FEDERALISM

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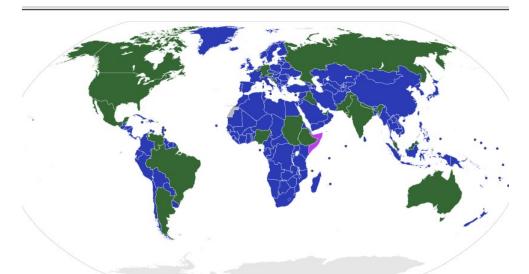
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PRELIMINARIES

- Federal system: A system of government where power is divided between two or more levels of government.
- Unitary system: A system of government where power is held (nearly) entirely by a single level of government.

WHICH COUNTRIES ARE FEDERAL?

AND WHICH ARE UNITARY?



PATTERNS?

- Countries that are larger (population and land area) tend to be federal.
- Countries that are smaller (population and land area) tend to be unitary.
- Why?

Types of Federalism

It's all about how power is divided between the national government and the states (power differentiation):

- Dual federalism
- Cooperative federalism
- Coercive federalism
 - The role of money in coercive federalism

POWER

- National power
- State power
- Concurrent power
 - Taxation
 - Banking
 - Drug laws

POWER

Figure 3-2 The Constitutional Basis for Dual and Shared Federalism

National Government State Governments **Exclusive Powers Exclusive Powers** * Run elections * Coin money * Regulate interstate and foreign commerce * Regulate intrastate commerce * Tax imports and exports * Establish republican forms of state and local * Make treaties governments * Protect public health, safety, and morals * Make all laws "necessary and proper" to fulfill * All powers not delegated to the national government responsibilities * Make war or denied to the states by the Constitution * Regulate postal system **Powers Denied** Powers Denied * Tax imports and exports **Shared Authority** * Tax state exports * Coin money → Tax * Enter into treaties * Change state boundaries ★ Borrow money * Impair obligation of contracts * Impose religious tests * Charter banks and corporations * Pass laws in conflict with the * Enter compacts with other states * Take property (eminent domain) Bill of Rights without congressional consent * Enforce laws and administer a judiciary

Source: Adapted from Lee Epstein and Thomas G. Walker, Constitutional Law for a Changing America: A Short Course, 6th ed. (Washington, DC: CQ Press, 2015), Table III-1, p. 189.

FEDERAL REGULATION OF THE STATES

EXAMPLES

- Education (No Child Left Behind, Education for All Handicapped Children Act/IDEA, e.g.)
- Environment (Clean Air Act, Endangered Species Act, e.g.)
- Voting regulations (Help America Vote Act, National Voter Registration Act, e.g.)
- Drinking age (National Minimum Drinking Age Act)

FEDERALISM IN THE COURTS

- United States v. Texas (2016)
 - DAPA and the Administrative Procedure Act
 - "notice and comment"