

# 3

## 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. We begin by defining federalism and differentiating it from other forms of political organization, chiefly unitary and confederal systems. We then examine the basic principles of American federalism, including the division of power between the national and state governments and the principles of national supremacy and state obligations. Next, we consider how American federalism has changed over time, evolving from a system of dual federalism to a system of cooperative federalism, to the contemporary system of new federalism as it exists today. We conclude by evaluating the impact of federalism on public policy and politics in the United States.

### □ Study Outline

**3.1** Learning Objective 3.1: Define federalism and contrast it with alternative ways of organizing a nation. (p. 75)

#### *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.

### 3.2

**Learning Objective 3.2: 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. 77)**

## ***The Constitutional Basis of Federalism***

### *Supremacy Clause*

- 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.

### *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.

#### *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.

**3.3**

**Learning Objective 3.3: Characterize the shift from dual to cooperative federalism and the role of fiscal federalism in intergovernmental relations today. (p. 84)**

***Intergovernmental Relations Today***

- **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.
- **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.
- **Mandates**, however, can create economic hardships for states when Congress creates financial obligations for the states without providing funding for those obligations.

**3.4**

**Learning Objective 3.4: Explain the consequences of federalism for diversity in public policies among the states. (p. 94)**

- States have certain powers which allow them to adopt policies different from other states.

**3.5****Learning Objective 3.5: Assess the impact of federalism on democratic government and the scope of government. (p. 95)*****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.

**For Additional Review**

To understand more fully the idea of federalism, create a “Taking Stock” table for federalism. The table should have three columns:

1. What do I know about federalism? (fill in this column at the beginning of the unit)
2. What do I not know about federalism? (fill in this column at the beginning of the unit)
3. What have I learned about federalism? (fill this in upon completion of each section of the chapter)

Use this table to guide your reading and note-taking as well as a study tool for the topic of federalism.

To understand more fully the idea of federalism, create a chart or Venn diagram identifying the major powers of the federal, state, and current powers. Use this diagram to serve as a useful study tool for the topic of federalism.

**□ Review Questions****Multiple-Choice Questions**

1. Which of the following forms of fiscal federalism allow the states the broadest financial discretion?
  - a. categorical grants
  - b. block grants
  - c. mandates
  - d. foreign assistance
  - e. U.S. military funding