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Federalism

Federalism is a system of government that divides power between a central government and a sub-divisional government’s. The governments that have implemented the use of a federalism system are the United States, Europe, Australia, Brazil, Canada, India, and Venezuela. Federalism is based on a democratic rule which as a unit makes a federation.

Federalism was first formed and used in the United States in 1787. In the Tenth Amendment to the Constitution states, "The power not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people".(Book, 2010) Federalism was used as a compromise between individual governments in the states and a central federal government. The citizens of the original thirteen states thought they were citizen of their individual state not a great central power, and was hesitant to give all the power to a central government. (So kind of like the citizens of today) Federalism was first used as a compromise between the concentration power and the independent states for governing the country. Federalism was a way for local pride, traditions, and power to be retained. Federalism also allows "federal government" the power to solve and handle problems.

So if you commit a crime where does the state and federal jurisdiction fall? “Each state is sovereign and has the power and authority granted to it by its residents, it may enforce its criminal laws against anyone who violates them. The federal government is also sovereign, having the power and authority to enforce violations of federal law”. (Book, 2010) In simpler words, if it’s a crime against the state then the jurisdiction falls under the state. If the crime is against the federal government then the authority and power falls under the federal government.

The federal government has jurisdiction only if the Constitution clearly grants it, such as the Tenth Amendment, the Supremacy Clause, the Necessary and Proper Clause, and the Commerce Clause. We have already talked about the tenth amendment and the right of power given to the government is covered under the Constitution. The Supremacy Clause under the Article Six, Section Two of the Constitution, “[The] Constitution, and the Laws of the United States … shall be the supreme Law of the Land”.(Dictionary, 2012) The federal government while exercising any of the powers counted in the Constitution must prevail over any conflicting state use of power. The Necessary and Proper Clause is covered under the powers of Article One, Section Eight allows Congress “[To] make all laws which shall be necessary and proper for carrying into execution the powers, and all other powers vested by this Constitution in the government of the United States, or in any Department or Officer thereof”. (Dictionary, 2012) The Necessary and Proper Clause gives government the powers that are implied in the Constitution. The Commerce Clause under the power of Article One, Section Eight of the Constitution grants power “[To] regulate Commerce with foreign Nations, and among several states, and with the [local] Indian tribes.” (Dictionary, 2012) The Commerce Clause gives power to congress under the Constitution to make trades with any foreign power.

The constitution was originally set up to federal was limited to defense, foreign affairs, and control of currency. Under the United States Constitution Article 6 states, “This Constitution...shall be the supreme law of the land; and the Judges in every State shall be bound thereby". All federal power is limited to power given by the Constitution. Also kind of on the same lines "each state is sovereign, and the officials of each state have the power granted to them by the constitution of that state". (Book, 2010) But each state has its own laws, which is the reason we get so many different laws in each state. Which I think is frustrating; people should feel like they are living legally. What I mean is there is no body right now in this country that can say with complete confidence that you are doing nothing illegal, we have too many laws. We should live in a legal system where if you are a good person you should have no fear of the government.

We also get some dumb/funny state laws too like in Alabama it is illegal to wear fake moustaches in church because it might cause laughter. In New York it is illegal to commit adultery, to wear slippers after 10:00 PM, and women have the right to go topless in public (I should live in New York). Some closer to home, in Utah it is illegal to fish from horseback, not to drink milk (so all those lactose intolerant people are too weak for Utah), Alcohol can't be served/sold during an emergency, you can't donate your nuclear weapon to anyone while in Utah, a husband is responsible for every crime committed by his wife while she is in his presence, and you can't hunt whales in Utah. Federalism in simplest terms is a division of power, delegated by a Constitution. I think Federalism works, but there are too many random crazy laws that restrict our freedom. If you are a good person you shouldn’t fear the government.

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