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# Understanding Federalism: The Division of Power Between the National and State Governments

Under the Constitution, power is divided between the national and state governments. This sharing of power is known as federalism. Federalism in the United States can be seen as resulting from the political views of the founders, who were suspicious of strong government and wanted to establish a political system in which power was divided and checked.

The Constitution allows for two types of powers to the national government: delegated power and implied powers. Designated powers are those powers specifically assigned to Congress by the U.S. Constitution. These include the power to tax and spend money, the power to coin money, and the power to regulate interstate commerce. Implied powers are not written in the Constitution but have been used to expand the credentials of the national government. The necessary and proper clause barely gives Congress unlimited powers; the clause only permits Congress to make all laws necessary and proper for carrying into execution the previous powers and other powers granted to the national government.

The Constitution barely assigns specific powers to the states. State powers are referred to as reserved or residual powers and are based upon the Tenth Amendment. States have the authority to pass laws that promote the health, welfare, safety, and morals of their citizens. Typically, this has permitted states to make laws in a wide range of areas, from transportation to voting to health and domestic relations. States, however, do not have authority over areas that are assigned to the national government, such as foreign affairs and interstate commerce.

How the framers of the Constitution were concerned about the division of powers between the federal government and the state governments

When the framers came up with the Constitution of the United States, they intentionally didn't give the national government much power over the states. In fact, they disallowed the federal government from controlling many segments because they wanted the states to continue governing most matters themselves. For this reason, the framers developed federalism.

## The mechanisms they implemented to have a cohesive republic

Controversies regarding who's in charge are common and have arisen throughout history. So, who decides which entity is responsible for a particular matter? Who decides whether or not this is a constitutional use of the federal government's powers?

To ensure a cohesive republic, the framers established the institution of the supreme court that determines conflicts over the rights of states versus national powers. The Supreme Court, therefore, defines the division of powers. Keep in that the Supreme Court evolves over time because the decisions of Court equally change.

To have a cohesive republic, the framers of the Constitution allowed a few expressed powers to the federal government, reserving the remaining powers to the states. Apart from the expressed powers of the federal government, the "necessary and proper" clause gave an avenue for

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growth into the realm of “implied control” (Welch, Susan, 2012).

The Tenth Amendment to the Constitution reserves the powers not specifically assigned to the national government “to the states respectively, or to the citizenry” (Bardes et al, 2010). Along with states’ traditional police powers and shared (concurrent) powers, the Tenth Amendment provides the constitutional basis for state power in the political relationship.

Federalism also involves the complex relationships among the different states. The “full faith and credit clause” in Constitution requires states to honor the citizenry acts and judicial decisions regarding other states, and the “privileges and immunities clause” (Vile, 1998) states that states cannot single against someone in another state.

Federalism also involves some restrictions on state authority, particularly involving relationships between state governments. Local governments, while not recognized in the Constitution, are used by states in conducting the activities of government.

## **How the division of powers is functioning today**

Today, the Constitution divide power between the executive, legislative, and judicial branches of government. Each one of these divisions plays different roles in American national government.

Currently, separation of powers divides power among the legislative, executive, and judicial branches as distinct departments of American national government. This separation endows several different institutions— the executive branch, the judicial branch, and the Congress —with the ability to influence the nation’s objective and affect decisions. It also establishes a system of checks and balances in which power is divided to ensure that no one branch becomes predominant. Today, the framers provided for legislative supremacy, within the system of separated powers, listing the powers of the federal government in Article I of the Constitution, which deals with the Congress.

The presidential government has emerged, particularly after 1937, such that Congress and the president perpetually compete for control of the national government, of divided government.

The separation of powers system of checks and balances relies on the goal-seeking behavior of political leaders acting within the various institutions of the federal government. Exemplifying the principle of rationality, the give-and-take between the legislative and executive segments is fueled by the ambitions of the political leaders working within those institutions.

Just like the Supreme Court has served as a referee in the evolution of the national balance of power by maintaining “judicial review,” (Grodzins, Morton, 1966) it also mediates separation of powers fights between the Congress and the president.