

Federalism

Power sharing between the federal and states governments & how that has changed over time

The Big Picture

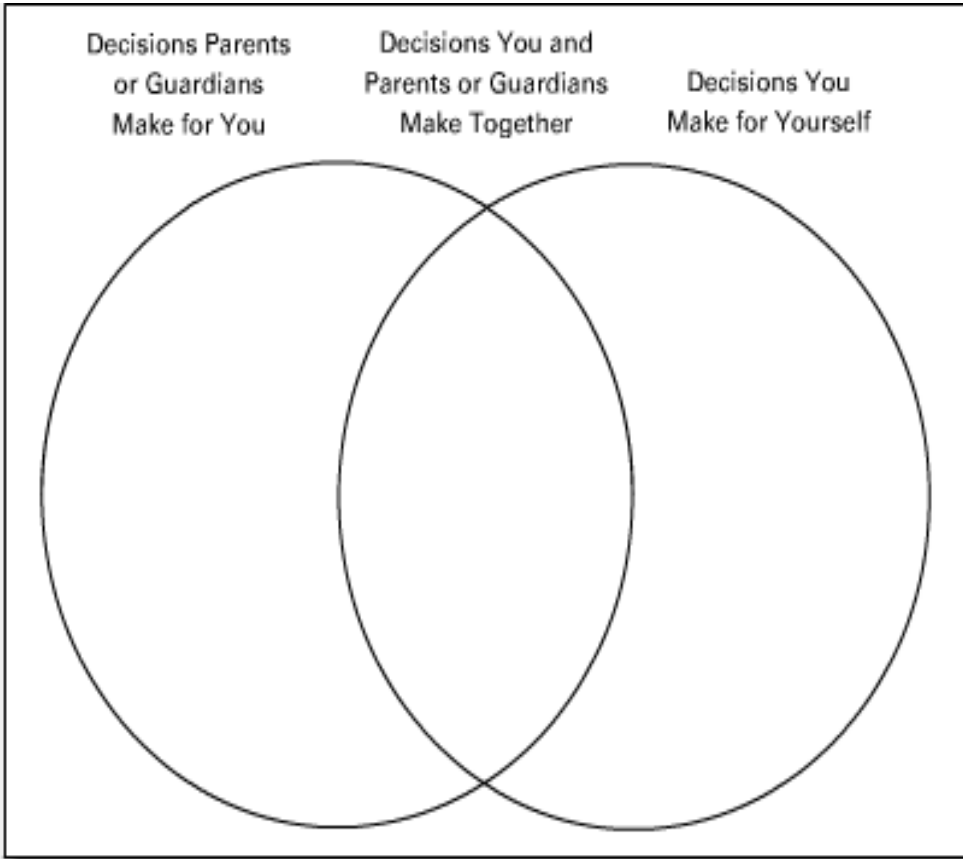


Due to the failures of the Articles of Confederation the Founding Fathers set up a federal system of government where the state and national gov'ts share power and are ultimately responsible to the people.

Questions We Will Consider:

- **What are the key features of the Federal system as outlined in the Constitution?**
- **Changes over time?**
- **How does federalism impact**

Federalism: Your parents and you!



1. What types of decisions do your parents or guardians make for you?

What types of decisions do you make for yourself? What types of decisions do you make together?

2. Why are some decisions shared while others are not?

3. What are the benefits of making decisions this way? What are the drawbacks?

4. How do you think this system of making decisions is similar to the way power flows between national and state governments?

Constitution Continued

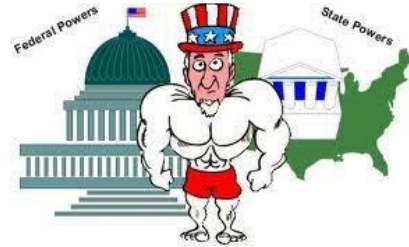
- Art I, Sect 9: Powers denied to the fed gov't
 - No prohibition of slavery before 1808, Congress cannot suspend habeas corpus except in rebellion or invasion
- Art I, Sect 10: Powers denied to the state gov't's
 - No state shall enter into treaties, shall coin money, grant titles of nobility.
 - Equal Protection Clause- No state shall “deny to any person within its jurisdiction the equal protection of the law” (14th Amendment, 1868)
- 10th Amendment: “Powers not delegated to the U.S. by the Constitution, nor prohibited by it to the states, are reserved to the states.”



How the Constitution establishes federalism

POWER SHARING:

1. **Inherent**— all gov't possess these powers
 - Immigration, Foreign policy
2. **Expressed/Enumerated** -- Stated specifically
 - Congress makes laws, Executive approves laws, Judiciary checks laws
3. **Implied** (Makes expressed powers work) – Congress establishes a civil service system to hire federal workers
 - Necessary and Proper Clause Article I Section 8 (also known as the Elastic Clause)
4. **Concurrent** - shared powers between the state and fed gov'ts
 - education, taxation
5. **Reserved** – 10th Amendment protects states rule



Powers of Federal and State Gov't

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Government & Level Power

FEDERAL

Expressed Powers

- Coin money
- Set up a postal system
- Maintain military forces
- Declare war
- Regulate interstate and foreign commerce
- Regulate immigration
- Negotiate treaties with foreign countries

SHARED

Concurrent Powers

- Guarantee civil rights and liberties
- Levy and collect taxes
- Provide for public safety
- Protect public health
- Establish courts
- Punish lawbreakers
- Borrow money
- Construct and maintain roads

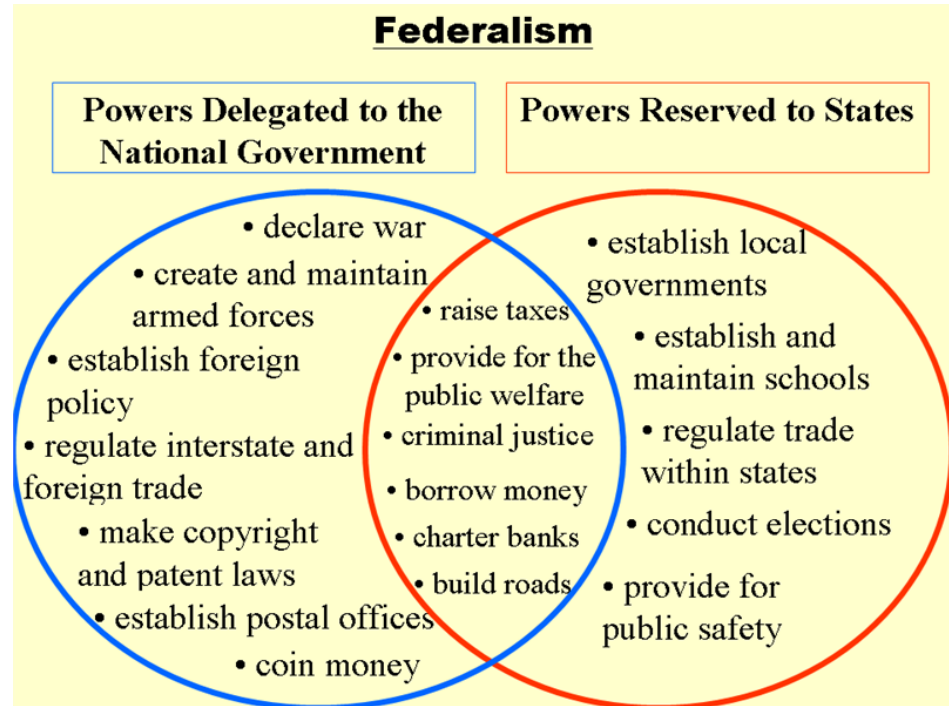
STATE

Reserved Powers

- Conduct elections
- Establish local governments
- Establish schools
- Regulate marriage, divorce, and adoption
- Regulate intrastate commerce
- Provide fire and police protection
- Enact license requirements

Different Types of Federalism

• **Dual/Layer Cake (1789-1933):**
like a layer cake, states' and fed gov'ts each had distinct areas of responsibility, different levels rarely overlapped.



Different Types of Federalism

- 1969**): Great Depression forced change, FDR ushered in numerous aid programs

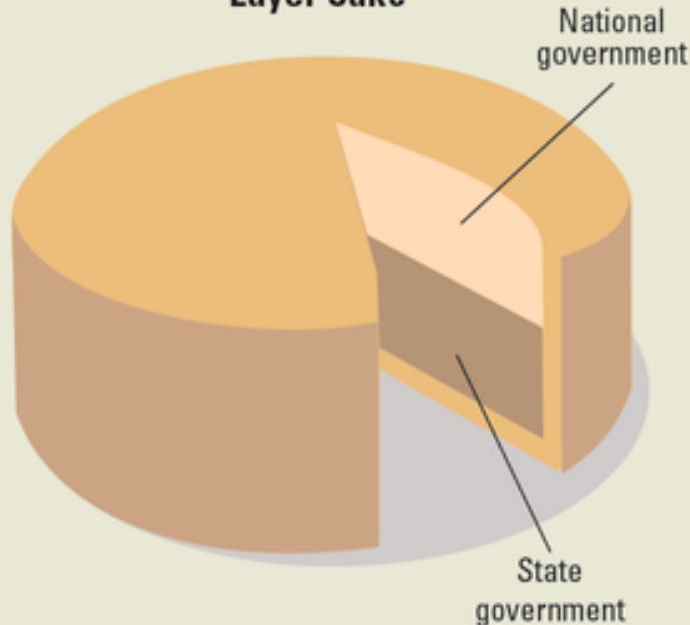
- Fed gov't's responsibilities grew and their relationship with state and local gov'ts became intertwined. State and local gov'ts administer many fed programs and depend heavily on fed \$ to support their own programs.
 - Block Grants
 - Categorical Grants



Dual and Cooperative Federalism

During the era of dual federalism, the national and state governments usually operated independently of one another. The two levels have often been compared to a layer cake. The shift to cooperative federalism led to more sharing of responsibilities. The result was a mingling of federal and state powers, like the swirls in a marble cake.

**Dual Federalism:
Layer Cake**



**Cooperative Federalism:
Marble Cake**



Different Types of Federalism

- **New Federalism (1969-present)**: Starts with Nixon who argued the fed gov't was too big,
 - Limits fed power, (devolution -giving states power and responsibility for some programs.)
 - Supreme Court in the 1990s further reduced the power of the fed government in important ways, particularly in relation to the commerce clause.



Devolution (New Federalism): -giving states power and responsibility for some programs.

sought to restore the balance between the two levels of government. This was done by returning control over many programs to the states.

Recipe for Regulated Federalism

Ingredients



Federal programs and unfunded mandates



Federal grants-in-aid, state and local



State and local officials

Recipe for the New Federalism

Ingredients



State programs and policies



Federal block grants, state and local tax dollars



State and local officials