

Dual Federalism And The Promotion Of Liberties And Individual Rights

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Federalism is a form of government in which multiple levels of government operate interdependently to govern the citizens. In the United States, the federal political system is comprised of the national government, state governments, and local governments. The founding fathers created the federalist system and enshrined it in the Constitution with the aim of checking the abuse of centralized power and ensuring individual liberties. Ideally, federalism advocates for decentralized decision-making, which gives more freedom of choice to the American people. According to Billias, the framers of the American constitution sought to ensure that the power of the states was not lessened in favor of that of the central government (37). In this case, the constitution gave the central government the power to deal with foreign, military, and national economic issues while the states were charged with the responsibility of exercising control over domestic policy issues according to their local needs and cultures. In this sense, the framers envisioned a dual model of federalism in which each level of government had the power to check the excessive use of power by the other level, thus maintaining a delicate balance. According to a dual federalist model, both the federal and state governments have the autonomy to make their own laws, provided they are in line with the Constitution (Billias 364). By preventing either the state or the national governments from having absolute power, dual federalism ensures that the rights and liberties of individuals are respected.

Ideally, federalists believe that subnational governments serve to reduce conflicts among Americans who come from diverse cultures and socio-political backgrounds. In fact, under the First Amendment, an American citizen enjoys the freedom of speech, press, peaceful assembly, petition, and exercise of religion (Billais 49). For example, during the 1950s and 1960s, the national government was at the forefront of fighting for the civil rights and liberties of Americans, especially those living in the southern states. Here, the Supreme Court of the United States made it unlawful to segregate people based on their race and gender and also upheld the Fourteenth Amendment. In this case, the Supreme Court defended American citizens against their own state governments that were violating their rights and liberties. Here, the Supreme Court, through the adoption of the thirteenth, fourteenth, and fifteenth amendments, effectively upheld the rights and liberties of Americans by abolishing slavery, establishing universal suffrage, and defining national citizenship (Billais 207). All these factors upheld the supremacy of the Constitution over the laws of the various states.

However, beginning in the 1970s, the power of the federal government began to expand exponentially such that most states felt pressured to conform to the policies of the national government even if they were against the states' standpoints. For instance, Goelzhauser & Rose give the example of how the Obama administration forced states to adopt the policy on Medicaid expansion. However, the Supreme Court struck down the mandatory expansion, which would have

affected millions of Americans. As a result, most democratic states adopted the policy, while Republican states rejected it. Nonetheless, it is worth noting that by the 2016 elections, which Hillary Clinton was largely expected to win, most Republican states had begun laying the groundwork for adopting the policy, but when Donald Trump won, these plans came to a halt. According to Goelzhauser & Rose, Trump had vowed to repeal the Medicaid Act, which denied states operational flexibility, and instead replace it with the American Health Care Act. The attempt by the national government under both Democratic and Republican leadership to bulldoze states into implementing health care plans and the subsequent refusal by some states to be bullied is an ideal example of how dual federalism can help protect the interests of citizens against oppression by the national government. Accordingly, it is clear why there is a common perception among federalists that governments are often guilty of oppression and in such cases, it is better for the oppression to come from state and local governments because fewer people would be affected as compared to nationwide oppression which could affect a lot of people.

The issue of immigration has also brought the need for the protection of individual rights and liberties under dual federalism to the core. Since 2015, the issue of the resettlement of refugees has been a major point of conflict between the national government and state governments. According to Golzhasuer & Rose, the Obama administration planned to settle over 10,000 Syrian refugees in various states, but some of the governors opposed this move because they feared that the immigrants would pose a security threat to the Americans living in these states. In some cases, the conflict ended up in court where, for example, the courts upheld the directive by the then Governor of Indiana ordering all state agencies to suspend the resettlement of refugees from Syria until the federal government gave an assurance that all security measures were in place.

In this case, the autonomy of the state government was evident as the governor presumably protected his citizens from potential security risks by opposing the central government's policy. In contrast, however, Indiana lost a case in which the state was seeking to prevent a local nonprofit organization responsible for the placement of Syrian refugees from accessing certain federal grants. Goelzhauser & Rose state that the court ruled that the withholding of the funds from the organization would be a violation of the Equal Protection Clause of the Fourteenth Amendment. Essentially, the judge ruled that the state of Indiana had no basis for insinuating that the Syrian refugees would engage in terrorist activities. In this case, the mandate of the federal government to fund the resettlement of refugees was upheld, while that of the state government to discriminate based on culture and religion was suppressed. As a result, the dual federalism nature of the American political system ended up upholding the rights and liberties of both the American citizens and Syrian refugees in Indiana.

As a model of federalism, dual federalism advocates for the autonomy of each level of government whereby the federal and state governments have the power to enforce laws and policies; however, despite being autonomous, these two levels of government conduct checks and balances on each other to ensure that neither of them abuses their powers at the expense of the rights of and American people. In this case, dual federalism, mostly as interpreted by the courts, has ensured that a delicate

balance of power is maintained between state governments and the national government by, for example, allowing states to choose which policies to implement. Nonetheless, the choice by a state to adopt or reject federal policies must not violate the rights and liberties of Americans, as was the case among southern states during the slavery period or even immigrants, as was the case with the State of Indiana.

Works Cited

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Goelzhauser, Greg, and Shanna Rose. "The State of American Federalism 2016-2017: Policy Reversals and Partisan Perspectives on Intergovernmental Relations." *Publius: The Journal of Federalism* 47.3 (2017): 285-313.