

A blurred background of the United States flag, showing the stars and stripes in soft, out-of-focus colors.



Defining Federalism

What is Federalism?

- Scholars argue and wars have been fought (think 1861 to 1865) over the meaning of federalism
- One political scientist counted over 267 definitions → Watts emphasizes “‘Federalism’ is basically not a descriptive but a normative term...”
- Textbook definition: a form of gov’t in which a constitution distributes authority and powers between a central gov’t and subdivisional gov’ts

Competing Ideas of Federalism

American Federalism
Marble Cake Or Layer Cake?



Marble Cake Federalism is based on a pragmatic mixing of authority and programs among the national, state, and local governments.

Layer Cake Federalism is based on a clear delineation of authority and programs among the levels of government.

Competing Ideas of Federalism

- Competitive Federalism → views the national government, 50 states, and thousands of local gov'ts as competing with each other over ways to put together packages of services and taxes → applies the analogy of the marketplace
- Permissive Federalism → implies that although federalism provides a sharing of power btwn the national and state govt, the states' share rests upon the permission and permissiveness of the federal gov't
- “Our Federalism” → championed by Ronald Reagan, presumes that the power of the federal gov't is limited in favor of broad powers reserved to the states

Number of Governments in the United States

- National – 1
- States – 50
- Counties – 3,034
- Municipalities – 19,431
- Townships or towns – 16,506
- School districts – 13,522
- Special districts – 35,356
- Total – 87,900

Why Federalism?

- Federalism checks the growth of tyranny → Federalist #10
- Federalism allows unity w/out uniformity → national parties and politicians don't have to iron out the details over every issue
- Federalism encourages experimentation → gov'ts provide great laboratories
- Federalism provides training grounds
- Federalism keeps government closer to the people → by providing numerous arenas for decision making, it involves many people in gov't

The Constitutional Structure of American Federalism

- The formal constitutional framework of our federal system can be stated relatively simply:
 - The national gov't has only those powers delegated to it by the Constitution
 - Within the scope of its operations, the national gov't is supreme
 - The state gov'ts have the powers not delegated to the central gov't except those denied by the federal and state constitutions
 - Some powers are specifically denied to both the national and state gov'ts; some denied to one or the other

Delegated (Expressed/Enumerated) Powers

- Delegated Powers → powers given by the Constitution to the federal gov't only
 - Print money
 - Regulate interstate and international trade
 - Make treaties and conduct foreign policy
 - Declare war
 - Provide an army and a navy
 - Establish post offices

Reserved Powers

- Reserved Powers → powers given by the Constitution to the state gov'ts only
 - Issue licenses
 - Regulate intrastate (w/in the state) businesses
 - Conduct elections
 - Establish local gov'ts
 - Ratify constitutional amendments
- Interstate Relations
 - Full Faith & Credit Clause or Reciprocity
 - Interstate Privileges & Immunities
 - Extradition

Concurrent (Shared) Powers

- Concurrent Powers → powers given by the Constitution to both the federal and state gov'ts
 - Collect taxes
 - Borrow and spend money
 - Build roads
 - Make and enforce laws

Implied Powers

- Implied Powers → powers inferred from the express powers that allow Congress to carry out its functions
- Necessary and Proper Clause → clause of the Constitution (Article 1, Section 8, Clause 3) setting forth the implied powers of Congress

Inherent Powers

- Inherent Powers → powers of the national gov't in foreign affairs that the Supreme Court has declared do not depend on the constitutional grants but rather grow out of the very existence of gov't

Denied Powers

- Denied Powers → actions the gov't may not use
 - Suspend *writ of habeas corpus* → telling an arrested person what they are charged with
 - Bills of attainder → punishment w/out a trial
 - *Ex post facto* → law making an act a crime after the act is committed
 - Titles of nobility

The Constitutional Structure of American Federalism

- These constitutional powers allow the federal system to expand the gov'ts powers to meet the needs of a modern nation in a global economy
- This expansion rests on four constitutional pillars:
 - National supremacy article
 - The war power
 - The commerce clause
 - The power to tax and spend for the general welfare

Interpreting Federalism

- The Great Debate – Decentralist v. Centralist
 - Decentralists like Thomas Jefferson, John C. Calhoun, Ronald Reagan, and George H.W. Bush view the Constitution as a compact among states, giving limited powers to the federal gov't; the 10th Amendment is significant; national gov't is heavy-handed; urbanization makes states more responsive to community needs
- The Great Debate – Decentralist v. Centralist
 - Centralists like John Marshall, Abraham Lincoln, Theodore and Franklin Roosevelt view the Constitution as the supreme law established by the people; argue that only the national gov't is the gov't of all the people; 10th Amendment is significant but doesn't deny the federal gov't the authority to exercise its power; supremacy restricts state gov'ts; local gov't is often less competent and more likely to represent racial and ethnic biases