

# What is Federalism? Key Characteristics

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# Federalism: Institutional characteristics

- ✓ Shared Rule and Divided Rule
- ✓ Three independent branches of government (executive, legislative, judicative) on unit level
- ✓ Units have own constitutions
- ✓ Representation and participation of units in the centre: equal or unequal representation of units
- ✓ Certain ethnic groups may enjoy specific representational rights (reserved seats, quota) or veto powers over issues pertaining to their “identity”
- ✓ Federal Party System

# Federal Values

- Recognition of and respect for diversity
- Solidarity
- Non-centralization
- Residual Powers rest with units
- Cooperation and competition
- Subsidiarity
- Equality of the units vis-à-vis the federal centre
- Protection of federal principles through national and unit constitutions / Const. Courts

# Subsidiarity

- **Freedom of choice:** Individual or groups are given maximum scope to solve problems
- **Systemic failure** largely avoided (lowest possible level in charge, only one level of govt. may crash, but no all levels together)
- **“Free riding”** is avoided” (responsible behavior)

## Critique:

- Subsidiarity may preserve illiberal orders (liberty problem)
- Subsidiarity may work against economies of scale
- Subsidiarity may inhibit application of national standards (for example, health, environment, labor)

# Federalism as Self-rule

- Whenever able, **exercise all necessary functions** of govt. w/o intervention by the other authority
- **Select or elect** your own **leaders**
- **Legislative powers in your jurisdiction**
- **Power to enforce laws or to discipline** one's own citizens
- **Control parties**, factions & groups that seek to break away
- **Codes of ethical behavior** within one's own unit or group
- **Resolve internal conflicts**, grievances or malpractices without external interference

# Shared Rule

- (1) Cooperation with regard to competencies / joint decision-making and / or decentralization
- (2) Financial Cooperation
- (3) Co-decision-making in Second Chamber
- (4) Cooperation of ministries: Executive federalism
- (5) Supreme or Constitutional Court
- (6) (Re-)Drawing of boundaries of regions (no unilateralism)
- (7) Central govt. confined to framework legislation
- (8) Coalition-building together with representatives from the regional parties & units of the federation
- (9) Incorporation of ethnic or regional leaders

# Ten „Yardsticks“ of Federalism

- 1) National sovereignty in external affairs**
- 2) Immunity against secession**
- 3) Exercise of federal powers independent of individual approval by units**
- 4) Unit participation in constitutional amendments**
- 5) Protection of unit identity**

## Yardsticks of Federalism

- 6) (Equal) **Representation of unequal units**
- 7) **Two independent judicial branches**
- 8) **Norm control** through federal Supreme or Constitutional Court
- 9) **Residual powers with the units**
- 10) **Transparent division of competencies**  
(exclusive, joint, or concurrent)

# Variations in Federalism

- Ethnic and / or territorial federalism
- Degree of asymmetry
- Parliamentary or presidential federalism
- Majoritarian or proportional electoral laws or combination of both
- Nation-wide civil service or divided civil service
- Nation-wide police or divided
- National property of natural resources or divided or exclusive property of units
- Education: national or unit responsibility

# Why are ethnic conflicts so divisive?

- Who is the demos, the bearer of sovereignty (majority, single ethnic groups, multiple ethnic groups, smaller ethnic groups, immigrants too?)
- „Dictatorship“ of one group over the other (or others)
- Citizenship rights not universal
- Fear to loose control over ones own ethnic group

# Frequent demands by minority groups

- Land rights
- Safeguards against immigration
- Finances and wealth sharing
- Economic autonomy
- State language
- Appointments
- Underrepresentation in parliaments & executives
- Human rights violations

# Federal Conflict Regulation

## **Politics of recognition**

- ❖ mentioning of all people in Constitution
- ❖ coverage of different historical narratives in school books
- ❖ celebration of various holidays
- ❖ museums, public monuments, street names  
>> reflective of diversity
- ❖ promotion of different state languages
- ❖ moral parity of nationalities

# Flexibility

- Flexible application of joint or concurrent powers
- Multiple speeds of granting autonomy
- Status hierarchies among federal units
- Variety of govt. systems in states

# Varieties of regional political regimes

- **Types of government:** Directly elected president / chief minister or elected by parliament
- **Type of Cabinet:** Collegial or decision-making competence by Chief Minister
- **State / region constitutions:** Confirmation of identity, for example one or several state languages
- **Unicameral or bicameral system** on state level, variations in size of parliament

## Varieties of regional regimes (cont.)

- **Direct democracy** (referenda), social rights
- **Ethnic quotas** for minorities in state / region parliaments
- **State / region-based citizenship regulations** (Switzerland, former Soviet Union)
- **Type of local self-government:** competencies, resources, obligations, oversight
- **Variations in size, number and type of districts,** for example Autonomous (ethnic) Districts inside states / regions
- **Policy goals:** School types, legal status of churches, public welfare obligations of enterprises, protection of agricultural land, social care, labor rights...

# Federal party system

- **Types of Party Systems:** Dominant national party (Russia, India under Congress), two major national parties (Australia), three major national parties (Canada), two major plus two minor national parties (Germany).
- **Region / State Party System:** Similar to national party system, added by regional parties, or dominated by one or several regional parties
- **Majoritarianism:** May lead to rainbow coalitions
- **Proportional representation:** Representation of smaller parties, crisscrossing of cleavages due to coalition-building

# Federal party system

- Party system should avoid two extremes: centralism and party fragmentation
- Party system should stimulate politicians to join ranks with national parties and to incorporate regional / local interests
- Encourage that minority votes are needed for winning elections (vote pooling)
- Electoral districting & minimal electoral quorums
- National parties should be federal in character

# Principles of federal representation

Country	Election	Representation
USA	Direct (general elections)	<b>Regional voters &amp; party politics</b>
Germany	Regional governments ex officio members	<b>Regional govts. &amp; party politics</b>
Canada	Appointed members (by Governor General on advice of the Prime Minister)	<b>Regional party politics</b>
Ethiopia	Indirect (by regional states)	<b>Ethnicity</b>
Austria	Indirect (regional parliaments)	<b>Party politics</b>
India	Indirect (regional parliaments) and appointments	<b>Party politics</b>
Belgium	Indirect (regional parliaments) and co-opted members (according to result of national election)	<b>Party politics</b>

# Functions of Second Chambers

- Exercise of joint competencies
- Constitutional amendments
- Legislative review
- State of emergency or declaration of war
- Co-appointment of judges of the Const. Court
- Aggregation / representation of region / state interests & bargaining
- Additional power of parties if majorities in first and second chamber do not coincide
- Conciliation with first chamber (which can often override second chamber with qualified majority)

# Frequent Competencies of Units

- **Legislative powers** : Electoral law, police, education, universities, forests, agriculture, fisheries, health, irrigation, sports, museums & archaeology, urban development , regional / local taxes & revenue; tourism; transport; local authorities; markets; welfare of “tribes”; penal law (U.S.A)

**Protection of land and property rights**

**Languages of instruction:** Only with approval of region / state govt.

**Selection of & control over officers** and staff working in unit administration

**State / regional govt. decides upon investment & provides grants for development works**

**Executive branch:** Election, size & principles of representation of minorities