

M U N I
F S S

Administrative Aspects of Governance in the US

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Administrative Aspects – The Beginning

- US as a ‘young’ country built upon the experience of European states (both good and bad)
- Administrative aspects influenced by
 - The situation at the time of foundation – **fighting for independence on colonial powers**, lessons learned from Europe (centralized powers, authoritarian rulers)
 - Relations among the settlers/colonies – first **colonies as independent units**, vast areas of ungoverned land, competition among settlers
 - Relations with European powers – wary relations, **fears of interventionism and revisionism**
 - Worldviews of the founding fathers – common sense, reason and self-discipline of man but also fears of anarchy and disorder, **trust in federalism as the best way of governing sovereign individuals/units and preserving common goals and safety of the nation as a whole**

“E Pluribus Unum”

- “Out of many, one”
- **Foundational principle of the US** – sovereign colonies/states forming a federation
- Opposition to former colonial order (against UK)
- **Support for federal government was NOT unconditional**
 - Federalist papers (Alexander Hamilton, James Madison, John Jay)
 - making a case for the ratification of the Constitution and a federation as the right form of government
- **Strong sentiment of resistance against central power**



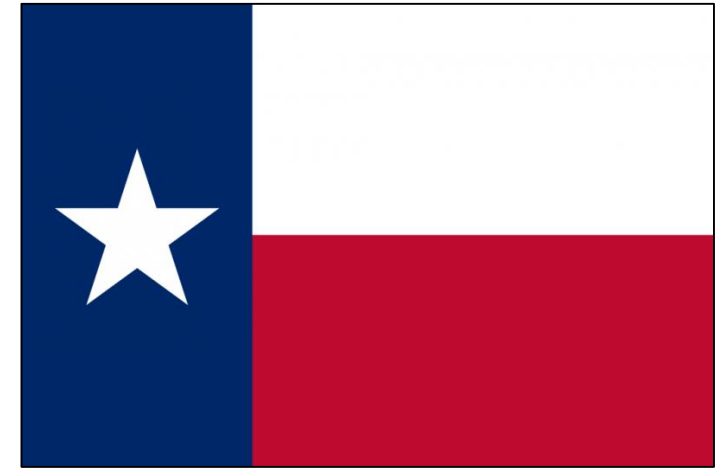
Defining Federalism – Powers of Individual Units Under Different Forms of Government

	Unitary	Confederate	Federal
<i>Central</i>	Holds primary authority Regulates activities of states	Limited powers regarding states	Shares power with the states
<i>State</i>	Little or no powers Regulated by central government	Sovereign Allocate some duties to central government	Shares power with the central government
<i>Citizens</i>	Vote for central government officials	Vote for state government officials	Votes for both state & central officials

“E Pluribus Unum”

- **Protection of individual rights/rights of administrative units– colonies as sovereign territories**
 - So much so that some (e.g. Maryland) claimed the western territories would be their de facto colonies
 - Constructing limitations on the federal government’s power and rows over the division of powers have been a common issue in U.S. politics
- **Bottom-up type of governance – opposite principle to European powers**
- Federalists vs. Anti-federalists – pressure to spell out specific rights of individuals and preserve sovereignty of states within the union – amendments
- Distrust to supreme power vs. instability and disorganization
 - i.e. federal government as the lesser evil
- **The seed of distrust towards central authority has been present ever since**
 - Rooted in the colonial past, sovereignty of original colonies and the federal principle of governance
 - ⁵ – The ever-present row over powers and sovereignty between states and the federal govt.

“E Pluribus Unum”



- An uneasy relationship between a man and the government
 - Rooted in the spirit of seceding colonies
 - Strong sentiment of individualism and distrust in central authorities stemming from the European experience
 - **The Bill of Rights (first 10 amendments) as an embodiment of a will to preserve rights of an individual**
- Civil War – de facto a war over sovereignty in governing certain issues (i.e. slavery)
- Even today, states cherish their sovereignty; some of them even build their identity on it
 - E.g. Texas (The Lone Star State)
- In terms of sovereignty and identity, US resemble more EU than a federal state
- Decentralized politics and (to a large extent) policies


Man vs. Government – An Uneasy Relationship

- **‘Minimalist union’** – all the powers necessary (i.e. reserved powers) to govern daily lives of citizens within a state’s border are kept by the local authority...
 - Zoning, traffic control, sanitation, educational administration, street repair
- ... or state (provided they do not conflict with the needs of the whole nation)
 - E.g. health, education, taxation, bussiness affairs, criminal justice (crimes against the person or property), etc.
 - Big differences evolved among individual states (e.g. some states do not have income or sales taxes)
- **The rest is left to the federal government (i.e. enumerated and implied powers)**
 - E.g. defense, foreign policy, currency, trans-border crimes (e.g. drug trafficking) etc.
- Some powers overlap
 - E.g. transport, health, education, etc.
- The supremacy of federal law over state law
 - When a conflict arises between federal law and either a state constitution or state law, federal law prevails.

Concepts of Federalism Over Time

Dual Federalism (Dominant in the 19 th Century)	Limited national government; most power is in the states; clearly defined functions and responsibilities between the two sovereign political bodies
Cooperative Federalism (Emerged During the New Deal)	An intergovernmental relationship where two or more levels of government cooperate to provide goods and services
New Federalism (Nixon Era)	All levels of government compete with one another to package services and taxes, just like the marketplace
Modern Federalism	Strong national government; Democrats favor more nationalized responses to issues; Republicans favor returning functions and responsibilities back to the states.

“E Pluribus Unum” - Bottom-up Governance

- Villages, towns, cities, counties, states, federal government (> 90 000 governments)

- Local governments are subordinated to the states and are subject to their fiscal rules or requirements
- Result of the bottom-up development
 - First settlements, villages, towns, counties,...
- **Federal government as the last (closing) piece of the development governing policies that states cannot conduct on their own**
- Certain laws/regulations are accompanied by funding, some are not (e.g. energy sector)
- ‘A work in progress’ for a long time (in some cases even today)
 - Strengthening of the federal govt. until 1970s vs. devolution of federalism afterwards

Federalism – Related Issues

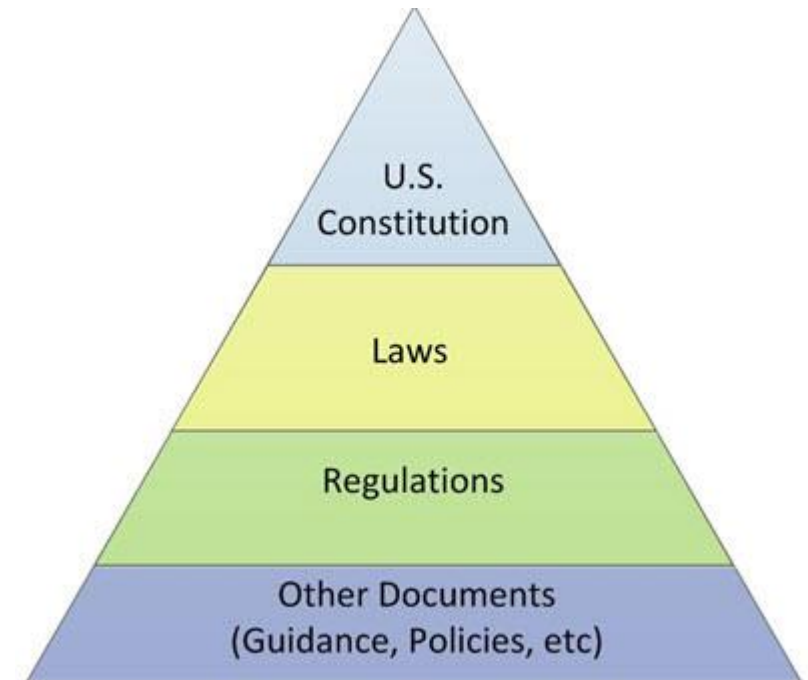
- The issue of efficiency of the federal government and its ability to respond to needs and crises
- **Difficult to assign credit or blame for policy outcomes**
 - Citizens often confuse the roles of different levels of government.
 - E.G. many Americans commonly blame the national government for failures of local or state governments.
- **An endemic clash of the one-size-fits-all approach vs. individual approach**
 - **Energy or environmental policies as glaring examples**

Federalism – Related Issues

- A unity without uniformity
 - **Many policies vary – criminal codes, taxation, voting, education, environmental & energy policies, etc.**
 - The principle of proportionality (some matters are better dealt with closer to the issue) and decentralization – keeps the government close to the people
- States as ‘laboratories’ for policies later applied on the federal level (incl. energy sector)

Governance of the Energy Sector

- President – appoints secretaries (15 ministers) to his cabinet
 - incl. Department of Energy
- Department of Energy
 - Setting policies for the sector
- Federal Energy Reregulatory Commission
 - Governs energy market(s)



Governance of the Energy Sector

- Laws – passed through both chambers of the Congress, signed by the President
- Regulations – issued by department and govt. agencies to interpret and implement laws
- Policy documents
 - Executive Orders – issued by the WH (President) for the government bodies and its agencies
 - Presidential Directives – concerned with national security
 - Presidential Memoranda – explaining policy goals in a less formal and directed way
 - Guidance and Policy Statements – clarifications, suggest voluntary actions

Governance of the Energy Sector

- Mandates (orders based in the legislation issued by) issued on the federal level with ramifications for states, local authorities and/or the private sector (funded or unfunded)
 - Broaden the powers of the federal government
- Supremacy clause – superiority of higher legislative acts
- **States may go stricter than federal mandates prescribe**
 - **E.g. Paris Accord – several (mainly democratic) states and communities opted to obey the standards or impose even stricter environmental regulations than the federal mandates would imply**

Department of Energy

- Created in 1977 as a reaction to energy crises (oil shocks)
- Combined entities responsible for energy-related policies as well as entities responsible for nuclear weapons, dating back to the Manhattan Project
- No need for a federal-level, over-arching agency until 1970s (due to relatively cheap energy – private sector entrusted with securing energy needs)
- DoE as an umbrella for energy-related research (spurred by energy crises with a view on broader utilization of nuclear energy)

Other Government Entities Impacting Energy Policy

- US Department of Interior
 - Bureau of Land Management
 - Bureau of Ocean Energy management
- Environmental Protection Agency (EPA)
- US Department of Transportation
 - CAFE Standards
 - Pipeline safety
- State regulatory bodies (e.g. Utility commissions)
- Federal Energy Regulatory Commission (FERC)
- Maritime Administration/Coast Guard (offshore LNG terminals)

Federal Energy Regulatory Commission

FERC oversees and regulates energy subsectors

- Electric Power subsector
 - Interstate transmission
 - Wholesale market
 - Corporate transactions
 - Mandatory standards
- Natural Gas subsector
 - Interstate transmission
 - Infrastructure construction and environmental standards
- Oil Pipelines
 - Interstate transmission
- Hydroelectric subsector
 - Licensing
 - Environmental and safety oversight

FERC

- Created in 1977 by DoE but acts independently
- regulates rates and services
- marketing
- **focuses on federal level, wholesale transactions and interstate transmission**
 - **Retail market and local transactions are regulated by states**
- Does NOT build infrastructure – oversees it
 - **e.g. majority of electric infrastructure is owned by private investors/utilities who then charge prices based on the construction costs**

Environmental Protection Agency

- Governmental agency
- Formed in early 1970s
- Reacted on rising concerns of environmental impact of human activities
- Oversees administration and enforcement of laws protecting public health and environment
- Issues regulations to implement laws
- Sets standards implemented by individual states through their administrative bodies
- Conducts enforcements (civil or criminal) if laws are violated