

Federalism

I. What is Federalism?

II. Federalism in Practice

A. Dual Federalism (early 1800s-1930s)

**B. Shared ('Cooperative') Federalism
(1930s-1970s)**

C. "New Federalism" (1970s-Present)

III. Nationalization versus Localization in Public Policy

TABLE 3-1

Numerous Governments Comprise America's Federalism

National	1
State	50
County	3,034
Municipal	19,429
Township and town	16,504
School district	13,506
Other special districts	35,052
Total	87,576

Source: Bureau of the Census, *Statistical Abstract of the United States: 2004* (Washington, D.C.: Government Printing Office, 2004), Table 417.

What is Federalism?

**Federation: Authority is divided between the central and state or local governments.
(US, Canada, Germany)**

**Confederation: Authority held by independent states and delegated to the central government.
(US under Articles)**

**Unitary System: Authority is centralized with state and local governments administering authority delegated from the central government.
(France, UK, Japan)**

Figure 3-2 The Constitutional Basis for “Dual” and “Shared” Federalism

National Government

Exclusive Powers

- ★ Coin money
- ★ Regulate interstate and foreign commerce
- ★ Tax imports and exports
- ★ Make treaties
- ★ Make all laws “necessary and proper” to fulfill responsibilities
- ★ Make war
- ★ Regulate postal system

Powers Denied

- ★ Tax state exports
- ★ Change state boundaries
- ★ Impose religious tests
- ★ Pass laws in conflict with the Bill of Rights

State Governments

Exclusive Powers

- ★ Run elections
- ★ Regulate intrastate commerce
- ★ Establish republican forms of state and local governments
- ★ Protect public health, safety, and morals
- ★ All powers not delegated to the national government or denied to the states by the Constitution

Powers Denied

- ★ Tax imports and exports
- ★ Coin money
- ★ Enter into treaties
- ★ Impair obligation of contracts
- ★ Enter compacts with other states without congressional consent

Shared Authority

- ★ Tax
- ★ Borrow money
- ★ Charter banks and corporations
- ★ Take property (eminent domain)
- ★ Enforce laws and administer a judiciary

Source: Adapted from Lee Epstein and Thomas G. Walker, *Constitutional Law for a Changing America: Short Course*, 2nd ed. (Washington, D.C.: CQ Press, 2000), Table III-1.

Interstate Relations

- ❑ **Full Faith and Credit Clause**
- ❑ **Privileges and Immunities**
- ❑ **Extradition**
- ❑ **Settlement of Disputes**

“By the power invested in me by the Full Faith and Credit Clause, I declare this marriage valid in all states. You may kiss the dude!”



Federalism in Practice

- **Dual Federalism (early 1800s-1930s)**
 - *McCulloch v. Maryland* (1819)
 - *Dred Scott v. Sandford* (1857)
 - *Plessey v. Ferguson* (1890)
 - **Shared (“cooperative”) Federalism (1930s-1970s)**
 - **New Deal (1930s) and Great Society (1960s)**
 - **Nationalization of public policy**
 - **“New Federalism” (1970s-Present)**
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McCulloch v. Maryland

Chief Justice John Marshall writing for the majority:

“Let the end be legitimate, let it be within the scope of the Constitution, and all means which are appropriate, which are plainly adapted to that end, which are not prohibited, but consist with the letter and spirit of the constitution, are constitutional.”

“The power to tax involves the power to destroy...If the right of the States to tax the means employed by the general government be conceded, the declaration that the Constitution, ...shall be the supreme law of the land, is an empty and unmeaning declamation.”

Types of Federal Grants

- ❑ **Categorical Grants**: A federal grant of money to states for a specific activity. These grants usually require states to provide matching funds and to adhere to federal guidelines in spending the money.
 - ❑ **Block Grants**: broad grants given by the federal government to state governments for specific areas (health; education), but leaving it to the states to determine how it is spent.
 - ❑ **(Unfunded) Mandates**: laws passed by the federal government dictating that state or local governments must comply with federal regulations (e.g., air/water standards) under threat of civil/criminal penalties or loss of federal funds.
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Advantages of Localization

- ❑ **Federalism checks the growth of tyranny.**
 - ❑ **Federalism encourages experimentation.**
 - **States as “laboratories of democracy”**
 - **Welfare reform**
 - ❑ **Federalism keeps government closer to the people.**
 - **Matching policy to local interests (e.g., gun control; pornography)**
 - **Clearer connection between cost/benefits**
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Advantages of Nationalization

- Benefits of National Collective Action**
 - Ability to Equalize Resources**
 - Educational Spending**
 - Equal Treatment of Citizens**
 - Southern states and civil rights**
 - Texas and death penalty**
 - Weakens potential special interest control**
 - Lower participation in state politics**
 - Cutthroat competition on labor regulation**
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