

The Constitutional Framework: Federalism

Constitutional Origins and the Transformation of Federalism in the United States.

Themes of the Class

- Why and how has the national government grown so powerful since the founding
 - The Vision of **Dual Federalism**
 - Clear division of policy authority between levels of government.
 - The Growth of **National Power**
 - **Cooperative Federalism, Regulated Federalism**
 - The Return of “**States Rights?**”
 - **New Federalism** and the **Devolution** of Powers.

American Federalism: Nationalization of Authority

Madison proposed a limited national government and strong sovereign states:

“The powers delegated by the proposed constitution are few and well defined. Those which are to remain to the State governments are numerous and indefinite.”

James Madison, Federalist 45.

If this was the initial vision....

Then why has the Federal government achieved so much power?

Early American Federalism:

Dual Federalism

- Federal and state power is limited to separate and distinct spheres of authority.

- Referred to as **layer cake federalism**, where each layer represents a different level of government and the powers, responsibilities, and resources of each layer remain separate and distinct from the others.

Dual Federalism
and Nationalization of Policy

- State governments periodically resist efforts of the federal government impose national policy over state governments.

- Periodic tensions as state governments push for **powers of nullification**– the power to overturn federal laws that they view as violating the Constitution of the federal or state government.

Dual Federalism
and Nationalization of Policy

- **Dual federalism** is challenged by industrial revolution and growing power of firms.
 - State governments provide inadequate protection for workers and struggle to protect fair and free markets against monopolization.
- Federal government asserts power to centralize the regulation of industry.
 - Enact the Sherman Antitrust Act (1890),
 - and the Interstate Commerce Commission Act (1887)
- Example of Congress expanding power to resolve problems of collective action between the states.

Towards *Cooperative Federalism*

- Although decentralized power was clearly intended by the framers, national government gradually exerted control over national policy
 - Reasons:
 - Solve problems of collective action and coordination over national policy concerns
 - Cooperate with states in the development and delivery of social programs
 - Standardize policy in response to Congressional consensus
- Constitutional Tools of Federal Government
 - Power of the Purse
 - Supremacy Clause
 - Expressed and Implied Powers

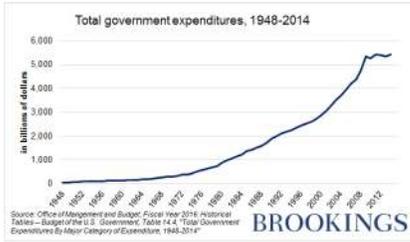
Nationalization of American Federalism:
Cooperative Federalism:

- Supportive **relationship/partnership** between the **federal and state governments.**
 - **Marble Cake Federalism:** Levels of government blended together as the federal government **subsidizes** state and local governments and **collaborates in the funding, delivery and administration of policy.**
 - Example: The New Deal Social Security Act.
 - Establish permanent government aid to the blind, to dependent children, and to the elderly.
 - Dictated to states how federal money could be used and which state agencies were able to distribute it. Provides terms for federal/state collaboration in finding programs

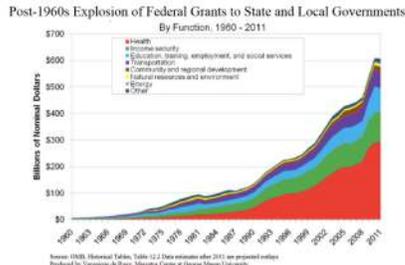
Nationalization of American Federalism:
Cooperative Federalism:

- Cooperative federalism provides new tools for the federal government nationalize policy.
- Allows federal government to use incentives to encourage states to enact new policy programs.
 - Inducements (Carrots).
 - Grants in Aid/Categorical Grants in Aid
 - Formula Grants/Project Grants
 - Examples
 - Head Start
 - Medicaid

The Growth of National Government



Cooperative Federalism and the Growth of Government



Popularity of Federal/State programs.

Few Americans Favor Cuts in Government Spending

Would you increase, decrease, or keep spending the same for:	INCREASE (%)	SAME (%)	DECREASE (%)
Agri. Dept.	24	42	20
Dept. of Justice	27	44	24
Dept. of Health and Human Services	21	30	40
Dept. of Education	27	32	34
Dept. of Energy	11	23	37
Dept. of Transportation	19	29	32
Dept. of Housing and Urban Development	13	26	37
Dept. of Labor	18	34	32
Dept. of State	26	36	28
Dept. of Defense	12	41	24
Dept. of Veterans Affairs	26	30	24
Dept. of Commerce	18	43	27
Dept. of the Interior	17	30	31
Dept. of Justice	11	36	31
Dept. of Education	17	36	24
Dept. of Energy	16	33	26
Dept. of Transportation	16	33	26

Source: Pew Research Center, "Do the People and the Press See Separate Sides? Little Support for Cutting Most Programs," Jan. 10-22, 2013, poll conducted between 12/10, 2012.
<http://www.pewresearch.org/1/06/2013/see-separate-sides-little-support-for-cutting-most-programs/>

Nationalization of American Federalism

Regulated Federalism

- Federal Government seeks uniformity in policy through grants and mandates.
 - Imposes legislation and requires local governments to meet *national standards*.
 - Compels Policy Conformity Through Control of Courts, Funding, and Legislation.
- Example: The Clean Air Act (CAA) of 1970
 - Authorizes the U.S. Environmental Protection Agency (EPA) to establish National Quality Standards to protect public health and the environment.
 - Requires state governments develop implementation plans outlining emission reduction strategies.

Regulated Federalism and the Centralization of Authority

- Regulated federalism provides more coercive tools for the federal government nationalize policy.
 - Allows federal government to impose mandates and threaten sanctions unless states to enact new policy programs.
- **Sanctions (Sticks)** to Ensure Compliance
 - Unfunded Mandates
 - Crossover Sanctions
 - Direct Orders
- Examples:
 - Drinking ages
 - and DUI laws

Towards Decentralization?

New Federalism and Devolution.

- New Federalism seeks devolution, or the transfer of certain powers from federal government back to the states.
 - Provide state governments more autonomy and local control over policy.
 - Allow for more policy variability and experimentation giving states greater discretion in implementing state/federal partnerships.

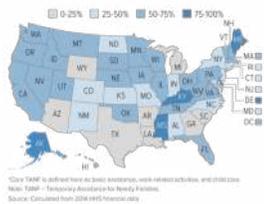
Towards Decentralization?

New Federalism and Devolution.

- New federalism provides tools to allow state governments more flexibility and discretion in implementing federal policy.
- Tools of *New Federalism*
 - Revenue Sharing
 - Block Grants
- Example: *Welfare Reform Act of 1996*
 - Returned to the states primary responsibility for establishing rules under which impoverished households could receive cash assistance.
 - Provided a block grant to the states called Temporary Assistance for Needy Families (TANF).
 - In exchange for receiving this grant of fixed funding, states were afforded a great deal of flexibility to design their own welfare reform strategies.

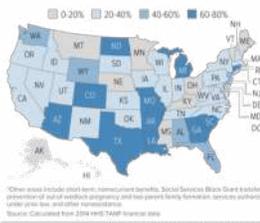
TANF Block Grants & State Welfare

Many States Spent Less Than Half of Federal and State TANF Funds on Core* Welfare Reform Services in 2014



TANF Block Grants & State Welfare

Many States Spent a Significant Share of Federal and State TANF Funds in "Other Areas" in 2014



Limits/Concerns over New Federalism.

- States may divert funds to fill gap in other budgetary areas
- States may use flexibility to reduce benefits for families in need.
- State policy experimentation may not improve welfare for the poor.
- Reduce efficacy of overall safety net in American federalism.

Take Away Points:

Federalism Has Evolved

- American history has seen the Federal government assert a large role in centralizing authority.
- Federalism Continues to permit a degree of local autonomy while solving for collective action problems at the national level.
- Federal Philosophy of Government has Shifted
 - Policy harmony can be encouraged by centralization
 - Innovation and Independence by decentralization

Looking forward:

- The theoretical strengths and weaknesses of federalism
 - Market preserving/fiscal federalism
 - Nation preserving federalism
 - Federalism as a Marketplace of Ideas.
