



# LESSON 5

## DUAL AND COOPERATIVE FEDERALISM

### UNIT 1

#### Constitutional Underpinnings of the U.S. Government (≈10%)

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#### FEDERALISM

- DEFINITION - Constitutional division of powers between the national government and the states; both get their powers from a Constitution, not each other
- Constitution (federally based) replaced the Articles (confederation based)
- Federal system is NOT as efficient as a unitary system (which can be good)
- Federalism issues are at the top of the political agenda along with the issue of devolution
- Since the New Deal in the 1930s to today, there has been a shift of power from the states to the national government; since 1994 elections there has been an attempt to return power to the states
- Federalism debates depend upon issue at stake and rival philosophies of national action vs. decentralization

#### DUAL ("LAYER CAKE") FEDERALISM

- Prevalent through ~ 1937
- State governments and national government each remained supreme within their own spheres.
- Proper relationship between government and the states, portraying the states as powerful components of the federal government -- nearly equal to the national government.
- Powers and policy assignments of the layers of government were distinct, as in a layer cake.
- Suggested that the powers of the national government should be interpreted narrowly (Constitution gives the federal government limited powers and the rest should be to the states).
- Dual federalism is composed of four essential parts:
  - The national government rules by enumerated powers only. The national government may rule only by using powers specifically listed in the Constitution.
  - The national government has a limited set of constitutional purposes. The national government has only limited purposes.
  - Each government unit -- nation and state -- is sovereign within its sphere.
  - The relationship between nation and states is best characterized by tension rather than cooperation.
- Of primary importance in dual federalism is states' rights, which reserve to the states all rights not specifically conferred on the national government by the Constitution. According to the theory of dual federalism, a rigid wall separates the nation and the states.

#### COOPERATIVE ("MARBLE CAKE") FEDERALISM

- Prevalent since ~ 1937
- Mingling of responsibilities between the state and national government.
- Sharing powers & policy assignments, like a marble cake.
- Acknowledges a need for cooperation between state and federal governments.
- Suggests that powers of the national government should be interpreted broadly.
- Cooperative federalism rejects that state and national government must exist in separate spheres and is defined by three elements:
  - National and state agencies typically undertake government functions jointly rather than exclusively.
  - The nation and states routinely share power.
  - Power is not concentrated at any government level or in any agency. The fragmentation of responsibilities gives people and groups access to many venues of influence.

## **DIFFERENCE BETWEEN DUAL AND COOPERATIVE**

- A critical difference between dual and cooperative federalism is how they interpret the elastic clause and Tenth Amendment.
- These two sections of the Constitution define the relationship between state and national governments.
  - Article 1, Section 8, lists the enumerated powers of congress and ends with the elastic clause, which gives Congress the power "to make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers" meaning the enumerated powers.
  - The Tenth Amendment reserves for states or the people powers not assigned to the national government or denied to the states by the Constitution.
- Dual federalism insists that powers not assigned to the national government are only for states and the people, and claims that the elastic clause is inflexible.
- Cooperative federalism restricts the Tenth Amendment and suggests supplements to the elastic clause.

## **ALTERNATIVES TO FEDERALISM**

- Unitary system
  - Places all governmental power in one, central, geographic area
  - More efficient than a federal system (which can be a bad thing)
  - Why don't we use it?
    - Not used because too reminiscent of British rule (strong, distant government that becomes tyrannical)
- Confederation
  - Sovereign states create a central government but carefully limit its power and do not give it direct authority over individuals
  - States are supreme over central government
  - Why don't we use it?
    - Not used because too reminiscent of Articles (tried and failed)

## **ADVANTAGES OF FEDERALISM**

- Federalism checks the growth of tyranny
  - Inhibits formation of a single-interest majority
  - If tyranny occurred in a few states, federal government could prevent its spread to others (e.g. Shays' Rebellion).
  - National government has only those powers granted to it - all others belong to states through Amendment 10.
- Federalism allows unity without uniformity
  - No need for consensus on every divisive issue
  - More suitable for geographically large nation – allows for differences among states
  - More suitable for heterogeneous people – allows for differences
- Federalism encourages experimentation
  - States are "laboratories" for public policy experimentation (gambling in NV, marijuana in CO)
  - States have been in the forefront on health care, voting, air pollution control programs
- Federalism provides training for future national leaders
  - Training ground for state and local politicians to gain experience
  - 20 of nation's 44 presidents served as governor of a state = executive office experience
- Federalism keeps government closer to the people
  - Provides numerous arenas for decision-making
  - Local and state politics involve citizens in large numbers (most Americans had a stronger allegiance to their state and state government)
  - Multiple points of access for citizens

## **DISADVANTAGES OF FEDERALISM**

- Promotes inequality because of states differ in the resources they can devote to providing services.
- Enables local interests to delay or even thwart majority support for a policy.
- Creates confusion because the different levels of government make it difficult for citizens to know what different governments are doing.

# FREE RESPONSE QUESTION (FRQ) REVIEW

1. The framers of the United States Constitution created a federal system.
  - (a) Define federalism.
  
  - (b) Explain how the Tenth Amendment has been used to increase the power of the states relative to the federal government.
  
2. The Constitution limited the power of the national government and restricted popular control; however, citizen participation has changed over time.
  - (a) Explain how federalism protects against the concentration of power in the national government.
  
3. From the Constitutional Convention through the 2016 election, Americans have debated the proper relationship between the states and the federal government.
  - (a) Compare dual federalism and cooperative federalism.
  
  - (b) Explain two advantages of federalism.
  
  - (c) Explain two disadvantages of federalism.
  
4. America's history has been associated with a few different types of government.
  - (a) Define unitary system and identify when it was used in American history.
  
  - (b) Define confederal system and identify when it was used in 18<sup>th</sup> century American history.
  
  - (c) Explain why the framers established a federal system rather than a unitary or confederal system when creating the Constitution.

## MULTIPLE CHOICE (MC) REVIEW

- Prior to the ratification of the Constitution, the United States was governed by the Articles of \_\_\_\_\_.  
(A) Confederation  
(B) Declaration  
(C) Federalism  
(D) Independence  
(E) Unity
- In a \_\_\_\_\_ system, local and regional governments derive authority from the national government.  
(A) bi-cameral  
(B) confederate  
(C) constitutional  
(D) unitary  
(E) federal
- The Framers adopted a federal system of government partly because they feared \_\_\_\_\_.  
(A) decentralization by the states  
(B) limiting the national government  
(C) regulation of interstate commerce  
(D) to challenge the power of the states  
(E) centralizing power in one institution
- Before the ratification of the Constitution, the United States was organized as \_\_\_\_\_.  
(A) colonies  
(B) a confederation  
(C) a monarchy  
(D) an oligarchy  
(E) a conglomerate
- What was the dominant model of federalism post-1937?  
(A) cooperative  
(B) dual  
(C) progressive  
(D) republican  
(E) unified
- Which of the following is the best definition of federalism?  
(A) A constitutional arrangement by which sovereign states create a limited central government.  
(B) A constitutional arrangement concentrating power in a central government.  
(C) A constitutional arrangement by which power is distributed between a central government and state governments.  
(D) A loose association of states constitutionally created by a strong central government.  
(E) A loose association of states with mutually recognized compacts but no central government.
- Which type of federalism is characterized by a system of separate but equally powerful state and national governments?  
(A) combined  
(B) cooperative  
(C) dual  
(D) progressive  
(E) pure
- One benefit of the federal system is the ability of the states to operate as \_\_\_\_\_ for new ideas.  
(A) classrooms  
(B) laboratories  
(C) churches  
(D) courts  
(E) cradles
- The power of both the state and federal governments to levy taxes is an example of \_\_\_\_\_ federalism.  
(A) layer cake  
(B) marble cake  
(C) pineapple upside down cake  
(D) cupcake  
(E) pancake
- 9 When your local police and the DEA work together to shut down illicit drug operations, they are operating under what is called \_\_\_\_\_.  
(A) dual federalism  
(B) combined federalism  
(C) competitive federalism  
(D) cooperative federalism  
(E) progressive federalism
- An advantage of federalism is that it checks the growth of which of the following?  
(A) violence  
(B) war  
(C) inequality  
(D) wealth  
(E) tyranny
- What was the dominant form of federalism pre-1937?  
(A) dual  
(B) combined  
(C) competitive  
(D) cooperative  
(E) progressive
- One of the disadvantages of federalism is that it  
(A) allows unity without uniformity  
(B) encourages experimentation  
(C) provides training for future national leaders  
(D) keeps government closer to the people  
(E) promotes inequality