

CHAPTER 4 FEDERALISM

PARALLEL LECTURE 4.1

- I. Federalism: Definitions and Theoretical Perspectives
 - A. In a federal system, two or more governments exercise power and authority over the same people and the same territory. In the United States, government power is divided between the national government and the states.
 1. The U.S. Constitution specifically defines only the powers to be granted to the national government; all the other powers are “reserved to the states.”
 2. Federalism offers an approach that unifies diverse people into nations, but it also retains the elements that can lead to disunity. (See Compared with What?)
 - B. Scholars have attempted to capture the true meaning of federalist arrangements by using several different adjectives or metaphors. The two most popular are discussed here. (See Figure 4.1.)
 1. **Dual federalism** implies the existence of distinct layers of government, each with powers in their own spheres; these powers are not mixed or shared (represented by the layer-cake metaphor).
 - a) The national government rules by enumerated powers only (supported by the Tenth Amendment).
 - b) The national government has a limited set of constitutional purposes (despite the implied powers of the elastic clause).
 - c) The national government and the states are each sovereign within their own spheres.
 - d) The relationship between the national government and the states is characterized by tension.
 - e) States are viewed as powerful components of the federal system, equal in some respects with the national government (a focus on states’ rights).
 - f) Dual federalism characterized how American governments functioned from 1789 to 1933.
 2. **Cooperative federalism** emphasizes the intermingling of government activities at different levels and in various spheres (represented by the marble-cake metaphor).
 - a) The national and state governments undertake functions jointly.
 - b) Nations and states routinely share power.
 - c) Power is not concentrated at any level of government.
 - d) This view stresses the role of the national government, supported by an expansive view of the supremacy clause (Article VI).
 3. The critical difference between the theories of dual and cooperative federalism is the way they interpret two sections of the Constitution: the Tenth Amendment and the so-called elastic clause.
 - a) The Tenth Amendment says that “powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively or to the people.”
 - b) The elastic clause (Article I, Section 8, Clause 18) is the section of the Constitution from which the concept of implied powers—those powers not spelled out, but expected to be asserted by the national government to carry out its enumerated responsibilities—is derived.
 - C. The relationship between national and state governments has shifted over time. Why?
 1. Constitutional theory does not account for such shifts, but because the Constitution is not very specific about how federalism is supposed to work, it does allow for such shifts over time.
 2. Both elected and appointed officials across levels of government often make policy decisions based on pragmatic considerations without regard to theory.
 3. Public officials and citizens increasingly recognize that public problems often span several government boundaries.
- II. True understanding of American federalism involves recognizing the forces that prompt changes in relationships between the national government and states, such as national crises

Chapter 4 Federalism Outline

Larry Berman, Bruce Allen Murphy



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