pregnant women, elderly adults and people with disabilities.”⁶⁸

Medicare

This is the federal health insurance program designed for people aged 65 or above, eligible younger people with disabilities, and people suffering from End-Stage Renal Disease.⁶⁹

Obamacare

⁶⁷ "AMA History," American Medical Association, <https://www.ama-assn.org/ama-history>.

⁶⁸ "Medicaid," Medicaid.gov, <https://www.medicaid.gov/medicaid/index.html>.

⁶⁹ "What's Medicare?" Medicare.gov, <https://www.medicare.gov/what-medicare-covers/your-medicare-coverage-choices/whats-medicare>.



Informal name for the Patient Protection and Affordable Care Act of 2010.⁷⁰

Historical Background

Political Interests in Healthcare in the early to mid-20th Century

The following is a brief overview of the major healthcare policy advancements in the past two centuries. Delegate may use this for reference but are encouraged to substantiate their understanding of the longer trajectory of healthcare development by conducting more detailed research.

During the economic depression of the 1930s, the US Congress passed the Social Security Act of 1935, which focused on the protection of the unemployed and the elderly.⁷¹ The American Medical Association (AMA) publicly opposed federal interventions into health insurance; this disapproval by a respected institution led President Franklin D. Roosevelt to redirect his policy agenda to address healthcare and induced the failure of President Harry Truman's push for national health insurance.⁷² Eventually with Democratic congressional majorities in 1965, President Lyndon B. Johnson enacted legislation that created Medicare and Medicaid, which covered health insurance costs for the elderly and the poor, respectively.⁷³ In early 1968, there were also considerations for a bill called Kiddicare, that would cover health insurance costs for children, but this was not pursued by President Johnson.⁷⁴

Healthcare Reform in the 21st Century

The Balanced Budget Act of 1997 introduced the State Children's Health Insurance Program (SCHIP).⁷⁵ This extended health insurance coverage to children in families unable to afford private insurance but had higher incomes that disqualified them from Medicaid.⁷⁶ In 2003, President George W. Bush succeeded in gaining Congressional approval for the Medicare Prescription Drug, Improvement and Modernization Act (MMA).⁷⁷ The MMA reformed Medicare to federally subsidize prescription drug coverage by private insurance companies, which furthered access for the elderly to obtain medical care.⁷⁸ In 2010, under the Obama Administration, the Patient Protection and Affordable Care Act ("Obamacare") was enacted.⁷⁹

⁷⁰ Kimberly Amadeo, "What Is Obamacare? The ACA and What You Need to Know," The Balance, May 23, 2018, , <https://www.thebalance.com/what-is-obamacare-the-aca-and-what-you-need-to-know-3306065>.

⁷¹ Paul Starr, *The Health-Care Legacy of the Great Society*, Princeton University, *The Health-Care Legacy of the Great Society*, 2014, https://www.princeton.edu/~starr/articles/articles14/Starr_LBJ_HC_Legacy_1-2014.pdf.

⁷² Starr, *The Health-Care Legacy of the Great Society*.

⁷³ Starr, *The Health-Care Legacy of the Great Society*.

⁷⁴ Michael Beschloss, "After Health Bill's Defeat, What Trump Can Learn From L.B.J.," *The New York Times*, March 31, 2017, , <https://www.nytimes.com/2017/03/31/business/trump-health-care-lyndon-johnson-medicare.html>.

⁷⁵ Afsaneh Khetrapal, "What Is SCHIP?" *News-Medical.net*, August 23, 2018, , <https://www.news-medical.net/health/What-is-SCHIP.aspx>.

⁷⁶ "Program History," *Medicaid.gov*, , <https://www.medicaid.gov/about-us/program-history/index.html>.

⁷⁷ Brian Duignan, "George W. Bush," *Encyclopædia Britannica*, October 15, 2018, , <https://www.britannica.com/biography/George-W-Bush#ref1002030>.

⁷⁸ Duignan, "George W. Bush".

⁷⁹ "Affordable Care Act (ACA)," *HealthCare.gov*, , <https://www.healthcare.gov/glossary/affordable-care-act/>.



The ACA was intended to expand Medicaid to “cover all adults with income below 138% of the federal poverty level” and increase general public access to affordable health insurance by subsidizing costs for “households with incomes between 100 percent to 400 percent of the federal poverty level.”⁸⁰ In 2015, the Medicare Access and CHIP Reauthorization Act (MACRA) was passed, which new payment methods to physicians for their services for Medicare beneficiaries.⁸¹ In January 2017, President Donald Trump signed his first executive order, Executive Order 13765, which attempted to alter, delay or waive as many parts of the Affordable Care Act of 2010 before Congressional decisions to repeal the 2010 Act.⁸² In September 2017, Senator Bernie Sanders introduced the Medicare For All Act in the Senate, which would create a “universal single-payer health program” to provide general health care for all US residents, including immigrants.⁸³

Issues

Medicare For All

In the 2010s and 2020s, health care reform has assumed a central role in the US political discourse. In 2019, the “individual mandate” from the 2010 ACA will be ended, which means that Americans will no longer penalized if they are not covered for health insurance by their employer or by a government program.⁸⁴

Significant alternative proposals concerning the operation of Medicaid and Medicare have recently emerged. For example, in 2018, Congressional Republicans, including House Speaker Paul Ryan, have focused on the marketability of Medicaid and Medicare by including premiums for Medicaid beneficiaries and reforming policies on program eligibility.⁸⁵

Conversely, the Democrats have been focusing on the universal coverage aspect of the Medicare For All Act of 2017. As a result, criticisms of “disinterest toward fixing the ACA” have been levelled against the Democrats.⁸⁶ Opponents of the 2017 Act have contended that the explicit costs of the universal insurance coverage are problematic and the bill lacks the sufficient detail required for such a high-cost program.⁸⁷ The affordability question may by

⁸⁰ “Affordable Care Act (ACA),” HealthCare.gov.

⁸¹ “What Is MACRA,” Network for Regional Healthcare Improvement, , <http://www.nrhi.org/work/what-is-macra/what-is-macra/>.

⁸² Julie Hirschfeld Davis and Robert Pear, “Trump Issues Executive Order Scaling Back Parts of Obamacare,” The New York Times, January 20, 2017, , <https://www.nytimes.com/2017/01/20/us/politics/trump-executive-order-obamacare.html>.

⁸³ “Understanding the Medicare For All Act of 2017,” Physicians for a National Health Program, , <http://pnhp.org/what-is-single-payer/senate-bill/>.

⁸⁴ “Seven Key Issues Facing U.S. Health Care in 2018,” Knowledge@Wharton, January 4, 2018, <http://knowledge.wharton.upenn.edu/article/the-future-of-the-aca/>.

⁸⁵ “Seven Key Issues Facing U.S. Health Care in 2018,” Knowledge@Wharton.

⁸⁶ Blake Rosser, “Medicare-for-all: A New Vote,” Sanford Journal of Public Policy at Duke University, October 11, 2017, <https://sites.duke.edu/sjpp/2017/medicare-for-all-a-new-vote/>.

⁸⁷ Rosser, “Medicare-for-all: A New Vote”.



addressed by referring to other countries that have espoused similar policies.⁸⁸ For example, changes to the healthcare system have been successful in Taiwan and Canada.⁸⁹

Affordable Care Act

The Affordable Care Act, colloquially known as Obamacare or the ACA was enacted by President Barack Obama on March 23, 2010. It is often known as the “greatest overhaul of the US health-care system” and initially provided healthcare coverage for up to 94% of Americans. The goals of the Act can be described as three-fold: firstly, reduced the number of uninsured, secondly, reduce the cost of healthcare, and third, expand access to care. Under the last category, the Act expanded access to Medicaid and opportunities for those not covered by employers to buy care from insurers.⁹⁰ Notably, one of the act’s most significant reforms was the inclusion of health coverage for those with preexisting conditions.⁹¹ Since President Trump’s government has taken power however, there have a been a number of substantial changes to the Act. For example, although Republicans tried and failed to repeal the healthcare law last year, they were able to successfully eliminate the penalty for not having health insurance or the mandate. Additionally, citizens are now incentivized buy cheaper insurance to cover healthcare services, and the Department of Human and Health Services cut funding for non-profit groups, known as “navigators” which offer aid to citizens looking to choose their own health insurance plans.⁹² Since these changes have taken place, the Republicans have introduced additional changes and will likely continue to do so. The ACA has also been characterized as the “gulf between Red and Blue America”, and will continue to polarize American citizens unless new policies can be proposed.⁹³ Notably, the “Problem Solvers” the bipartisan group in the House of Representative, proposed a bipartisan solution to the ACA which promised the continuation of Cost-Sharing Reduction Payments (CSRs) and raising the threshold on the employer mandate to businesses of 500 or more employees.

The Opioid Crisis and other Healthcare related concerns

⁸⁸ Amartya Sen, "Universal Healthcare: The Affordable Dream," *The Guardian*, January 6, 2015, , <https://www.theguardian.com/society/2015/jan/06/-sp-universal-healthcare-the-affordable-dream-amartya-sen>.

⁸⁹ Aaron E. Carroll and Austin Frakt, "The Leap to Single-Payer: What Taiwan Can Teach," *The New York Times*, December 26, 2017, <https://www.nytimes.com/2017/12/26/upshot/the-leap-to-single-payer-what-taiwan-can-teach.html>.

⁹⁰ RAND, “The Affordable Care Act,” *RAND*, <https://www.rand.org/health/key-topics/health-policy/aca.html>. (Accessed: November 14, 2018).

⁹¹ eHealthinsurance services, “History and Timeline of the Affordable Care Act ACA,” *eHealth*, 5 March 2018, <https://www.ehealthinsurance.com/resources/affordable-care-act/history-timeline-affordable-care-act-aca>. (Accessed November 14, 2018).

⁹² Alison Kodjak, “The State of Affordable Care Act,” *National Public Radio*, 14 July 2018, <https://www.npr.org/2018/07/14/629058543/the-state-of-the-affordable-care-act>. (Accessed November 14, 2018).

⁹³ Ronald Brownstein, “The Health-Care Gap Between Red and Blue America,” *The Atlantic*, <https://www.theatlantic.com/politics/archive/2018/03/obamacare-trump/555131/>. (Accessed November 14, 2018).



The opioid crisis refers to the phenomenon of increased prescription rates because of the pervasive belief held by pharmaceutical companies in the 1990s that people would not become addicted to pain relievers.⁹⁴ Increased prescription rates led to the abuse of opioids such as painkillers and other prescription drugs; it is now estimated that more than 130 people die from opioid-related drug overdoses daily.⁹⁵ Opioid overdoses in large urban cities increased by 54 percent in 16 states between July 2016 and September 2017.⁹⁶ Consequently, the opioid crisis may present itself as the new healthcare crisis of the 21st century. Related concerns include the inflation of drug prices, CHIP (SCHIP) funding, and the healthcare employment center.⁹⁷ The proliferation of the adverse effect of these phenomena may be preempted by effective policy solutions or legislation crafted by the US Senate.

International Activity

Provided below are brief overviews of notable healthcare systems in countries around the world. Delegates may choose to refer to these countries as healthcare models that may be implemented in the United States. However, delegates are also encouraged to debate the merits of these systems and challenge the feasibility of their implementation in the US.

Canada

Canada has a single-payer system that is mainly publicly funded, in contrast to the American multi-payer and privatized system.⁹⁸ The Canadian healthcare system coverage is not contingent on a person's job or his/her income level, but rather accessible for all citizens.⁹⁹ Notably, even though Canada spends 10.4 percent of its Gross Domestic Product (GDP) on healthcare while the US spends 17.8 percent, Canada has reported significantly better health measures for infant mortality and life expectancy.¹⁰⁰ However, this lower healthcare cost is likely due in large part to the substantially different population sizes between the two countries. Additionally, differences in political and cultural life in Canada and the US may lead to the inability of Canadian healthcare principles to be directly applied in the United States.¹⁰¹

Australia

Unlike the aforementioned examples, Australia follows a two-tier healthcare system in which government healthcare only covers part of healthcare services, while private insurance

⁹⁴ "What Is the U.S. Opioid Epidemic?" U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES, September 19, 2018, <https://www.hhs.gov/opioids/about-the-epidemic/index.html>.

⁹⁵ "What Is the U.S. Opioid Epidemic?", U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES.

⁹⁶ "Opioid Overdose Crisis," National Institute on Drug Abuse, March 06, 2018, <https://www.drugabuse.gov/drugs-abuse/opioids/opioid-overdose-crisis>.

⁹⁷ "Seven Key Issues Facing U.S. Health Care in 2018," Knowledge@Wharton.

⁹⁸ "Is Canada the Right Model for a Better U.S. Health Care System?" Knowledge@Wharton, May 19, 2017, <http://knowledge.wharton.upenn.edu/article/lessons-can-u-s-learn-canadian-health-care-system/>.

⁹⁹ "Is Canada the Right Model for a Better U.S. Health Care System?", Knowledge@Wharton.

¹⁰⁰ "Is Canada the Right Model for a Better U.S. Health Care System?", Knowledge@Wharton.

¹⁰¹ "Is Canada the Right Model for a Better U.S. Health Care System?", Knowledge@Wharton.



pays for the rest.¹⁰² For example, although hospital treatment in Australia is covered by the Medicare program, most people still have to pay for general practitioner visits or ambulances through their own private insurances.¹⁰³

Japan

Japan uses an insurance mandate healthcare system which requires citizens to purchase public or private insurance coverage.¹⁰⁴ However, most Japanese citizens receive health insurance coverage from their employers.¹⁰⁵

Tasks of the Committee

Senators are encouraged to address the complex issues of healthcare reform by considering a number of important questions:

- How will the high costs of expanding Medicare be covered?
- Should CHIP (SCHIP) fall under the purview of federal or state-level funding?
- Should Medicare, Medicaid and the ACA be combined into one national program? If so, what is the feasibility of this endeavor?
- How will the healthcare employment sector be affected by future program changes?
- How can the Senate best address rising drug costs and the issue of opioids concurrently? Is more funding needed to cover prescription drugs? Is it ethical for the federal government to cover these drugs?
- How can the US best address racial disparities in healthcare coverage? How can programs such as Medicare or Medicaid reach more people, especially in rural areas?
- Are certain populations adversely affected by the application of certain healthcare policies? If so, should/can this be mitigated?
- How can the Senate address the issue of American doctors being underpaid and/or overworked? Are new standards or guidelines for the healthcare employment sector necessary?

¹⁰² Holder, Torpey & Cage, "How Does the US Healthcare System Compare with Other Countries?"

¹⁰³ Josh Holder, Paul Torpey, and Feilding Cage, "How Does the US Healthcare System Compare with Other Countries?" The Guardian, July 25, 2017, <https://www.theguardian.com/us-news/ng-interactive/2017/jul/25/us-healthcare-system-vs-other-countries>.

¹⁰⁴ Holder, Torpey & Cage, "How Does the US Healthcare System Compare with Other Countries?"

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“The Protection of Personal Information and Digital Privacy”

By Karrie Chou

Introduction

The pervasiveness of digital media and electronic devices has led to proliferation of information sharing that defines modern society. This exchange indicates that information has assumed a “value” and can be considered a “good” by those who acquire it. In particular, personal data has become a sought-after good. For example, companies may use consumer data to gauge the popularity of their advertisements and products, while governments may use personal data to make policy decisions about the provision of public services.

However, the popularity of information sharing has not precluded its abuse. If this misconduct is perpetrated by government actors, it can erode the trust between a government and its citizens. Strategies by which information is retrieved, such as online surveillance or disclosure of information from corporations to governments, have been criticized by political, legal, and civil advocacy groups. Citizens are increasingly unsure whether they can keep their information confidential, which may lead them to take more proactive efforts to protect their rights.

Definitions

Metadata

According to the Office of the Privacy Commissioner of Canada, metadata is “data that provides information about other data”.¹⁰⁶ Essentially, it is “information that is generated as [people] use technology and lets [users of digital spaces] know the who, what, where, when, and how of a variety of activities”.¹⁰⁷

Whistleblowing

Disclosing an activity that can potentially be deemed to be illegal or unethical.

Historical Background

In the United States’ early history, privacy concerns referred to unjustified encroachments by the government, or the “distaste for excessive government”; after the country’s secession from Great Britain, the American citizenry implemented an institutional framework to prevent intrusions into their private lives.¹⁰⁸ The Third and Fourth Amendments

¹⁰⁶ “Metadata and Privacy: A technical and legal overview,” Office of the Privacy Commissioner of Canada, last modified October 2014, https://www.priv.gc.ca/media/1786/md_201410_e.pdf.

¹⁰⁷ Ibid.

¹⁰⁸ Daniel J. Solove, “A Brief History of Information Privacy Law,” George Washington University Law School, last modified 2006, https://scholarship.law.gwu.edu/cgi/viewcontent.cgi?article=2076&context=faculty_publications, 1-5.



of the Bill of Rights, passed on December 15, 1791, were the seminal documents that enshrined basic privacy protections for American citizens.

For example, the Third Amendment states, “No soldier shall, in time of peace be quartered in any house, without the consent of the Owner, nor in time of war, but in a manner to be prescribed by the Law.”¹⁰⁹ This Amendment was created as a direct response to the Quartering Act of 1765, imposed by the British government, that required “colonial authorities to provide food, drink, quarters, fuel, and transportation to British forces stationed in their towns or villages.”¹¹⁰ Its theme was applied in the Fourth Amendment to prohibit search and seizure without warrant: “The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.”¹¹¹ Consequently, the Fourth Amendment is regarded as the most important constitutional provision related to modern privacy law and cybersecurity since it protects citizens against undue invasions of privacy.

However, the initial push for collecting private data was induced by increases in immigration in the 1700s.¹¹² To quantify the influx of people, the decennial census was introduced in 1790 under Secretary of State Thomas Jefferson as a method to both document individuals and improve state and federal record keeping.¹¹³ This information, which included household finances and individual disabilities or diseases, was “posted in public places so people could check errors”; unsurprisingly, this led to a substantial backlash and public outcry as more private information was published. Finally, in 1919, Congress formally made the publication of census data a punishable felony.¹¹⁴ In 1954, Title 13 of the United States Code was enacted, legally protecting the confidentiality of census data.¹¹⁵

Despite these legislative changes, the Fourth Amendment has not escaped judicial influence. In 1886, the Supreme Court case *Boyd v. United States* held that individuals were not required by courts to produce private documents (in this case, confidential shipment invoices) that could be used to incriminate themselves.¹¹⁶ The Fifth Amendment, which protects against

¹⁰⁹ “The Bill of Rights: A Transcription,” National Archives, <https://www.archives.gov/founding-docs/bill-of-rights-transcript#toc-amendment-iii>.

¹¹⁰ “Quartering Act: Great Britain [1765],” Encyclopedia Britannica, <https://www.britannica.com/event/Quartering-Act>.

¹¹¹ “The Bill of Rights: A Transcription,” National Archives, <https://www.archives.gov/founding-docs/bill-of-rights-transcript#toc-amendment-iv>.

¹¹² “Immigration Timeline,” The Statue of Liberty – Ellis Island Foundation, Inc., <https://www.libertyellisfoundation.org/immigration-timeline>.

¹¹³ “History of the Decennial Census,” United States Census Bureau, last modified April 2, 2018, <https://www.census.gov/programs-surveys/decennial-census/about/history.html>.

¹¹⁴ Daniel J. Solove, “A Brief History of Information Privacy Law,” George Washington University Law School, last modified 2006, https://scholarship.law.gwu.edu/cgi/viewcontent.cgi?article=2076&context=faculty_publications, 1-6.

¹¹⁵ “Title 13 – Census,” Government Publishing Office [US], last modified August 31, 1954, <https://www.gpo.gov/fdsys/pkg/USCODE-2007-title13/pdf/USCODE-2007-title13.pdf>.

¹¹⁶ “Boyd v. United States, 116 U.S. 616 (1886),” Justia, <https://supreme.justia.com/cases/federal/us/116/616/>.



self-incrimination in any legal setting, was also contested in this case; the Fourth and Fifth Amendment were together interpreted to have created “a zone of privacy encompassing an individual’s person and property”.¹¹⁷ Thus, any cases concerning the Fourth or Fifth amendment may directly or indirectly have an impact on personal and digital privacy.

However, there is no established body of jurisprudence delineating the field of personal digital privacy. The first seminal Supreme Court case concerning privacy, divorced from search and seizure practices, was *Katz v. United States*. This case held that tapping phone conversations, whether on private landlines or public phone booths, was unconstitutional and in contravention of the tenets upheld by the Fourth Amendment.¹¹⁸ Perhaps more saliently, *Katz v. United States* established a “reasonable expectation of privacy” test: private settings are ones in which individuals “have exhibited a subjective expectation of privacy” and “... one[s] that society is prepared to recognize as reasonable”.¹¹⁹

The recognition of private settings eventually led to the introduction of a notion of “information privacy”, introduced in the Privacy Act of 1974. Its purpose was to “[establish] a code of fair information practices that governs the collection, maintenance, use, and dissemination of information about individuals that is maintained in systems of records by federal agencies”.¹²⁰ According to the stipulations of the Act, “information privacy” protections apply to any information considered a form of “identification” that does not require additional sources to verify, such as online activities, a driver’s license, or records from a hospital visit. In 2017, President Donald Trump removed Privacy Act protections from non-citizens of the United States.¹²¹

In a seminal Supreme Court ruling in 2018, *Carpenter v. United States* held that the government needs a warrant to access location information from cellular devices. Notably, this was a 5-4 ruling, indicating that the case itself was contentious. However, the decision is still a salient development for digital privacy and may have implications for parties that might use information, such as browsing history, text messages, emails, and bank records. Thus, some association between Fourth Amendment protections and digital rights has been enshrined. This case is the most recent in a history of digital-privacy rights related jurisprudence including the 1976 case *United States v. Miller* which held that the Fourth Amendment does not preclude access to bank records by the enforcement. *Smith v. Maryland* extended this principle to records collected by phone companies. Thus, *Carpenter v. United States* diverges substantially because it characterizes digital information as a “qualitatively different category”. Notably, the

¹¹⁷ “The Life and Times of *Boyd v. United States* (1886-1976),” *Michigan Law Review* 76, no. 1 (1977): 184-212, doi:10.2307/1288001.

¹¹⁸ “*Katz v. United States*, 389 U.S. 347 (1967),” Justia, <https://supreme.justia.com/cases/federal/us/389/347/>.

¹¹⁹ P. J. Blount et al., “The Katz Test: Reasonable Expectation of Privacy,” *Res Communis*, last modified July 13, 2012, <http://rescommunis.olemiss.edu/2012/07/13/the-katz-test-reasonable-expectation-of-privacy/>.

¹²⁰ “Privacy Act of 1974,” The United States Department of Justice, last modified July 17, 2015, <https://www.justice.gov/opcl/privacy-act-1974>.

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dissenting justices, such as Justice Kennedy, stated that “cell-site records, however, are no different from the many other kinds of business records the Government has a lawful right to obtain by compulsory process.”¹²²

Modern Interpretations of Information Privacy and the Internet

Notably, the development of these sentiments is informed by government abuse of private information, as revealed by former CIA intelligence officer Edward Snowden, who “revealed top secret documents to Glenn Greenwald of The Guardian and Laura Poitras, a freelance journalist, in May 2013”.¹²³ Snowden’s leaks revealed the perverse National Security Agency’s (NSA) surveillance practices targeted towards American citizens. The following NSA practices were the most notable:

- On June 6, 2013, it was revealed that the NSA had collected telephone records from “millions of Verizon customers”.¹²⁴
- On June 7, 2013, it was revealed that the NSA had also “accessed and collected data through back doors into US internet companies such as Google and Facebook” using the PRISM program, which was revived from its never-launched implementation during George W. Bush’s presidency.¹²⁵
- On June 27, 2013, it was revealed that the American President at the time, Barack Obama, had allowed for the continuation of the 2001 Stellar Wind operation, whose original purpose was to collect the email and internet metadata of American citizens until 2011.¹²⁶
- On various dates, starting on June 30, 2013, it was revealed that the American government had been conducting numerous covert cyberattack and cyber-espionage missions against various international entities, including but not limited to: European Union offices, European and Latin American citizens, Chinese government departments, and Middle Eastern (notably Qatar) media outlets.¹²⁷

¹²² Louise Matsakis, “The Supreme Court Just Greatly Strengthened Digital Privacy,” *Wired*, <https://www.wired.com/story/carpenter-v-united-states-supreme-court-digital-privacy/>. (Accessed: November 15, 2018).

¹²³ Lavanya Rathnam, “PRISM, Snowden, and Government Surveillance: 6 Things You Need To Know,” Cloudwards.net, last modified April 19, 2017, <https://www.cloudwards.net/prism-snowden-and-government-surveillance/>.

¹²⁴ Paul Szoldra, “This is everything Edward Snowden revealed in one year of unprecedented top-secret leaks,” Business Insider, last modified September 16, 2016, <https://www.businessinsider.com/snowden-leaks-timeline-2016-9>.

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¹²⁷ Ibid.



- On August 29, 2013, the “top-secret US intelligence ‘black budget’ was revealed for 2013, with 16 spy agencies having a budget of \$52.6 billion”.¹²⁸
 - On September 28, 2013, it was revealed that the NSA had successfully mapped American citizens’ social connections since 2010 with the analysis of communications metadata.¹²⁹
- Snowden’s actions have galvanized a movement to protect other whistleblowers.

Currently, the primary protection for whistleblowers lies in the federal Whistleblower Protection Act, which offers “quite broad” protection for government employees “from retaliation for disclosing violations of ‘law, rule, or regulation,’ or ‘gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety’”.¹³⁰ Conversely, state protections for whistleblower differ quite substantially, therefore lacking the protection offered by standardization and institutionalization.¹³¹ Even within the country, only “approximately half the states protect only disclosures by public sector employees”, leaving private sector employees unable to avoid criminalization.¹³² Additionally, the Snowden document leaks led to a surge in sentiments of distrust in the government, with 52% of surveyed American citizens labelling themselves as “‘very concerned’ or ‘somewhat concerned’ about government surveillance of Americans’ data and electronic communications”.¹³³

Issues

As indicated previously, “information privacy” now extends beyond basic definitions of personal or self-incrimination information. The proliferation of the Internet has induced the development of a new concept known as “digital privacy”. This term includes information privacy, communication privacy, and individual privacy and can refer to less traditional forms of personal information, such as browser history, digital communication, online business transactions etc. Increasingly individuals feel it is necessary to protect this data from businesses, telecommunications providers, or the government. For example, according to the findings of a Pew Research Center study, “[civilian responses to how willing they are to share information depend] on what happens...after they are collected, especially if the data are made available to third parties”.¹³⁴

¹²⁸ Ibid.

¹²⁹ Ibid.

¹³⁰ Elletta Sangrey Callahan et al., “Whistleblowing: Australian, U.K., and U.S. Approaches to Disclosure in the Public Interest,” *Virginia Journal of International Law* 44, no. 3 (2004): 879-912, https://heinonline.org/HOL/Page?collection=journals&handle=hein.journals/vajint44&id=896&men_tab=srchresults

¹³¹ Ibid.

¹³² Ibid.

¹³³ “The state of privacy in post-Snowden America,” Pew Research Center, last modified September 21, 2016, <http://www.pewresearch.org/fact-tank/2016/09/21/the-state-of-privacy-in-america/>.

¹³⁴ Lee Rainie et al., “Privacy and Information Sharing,” Pew Research Center, last modified January 14, 2016, <http://www.pewinternet.org/2016/01/14/privacy-and-information-sharing/>.



Thus, many of the issues concerning information privacy and digital privacy in the United States have arisen due to underdeveloped legislation and jurisprudence on the government's access to this information, aside from a few more recent cases such as *Carpenter v. United States* (see above). Consequently, information privacy is sometimes viewed as entirely outside the control of individuals. This notion does not preclude action on part of the American government. Unfortunately, the Third, Fourth, and Fifth amendments do not offer robust protections to the concept of digital privacy despite the development of related jurisprudence. Thus, there are no legally enshrined rights to protect digital privacy. However, if the American government intends to retain the trust of its citizens and retain its status as the protector of civil liberties, a comprehensive summary of digital privacy rights must be drafted. Proposals of this nature have already been introduced; many digital privacy scholars have advocated for the drafting of a "Bill of Digital Rights" that may be legally enforced not only in the United States, but across the globe.

Tasks of the Committee

The responsibility of this committee is to consider and craft a cohesive response to the following questions about personal and digital privacy:

- What kind of personal and digital information should the American government have access? To what extent should the government be able to use this digital information, if at all?
- How can the American government rebuild the trust between itself and its citizen regarding information privacy?
- How should information and digital privacy be incorporated into American legislation, at both state and federal levels?
- Should the Senate craft a "Digital Privacy Bill"? What would this bill look like and how would it apply?



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