

FEDERALISM

Federalism is a system of government in which the same territory is controlled by two levels of government. Generally, an overarching national government governs issues that affect the entire country, and smaller subdivisions govern issues of local concern.

Both the national government and the smaller political subdivisions have the power to make laws and both have a certain level of autonomy from each other. The United States has a federal system of governance consisting of the national or federal government, and the government of the individual states.

The U.S. Constitution grants the federal government with power over issues of national concern, while the state governments, generally, have jurisdiction over issues of domestic concern. While the federal government can enact laws governing the entire country, its powers are enumerated, or limited; it only has the specific powers allotted to it in the Constitution. For example, Article I Section 8 of the Constitution grants Congress the power to levy taxes, mint money, declare war, establish post offices, and punish piracies on the high seas. Any action by the federal government must fall within one of the powers enumerated in the Constitution. For example, the federal government can regulate interstate commerce pursuant to the Commerce Clause of the Constitution but has no power to regulate commerce that occurs only within a single state.

The amount of power exercised by the federal government is dependant upon how the various provisions of the Constitution are interpreted. For example, the U.S. Supreme Court expanded the powers of the federal government when it construed federal powers

to include those "necessary and proper" to effect the legislation passed by Congress.

McCulloch v. Maryland, 17 U.S. 316 (1819). This construction allows the federal government to exercise power ancillary to those specifically listed in the Constitution, provided the exercise of those powers does not conflict with another Constitutional provision. In contrast, state power is not limited to express grants of power.

Under the Tenth Amendment of the Constitution, States have all powers that are not specifically granted to the federal government, or forbidden to them under the Constitution. For example, although the Constitution grants the federal government the power to tax, state governments are also able to levy taxes to support themselves, because that power is not forbidden to them by the Constitution. State governments manage matters of local concern, such as child protective services, public schools, and road maintenance and repair.

MENU OF SOURCES

U.S. Constitution

The Federalist No. 41

The Federalist No. 45

McCullouch v. Maryland, 17 U.S. 316 (1819)