

Chapter One

An Overview of Federalism

Federalism's importance

Federalism is increasingly important in the world.

- Twenty-eight countries, home to over 40 per cent of the world's people, either call themselves federal or are generally considered to be federal.
- Almost all democracies with very large areas or very large populations are federal.
- With democratization, Argentina, Brazil, and Mexico are becoming increasingly federal.
- Belgium, Ethiopia, and Spain are formerly unitary countries that have become federal.
- Federalism has been adopted in post-conflict environments in Bosnia, the Democratic Republic of Congo, Iraq, Sudan, and South Africa, and is being considered in Sri Lanka and Nepal.
- The European Union has a number of federal characteristics.

The World's Federations

Argentina, Australia, Austria, Belau, Belgium, Bosnia-Herzegovina, Brazil, Canada, Comoros, Democratic Republic of Congo*, Ethiopia, Germany, India, Iraq*, Malaysia, Mexico, Micronesia, Nigeria, Pakistan, Russia, St. Kitts and Nevis, South Africa, Spain, Sudan*, Switzerland, United Arab Emirates, United States of America, Venezuela

*Post-conflict societies whose federal constitutions are not consolidated

Federalism's variety

Federalism comes in many varieties and contexts

Federations differ greatly in their social and economic composition and their institutions. They include very large and very small countries, rich and poor countries, countries that have very homogenous and very diverse populations. Some federations are long-standing democracies, while others have more recent and troubled histories of democracy.

Federal structures—the internal institutional arrangements—vary greatly. Federations can have as few as 2 territorial units or more than 80. Some federations are highly centralized, concentrating power in the central government*, while others are decentralized, with extensive autonomy and discretion allocated to constituent units. Some have quite clear divisions of powers between the central and the territorial governments, while others have widely overlapping powers. Some have prime ministers and parliamentary governments; others have presidents and congressional institutions. They may have proportional representation or plurality electoral laws. They may have only two political parties, or several. Some federations are stable and harmonious, while others are unstable and divided. All of these factors affect the functioning and success of different federal regimes. No one model would be appropriate in all circumstances. The capacity for variety is one of federalism's strengths.

*While many federations refer to the central government as the “federal” government, others resist this term. India has the Union government; Spain, “the State”; South Africa, the National government; Australia, the Commonwealth government. This primer uses both “central” government and “federal” government to refer to the government with national responsibilities.

Federalism's common characteristics

Despite many differences, a few common characteristics distinguish federal systems from other kinds of government.

The following characteristics are usually thought to make a system of government federal:

- **At least two orders of government**, one for the whole country and the other for the regions. Each government has a direct electoral relationship with its citizens. The regions have many names: we shall refer to them as the 'constituent units' of the federation.

Examples of the Names of Constituent Units

The most common names of constituent units are *states* (Australia, Brazil, Ethiopia, India, Malaysia, Mexico, Nigeria, and the US) and *provinces* (Argentina, Canada, Pakistan, South Africa). But other terms are *Länder* (Austria and Germany) and *cantons* (Switzerland). There are both *regions* and *communities* in Belgium and autonomous communities in Spain. Russia has *regions*, *republics*, *autonomous areas*, *territories*, and cities of federal significance. Some small federations have *islands*.

- **A written constitution** some parts of which cannot be amended by the federal government alone. Major amendments affecting the constituent units commonly require substantial consent from them as well as from the central government.
- A constitution that formally allocates legislative, including fiscal, powers to the two orders of government ensuring **some genuine autonomy for each order**. However, federations differ greatly in the way and extent to which they define distinct powers for the two orders.
- Usually some special arrangements, notably in **upper houses**, for the representation of the constituent units in key central institutions to provide for regional input in central decision-making, often with

greater weight given to smaller units than their population would otherwise merit.

- An umpire or procedure (usually involving **courts**, but sometimes referendums or an upper house) to rule on constitutional disputes between governments.
- A set of processes and institutions for facilitating or conducting **relations between governments**.

If there is an **essence of federalism**, it is that there are **two constitutionally established orders of government with some genuine autonomy from each other, and the governments at each level are primarily accountable to their respective electorates**.

The more specific design features of each federation reflect local institutional traditions, and the desired level and kind of autonomy sought. Normally, federalism requires democracy and the rule of law because non-democratic regimes usually do not permit genuine autonomy for constituent units.

Not all of the 28 countries listed on page 2 fully meet all the criteria for federalism. Some are very centralized and weakly federal. Others have special unitary features that may sometimes permit the central government to override the autonomy of constituent units. Does this mean they are not federal? There is no definitive answer. As a practical matter, the issue is whether the country normally operates in a federal manner; i.e., that there is some genuine, constitutionally based autonomy at both levels.

Finally, in some countries the word 'federal' is avoided because of historic or symbolic political connotations. Thus most experts would say Spain and South Africa are federal, but many in those countries resist the term because they associate it, respectively, with undermining national unity or with the apartheid regime. Indonesia rejected the federalism the Dutch tried to impose before independence and is unlikely to use the term even as it becomes more federal in practice.

Federalism and devolved government

In confederal systems, the central government is a legal creation of the constituent units. In unitary systems, any regional governments are legal creations of the central institutions. In federal systems, each order of government has an autonomous constitutional existence. Some unitary countries are more decentralized in practice than some federations.

The two oldest federations, the United States and Switzerland, started as confederations. Typically these regimes proved weak and unstable. It is debatable whether there are any real confederations in the modern world. The European Union is a unique political creation with both confederal and federal features. Benelux is a confederal arrangement of a limited kind, as is CARICOM in the Caribbean. The United Arab Emirates calls itself a federation, but has many confederal features.

Most countries have a unitary system of government. Often they have regional administrative structures with no elected government. In other cases, they can have constituent units (often called provinces or regions) with independently elected governments and substantial responsibilities, but such governments derive all their powers from the central government or legislature, which could, in principle, take them back. However, in many cases it is hard to imagine such a political reversal, so some unitary countries can have strong similarities to federations. In fact, some unitary countries have devolved more substantial powers to their constituent units than have some federations. So federations are usually, but not always, more decentralized in practice than unitary regimes.

Devolved Unitary Regimes

Some unitary countries, such as **Colombia, Italy, and Japan**, have relatively strong regional governments. Many formerly centralized unitary regimes, such as **France and Peru**, are moving towards significant devolution to elected regional governments. In some cases, there are strong political pressures from particular regions for devolution: thus, the **United Kingdom**

has devolved substantial powers to the Scottish Parliament, notably over education, health, and local affairs (and lesser powers to Wales and Northern Ireland). **Indonesia** has recently moved to transfer many responsibilities to provinces and localities, with special arrangements for Aceh. Much of the analysis in this primer would apply to such countries. Some may become fully federal.