Federalism: An Overview

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Learning Objectives: In this chapter you should learn,

1. The definitions of, and differences between, unitary, confederal, and federal political systems.
2. How common federalism is around the world, where it is found, and in what types of countries it is found.
3. What type of system the U.S. began with, and why the Framers of the U.S. Constitution adopted a federalist political system.
4. The arguments for and against federalism.

Definitions: Unitary, Confederal, and Federal political systems

Political scientists distinguish between different political systems based on how political authority is distributed: Unitary, confederal, and federal.

1. Unitary political systems
   In a unitary system, all political authority is held by the central government. Lower governments—often called sub-national governments—have only whatever political authority the central government allows them, and can only exercise it in ways the central government allows.

   Most of the world’s states have unitary governments, and while all authoritarian governments are unitary, most unitary governments are democratic. Among the many examples of democratic unitary political systems are Spain, the United Kingdom, Costa Rica, South Korea and the Philippines.
The flow of political authority in a democratic unitary system is shown in the diagram on the left, while the relationship between unitary government and democracy and authoritarianism is shown in the diagram on the right.

2. **Confederal political systems**

In a confederal political system, the regional governments have the primary political authority, and the central government has only as much authority as those regional governments delegate to it. In short, the regional governments are dominant over the central government. This type of political system is rare, and tends to be unstable because the lack of a true central authority means it is hard to resolve conflicts between the states, and they may find it hard to resolve coordination and collective action problems. The flow of political authority in a confederal system is shown in the diagram to the right.

The rarity of confederal systems is highlighted by the difficulty in finding clear examples in the world today. Switzerland is sometimes claimed to be a confederal system because its official title is the Helvetic Confederation, but that name dates back to the 13th century and since the mid-19th century the country has been properly characterized as a federal system. In 2003, following the splintering of Yugoslavia, Serbia and Montenegro formed a confederation, but it lasted only until 2006.
Probably the only true confederal system in existence today is the European Union (EU). The member states are all still sovereign and independent, the European parliament has only the power delegated to it by those independent member states, and most laws passed by that parliament have to be approved independently in each member country in order to take effect in those countries. But the EU confederation seems as unstable as any other. It faces the same problems of coordination and collective action that seem to characterize (and plague) confederations, particularly over monetary and economic policies. There is continuing tension over whether it will remain primarily confederal, or will continue to gradually shift more and more authority to the European Parliament and eventually become a federal system, or (although unlikely) collapse altogether as member states abandon it.

The United States began as a confederal system. The 13 colonies that declared independence from England saw themselves not as a single country, but as 13 separate new countries united in a confederacy. The Articles of Confederation—the U.S.’s first governing document, which went into effect in 1781, during the Revolutionary War—embodies this concept in its very title, as well as in the first article, which reads in its entirety,

The Stile of this Confederacy shall be

"The United States of America".

The confederal system worked poorly for the newly independent states, at least in the view of influential political leaders, and the Articles of Confederation were soon replaced by the Constitution (drafted in 1787 and ratified in 1788). (However when the southern states tried to secede from the U.S. in 1861 they consciously tried to re-establish a political system closer to the original confederal system of the U.S., even adopting the name “Confederate States of America.”)

3. Federal political systems

In a federal political system political authority is divided between a central government and regional governments. The key distinguishing factor is that the political authority exercised
by the regional governments (in the U.S., the states) is sovereign, it is not under the authority of the central governments. While the central governments can use various means to influence the decisions the regional governments make within their own spheres of authority (as we will see in a subsequent chapter), they cannot directly control those decisions or revoke the regional government’s authority to make them. The flow of political authority in a federal system is shown in the diagram above to the right.

The United States has a federal system. It began as a confederal system, under the Articles of Confederation, in which the states were primarily independent from each other, with some small amount of political power granted to the Continental Congress, but significant political leaders quickly became frustrated with the states’ lack of cooperativeness with each other, and pushed for change, which occurred with the writing and adoption of the U.S. Constitution. In the Constitution, the states ceded greater amounts of political authority to the federal government, but still retained some of their own independent—sovereign—authority. However each state had a choice about whether to ratify the Constitution (thus sticking with the union) or not (and thus leaving the system), and if the Framers of the Constitution had asked the states to surrender too much political authority, they would have refused to ratify the Constitution. So a confederal system was not working well, achieving a unitary system was impossible (Madison’s original proposal to the Constitutional Convention would have done so, but that part of it was soundly rejected), and so the compromise position was federalism.

Only about 25 of the world’s almost 200 countries (~13%) of the world’s countries are federalist, but they contain about 40% of the world’s population. Countries tend to adopt federalism either because they were originally separate political states that joined together but were unwilling to give up all of their own political authority (such as the U.S. and Switzerland), or because the diversity in their countries makes a federalist structure a means of reducing conflict, by allowing diverse groups some autonomy to run their own affairs rather than being wholly dictated to by a central government in which they feel they have too little say, such as in Belgium and South Africa. Federalist countries are found in every region of the world, and run the gamut from small to large, and from comparatively poor to very wealthy, as shown in the table below. In addition, federalist countries are found in all regions of the world, including Switzerland, Germany and Belgium, among others, in Europe, India, Pakistan
and Malaysia in Asia, Brazil and Argentina in South America, Micronesia in Oceania, and Nigeria, South Africa and Comoros in Africa.

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Arguments Against and for Federalism

The Framers of the American Constitution did not adopt federalism for any grand theoretical reasons. It was a pragmatic choice of political structure—each of the delegates to the convention were deeply concerned about protecting their own state’s interests; many, remember their very recent escape from British authority, were worried about the potential for tyranny if they created a very strong central government; and if they were asked to surrender too much power, the states simply would have refused to ratify the Constitution. In short, the Framers could not demand too much sacrifice of political power from the states, or the states would refuse to sacrifice any political power. In fact James Madison’s Virginia Plan originally included a provision to give the new central government veto power over state
laws, but the delegates to the Convention were unwilling to allow it that much authority over the states, and the proposal was soundly defeated.

Although the Framers were not choosing federalism for any great reasons of political theory, there are theoretical arguments for and against federalism.

**Arguments against Federalism**

The primary arguments against federalism have to do with desiring greater national unity and uniformity of public policy. This is the coordination problem all over again, in this case the difficulty of getting all 50 states to agree on a common direction for public policy. But there is also, sometimes, a collective action problem involved. For example, if we want to tackle pollution problems, it is useful to have a uniform national policy, or else some states might free ride on the efforts of other states, letting them pay the costs of cutting down on pollution.

Critics of federalism also argue that states may engage in a “race to the bottom,” reducing environmental regulations, safety regulations, taxes, and minimum wage laws in order to attract businesses for economic development. For example, Nevada recently gave Tesla Motors $1.25 billion in economic incentives to build an electric car battery factory in the state, even though most studies show that such economic incentives do not help a state’s overall economic growth.

Finally, many people worry about citizen rights when states are left to their own devices, and we cannot dispute the history of civil rights violations by U.S. states. In the Jim Crow era, from the 1870s to the 1960s, states discriminated against many ethnic minorities, particularly African-Americans. They were forced into segregated schools that received little funding, denied access to public universities, denied the right to vote, and denied due process in the Courts. This all happened even though the 14th Amendment—ratified in 1868—made such discrimination unconstitutional. Today, many states have recently passed voter identification laws that civil rights advocates argue are intended to discriminate against minorities by making it harder to vote. Whether the laws actually have that affect is still being debated, but given the history of state discrimination, minority suspicion is understandable.
Arguments for Federalism

There are several arguments for federalism, which generally emphasize the size and diversity of the United States. One argument is simply that one-size-fits-all policies are like one-size-fits-all clothing: that is, they fit some of us much more poorly than they fit others. For example, clean air laws that may not be sufficient to protect air quality in California may provide more protection than desired in, say, Utah. This invokes the concept of *subsidiarity*, the idea that “higher level governments should not do anything that lower levels government can do as well or better.” [http://www.independent.org/issues/article.asp?id=485](http://www.independent.org/issues/article.asp?id=485). While policies should be made at a high enough level to include representation of all stakeholders (all people who are significantly affected by the policy), advocates of subsidiarity argue that it ought not be made at any level above that which includes all the stakeholders. As we’ll see in this chapter, sometimes that level is the local municipality, sometimes it’s the state, sometimes it’s regional (involving multiple state) and sometimes, but not always, it’s at the national level.

States may also act as “laboratories of democracy,” experimenting with different policies and giving us the ability to compare them to see what works. In contrast, if we have only one single national policy, we have no alternatives to compare it to and decide if we can do better. For example, the U.S. government distributes money to the states to provide welfare payments for people below the poverty line. Originally, the federal government required all states to follow the same rules, but in the 1990s states began seeking permission to experiment with devising their own rules for managing the programs, while still using the federal money. After some states demonstrated successes with reducing the number of people on welfare rolls, in 1995 the federal government changed the rules, allowing the states greater flexibility in designing their own programs.

Another advantage of federalism is that it allows like-minded people to cluster together and set their own rules for issues that matter more at the state or local level than nationally. Education policy, for example, does not necessarily have to be the same across the country, if the people of one state prefer a different educational model than people in another state. And some issues are localized enough that they are best handled as low as the municipal level, such as zoning regulations determining whether certain areas should be used as business districts or residential neighborhoods, whether there should be a limit on building heights, how closely together homes can be built, and so on. One thing this clustering does is allow people to “vote with their feet,” by moving from a political jurisdiction whose rules, taxes and political culture they do not like to one more to their liking.”
Conclusion

Ultimately, federalism cannot be proved to be either better or worse than unitary government, but it may work better or worse for particular countries. In the U.S., with one of the largest territories and largest populations in the world, allowing substantial independent authority to the states often works well, although over time there has been a distinct shift of power from the states to the federal government in the past century. Remember, though, that the men who wrote the Constitution did not choose to create a federalist system because they had a great vision of its advantages, but because they had to persuade each state to voluntarily agree to the Constitution, which few—perhaps none—would have done if they had been asked to give up too much of their own political authority; so American federalism was a political compromise, a pragmatic necessity rather than a theoretical vision.

In the next two chapters we will look at the structure of American federalism, and then at how American federalism began, and how, after two centuries of evolution, it works today.

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