Federalism

Chapter Overview

"Federalism" refers to the division of power between the national government and the states. Under our federal system, significant government powers are divided between the central government and small governmental units; neither completely controls the other, and each has some room for independent action. In exploring American federalism, we will be especially attentive to our themes of democracy and the scope of government. Does federalism, the vertical division of power, enhance democracy in the United States? Does the additional layer of policymakers at the state level make government more responsive to public opinion or merely more complicated? Does it enhance the prospects that a majority of Americans will have their way in public policy? And what are the implications of federalism for the scope of the national government's activities? Why has the national government grown so much relative to state governments, and has this growth been at the expense of the states?
Study Outline

Learning Objective 3.1: Define federalism and contrast it with alternative ways of organizing a nation. (p. 59)

**Defining Federalism**

- **Federal government**: Government is divided into more than one level. Different bodies share power over the same group of people.
- **Unitary government**: Only one central government has authority over a nation. There are no levels of government that share power.
- **Confederation**: An association of states with some authority delegated to a national government. The states in such a system retain most of the power.
- Intergovernmental relations become especially important in a federal system because of the elaborate communication necessary to share power.

Learning Objective 3.2: Characterize the type of nation typically associated with federalism. (p. 60)

**Why Federalism**

- Only 11 of the 190 nations of the world have federal systems.
- Countries large in size tend to have federal systems, which decentralize the administration of government services.
- All countries with federal systems are democracies, although most democracies are not federal systems. Authoritarian regimes do not wish to disperse power away from the central government.
Learning Objective 3.3: Outline the constitutional basis for the division of power between national and state governments, the establishment of national supremacy, and states’ obligations to each other. (p. 61)

The Constitutional Basis of Federalism

The Division of Power

- Framers favored a stronger national government but still made states vital components in the machinery of government.

- States are responsible for state and national elections and they have the power to ratify constitutional amendments.

- The states and national government have overlapping responsibilities for important matters, such as establishing courts, maintaining law and order, protecting citizens’ health and safety, and regulating financial institutions.

National Supremacy

- The Supremacy Clause is located in Article VI.

- The Supremacy Clause asserts the authority of the national government over the states.

- In cases of discrepancy, federal laws usually supersede state laws.

Tenth Amendment

- The tenth amendment is located in the Bill of Rights.

- The tenth amendment grants all powers not specifically reserved for the national government to the states.

- The tenth amendment is often cited in arguments in favor of states’ rights.

Eleventh Amendment

- The eleventh amendment gives states immunity from certain prosecution.

Enumerated Powers

- Enumerated powers are located in Article I, Section 8 of the Constitution.
Enumerated powers are granted to the national government, and specifically to Congress.

**Implied Powers**

- Implied powers were established in *McCulloch v. Maryland*, an 1819 Supreme Court case in which the states battled the formation of a national bank.
- The Supreme Court, under Chief Justice John Marshall, ruled against the states, thereby reinforcing the supremacy of the national government.
- The constitutional basis for implied powers is Article I, Section 8. This is known as the elastic clause, also called the necessary and proper clause.
- Implied powers give Congress the authority to pass any laws necessary to carry out its duties as enumerated in the Constitution.
- The elastic clause, as interpreted in *McCulloch v. Maryland*, allows Congress to act on implied powers that are not specifically defined in the Constitution.
- The case of *Gibbons v. Ogden* in 1824 expanded congressional power to regulate commerce.

**States' Obligations to Each Other**

**Full Faith and Credit Clause**

- The full faith and credit clause is located in Article IV, Section 1.
- Full faith and credit requires each state to formally recognize the documents and judgments handed down by courts in other states.
- Full faith and credit helps coalesce the state laws under a national umbrella.

**Extradition**

- Extradition is located in Article IV, Section 2.
- Requires the return (extradition) of fugitive criminals arrested in one state to the state in which the crime was committed for prosecution.

**Privileges and Immunities Clause**

- The privileges and immunities clause is located in Article IV, Section 2.
The privileges and immunities clause helps unify the states by assuring that all citizens are treated equally when they travel from state to state.

Learning Objective 3.4: Characterize the shift from dual to cooperative federalism and the role of fiscal federalism in intergovernmental relations today. (p. 68)

**Intergovernmental Relations**

*From Dual to Cooperative Federalism*

- **Dual federalism:** Each level of government has distinct responsibilities that do not overlap.
- **Cooperative federalism:** Levels of government share responsibilities.
- **Shared costs:** To receive federal aid, states must pay for part of a program.
- **Federal guidelines:** To receive funding, state programs must follow federal rules and regulations.
- **Shared administration:** Though programs must adhere to basic federal guidelines, they are administered according to the state’s directives.

*Devolution?*

- **Devolution:** Transferring responsibility for policies from the federal government to state and local governments.
- In recent years, some political leaders have called not only for a smaller national government in general but also for devolving the principal responsibility for policies such as health care and income security to the states.

*Fiscal Federalism*

- **Fiscal federalism:** The system of distributing federal money to state governments.
- About a quarter of states’ fiscal spending is derived from federal aid.
- Money is distributed through relatively restrictive **categorical grants** and **block grants**, which allow states more spending discretion.
- **Project grants** are categorical grants given for specific purposes and awarded on the basis of the merits of application.
- Formula grants are categorical grants distributed according to a formula specified in legislation or in administrative regulations.
- Mandates, however, can create economic hardships for states when Congress creates financial obligations for the states without providing funding for those obligations.

3.5 Learning Objective 3.5: Explain the consequences of federalism for diversity in public policies among the states. (p. 76)

- States have certain powers which allow them to adopt policies different from other states.
- Federalism facilitates state innovations in policy, and it allows states to move beyond the limits of national policy.
- However, federalism also leaves states dependent upon the resources within their borders to finance public services, and it may discourage states from providing some services.

3.6 Learning Objective 3.6: Assess the impact of federalism on democratic government and the scope of government. (p. 78)

Understanding Federalism

Federalism and Democracy

- Federalism contributes to democracy by increasing access to the government at all levels, but it also creates disadvantages due to differences in the resources of individual states.
- These differences can lead to inequities among the states in areas such as education.

Federalism and the Scope of the National Government

- The United States has grown in response to the demands of Americans for public services it can best provide, but it has not in any way supplanted the states.