

Is Federalism Dead?

Chapter 5
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FEDERALISM

- According to Dye
 - Requires national and subnational units of government
 - Both exercise separate and independent authority
 - Both elect their own officials
 - Both tax their own citizens to provide public service
 - Constitutional powers of national and subnational governments cannot be changed without consent of the population
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Why is Federalism important?

- Requires political power to be shared
 - Federalism = Shared Powers
- “A dependence on the people is, no doubt, the primary control on the government; but experience has taught mankind the necessity of auxiliary precautions.”
 - James Madison, Federalist 51 (1788)

Federalism Today

- Over 89,000 local governments
 - 60,000 have the authority to collect taxes
 - Nearly 1 million elected officials
 - U.S. Constitution only recognizes the federal government and the state government
 - Local governments are recognized under state constitutions
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Benefits of Federalism

- Protection against tyranny
 - One person or group cannot seize control
 - Policy Diversity
 - Different states need different diversity
 - Conflict Management
 - States can pursue their own policies so Washington doesn't have to take care of everything
 - Dispersal of Power
 - Provides political base for opposition party
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More Benefits

- Increased Participation
 - More people can hold political office, closer to the people than politicians in Washington
 - Improved Efficiency
 - 89,000 governments is more efficient than one government
 - Ensuring Policy Responsiveness
 - Creates competition between states and communities for better policies at lower cost
 - Encouraging Policy Innovation
 - States can experiment with policies without subjecting it to the entire nation
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Federalism: A Compromise

- Federalists
 - Strong national government
 - Supremacy Clause Article 6, Section 2
 - “Constitution and Laws of the United States.. Shall be the supreme Law of the Land”
- Anti-federalists
 - Strong state power
 - Reserved Powers 10th Amendment
 - “Powers not delegated to the United States by the Constitution... are reserved for the States”

“The powers delegated by the proposed Constitution to the federal government are few and defined. Those which remain in the State governments are numerous and indefinite.”

-James Madison, Federalist 45

McCulloch v. Maryland (1819)

- Maryland tried to oust the Second National Bank by imposing excessive tax
 - Supreme Court said this was a violation of the Supremacy Clause
 - Congress had the power to create a national bank through the Necessary and Proper Clause
 - Supremacy Clause trumped the 10th Amendment
 - Balance of powers was tipped towards the federal government
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Gibbons v. Ogden (1824)

- Do states have the power to regulate interstate commerce?
 - Ogden: states had concurrent power to regulate interstate commerce
 - They had been doing so until this case
 - Gibbons: Congress had exclusive power over interstate commerce
 - Supreme Court sided with Gibbons, establishing interstate commerce as exclusively federal power
 - States couldn't create legislation that would interfere with Congress's right to regulate commerce among the states
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State-Centered Federalism (1787-1865)

- States were most important component of government
 - Answered policy questions
 - Provided public services
 - Each state handled slavery differently
 - Americans questioned the supremacy of federal government
 - Led to the Southern secession and the Civil War
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Dual Federalism (1865-1913)

- National government established supremacy through the Civil War, forcing the states to stay in the Union
 - National government focused on delegated powers
 - Defense, foreign affairs, tariffs, interstate commerce, admission of new states
 - States legislated on domestic policy issues
 - Education, welfare, health, criminal justice
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Dual Federalism = Layer Cake



← National government

← State governments

← Local governments

Cooperative Federalism (1913-1964)

- State governments worked along side federal governments to solve major problems
 - 2 World Wars, Great Depression
 - New Deal: permanently changed American federalism
 - Fundamental balance between states and national government shifted
 - Federal government expanded
 - States welcomed massive federal programs
 - Americans became dependent on federal government
 - States and national governments worked together to revitalize American economy
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Cooperative Federalism = Marble Cake



Looks nice on the outside, but really complex on the inside

Centralized Federalism (1964-1980)

- Lyndon B. Johnson's Great Society
 - List of national goals that set out to solve all of America's problems
 - Congress ignored enumerated powers and legislated on any issue it chose
 - Supreme Court ignored 10th amendment until it lost meaning
 - Responsibility of States:
 - Respond to federal policy initiatives
 - Conform to federal regulations
 - Meet conditions of federal grant aids
 - State and local officials felt little obligation to governor or state legislature because funding was coming from Washington
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Centralized Federalism = Pineapple Upside-Down Cake



Opposite of what the Founders set out to create

New Federalism (1980-1985)

- Reagan attempted to return powers to state governments, reducing federal involvement of domestic programs
 - Block grants with no strings attached
 - Cities and States were able to handle the problems they faced without reliance on federal government
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Where do we stand today?

- Devolution pattern
 - President Clinton gave states power to determine welfare eligibility in 1996
 - Ended federal entitlement since the New Deal (60 years)
 - Supreme Court recognized the limit on Congress's power over interstate commerce for the first time in 60 years
 - Cases in 1995, 1997 and 2000
 - But what about the Affordable Care Act?
 - Not devolution...
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Liberals and Conservatives

- Have very different ideas of what American Federalism should be
 - Liberals: National government can put an end to discrimination, abolish poverty, educate the masses, guarantee employment, and cure the sick
 - Solving the problems of over 300 million people
 - Washington has more power and resources than state and local governments
 - State and local governments are weak and slow, reform takes a long time in 89,000 governments
 - Different governments brings about inequality
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Liberals and Conservatives

- Conservatives: Return power to state and local governments
 - Federal government is overly involved
 - Strong national government is not fixing problems, but creating more problems
 - Excessive policy regulation, taxation, and over-spending
 - Government should be kept small, controllable and close to the people
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What's next?

- American Federalism will never return to what the Founders built
 - Federal government won't give up that much power
 - Americans expect national government to fix every problem
 - Federal grants account for 25% of state and local budget
 - 2/3 federal grant-in-aid money goes to Medicaid and Welfare
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Laboratories of Democracy

- Federalism is still around!
 - States serve as testing lab for policy experiments
 - State governments can focus on what best fits their state
 - States can learn from one another, borrowing, adapting and improving policy
 - America's greatest tool for success according to Bill Clinton
 - "Governors today must be innovators and activists, willing to see the world as it is and able to visualize what it should become."
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Nobody really cares about Federalism though...

- Federalism isn't discussed or debated
 - Citizens and politicians have little interest in institutional forms of governments
 - What matters to people is that they get the policies they want!
 - They decide which level of government will best handle a policy, then they argue for that level of government should have the responsibility of enacting the policy
 - Federalism is in EVERYTHING
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