# DEFINING FEDERALISM

Since the founding of the United States, society has changed, and federalism has evolved to meet the changes and challenges.

The earliest (1789-1932) interpretation of federalism is the concept of **dual federalism**, which views the national and state governments each remaining supreme within their own sphere of influence. This form of federalism is often referred to as "layer cake federalism," because each level of government is seen as separate from the other, with the national government having authority over national matters and state governments having authority over state matters. The early beliefs that states had the sole responsibility for educating their citizens and the national government had the sole responsibility for foreign policy issues are examples of dual federalism.

In the 1930s the interpretation of federalism shifted to that of the national and state governments sharing policymaking and cooperating in solving problems. **Cooperative federalism** or "marble cake federalism" as it came to be known, grew from the policies of the New Deal era and the need for the national government to increase government spending and public assistance programs during the Great Depression. The cooperation of the national and state governments to build the national interstate highway system is an example of cooperative federalism. The expansion of cooperative federalism during (President Lyndon B. Johnson's) Great Society required even greater cooperation from the states in return for federal grants.

###### FEDERALISM

* + Constitutional division of powers between the national government and the states; both get their powers from a Constitution, not each other
	+ Constitution (federally based) replaced the Articles (confederation based)
	+ Federal system is NOT as efficient as a unitary system (which can be good)
	+ Federalism issues are at the top of the political agenda along with the issue of devolution
	+ Since the New Deal in the 1930s to today, there has been a shift of power from the states to the national government; since 1994 elections there has been an attempt to return power to the states
	+ Federalism debates depend upon issues at stake and rival philosophies of national action vs. decentralization

###### DUAL (“LAYER CAKE”) FEDERALISM

* + Prevalent through ~ 1937
	+ State governments and national government each remained supreme within their own spheres.
	+ Proper relationship between government and the states, portraying the states as powerful components of the federal government -- nearly equal to the national government.
	+ Powers and policy assignments of the layers of government were distinct, as in a layer cake.
	+ Suggested that the powers of the national government should be interpreted narrowly (Constitution gives the federal government limited powers and the rest should be to the states).

###### DIFFERENCE BETWEEN DUAL AND COOPERATIVE

**COOPERATIVE (“MARBLE CAKE”) FEDERALISM**

* + Prevalent since ~ 1937
	+ Mingling of responsibilities between the state and national government.
	+ Sharing powers & policy assignments, like a marble cake.
	+ Acknowledges a need for cooperation between state and federal governments.
	+ Suggests that powers of the national government should be interpreted broadly.
	+ A critical difference between dual and cooperative federalism is how they interpret the elastic clause and Tenth Amendment.
	+ These two sections of the Constitution define the relationship between state and national governments.
		- Article 1, Section 8, lists the enumerated powers of congress and ends with the elastic clause, which gives Congress the power "to make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers" meaning the enumerated powers.
		- The Tenth Amendment reserves for states or the people powers not assigned to the national government or denied to the states by the Constitution.
	+ Dual federalism insists that powers not assigned to the national government are only for states and the people, and claims that the elastic clause is inflexible.
	+ Cooperative federalism restricts the Tenth Amendment and suggests supplements to the elastic clause.

# ADVANTAGES AND DISADVANTAGES OF FEDERALISM

Few Americans believe that the federalist system should be abandoned, but the nature of federalism is still a controversy today, and Americans still disagree about the balance of power between national and state governments.

An individual's attitude about federalism depends partly on how much he or she values equality vs. freedom. Uniform laws passed by a unitary government tend to emphasize equal treatment of citizens. Diverse laws by their very nature allow a great deal of individual freedom.

**ADVANTAGES OF FEDERALISM**

## Federalism checks the growth of tyranny

* + - Inhibits formation of a single-interest majority
		- If tyranny occurred in a few states, federal government could prevent its spread to others (e.g. Shays’ Rebellion).
		- National government has only those powers granted to it - all others belong to states through Amendment 10.

## Federalism allows unity without uniformity

* + - No need for consensus on every divisive issue
		- More suitable for geographically large nation – allows for differences among states
		- More suitable for heterogeneous people – allows for differences

## Federalism encourages experimentation

* + - States are "laboratories" for public policy experimentation (gambling in NV, med marijuana in CA)
		- States have been in the forefront on health care, voting, air pollution control programs

## Federalism provides training for future national leaders

* + - Training ground for state and local politicians to gain experience
		- 20 of nation’s 44 presidents served as governor of a state = executive office experience

## Federalism keeps government closer to the people

* + - Provides numerous arenas for decision-making
		- Local and state politics involve citizens in large numbers (most Americans had a stronger allegiance to their state and state government)
		- Multiple points of access for citizens

### DISADVANTAGES OF FEDERALISM

* + Promotes inequality because of states differ in the resources they can devote to providing services.
	+ Enables local interests to delay or even thwart majority support for a policy.
	+ Creates confusion because the different levels of government make it difficult for citizens to know what different governments are doing.

### ALTERNATIVES TO FEDERALISM

All political systems may be evaluated according to their geographic distribution of power. A unitary system is one that concentrates all policymaking powers in one central geographic place; a confederal system spreads the power among many sub-units (such as states), and has a weak central government. A federal system divides the power between the central government and the sub-units.

* + Unitary system
		- Places all governmental power in one, central, geographic area
		- Not used because too reminiscent of British rule (strong, distant government that becomes tyrannical)
		- More efficient than a federal system (which can be a bad thing)
	+ Confederal system (Confederation)
		- Allows central government to make regulations for constituent governments
		- Not used because too reminiscent of Articles (tried and failed)

# CONSTITUTIONAL STRUCTURE OF AMERICAN FEDERALISM

### POWERS OF THE NATIONAL GOVERNMENT

Congress has some powers that are expressly outlined in the Constitution, and others, called implied powers, that are not stated outright but that Congress may assume in order to carry out its expressed powers. This does not give Congress free rein. The implied powers must be “reasonably” drawn from expressed powers.

Another type of power granted to the federal government is inherent powers. These are powers of the national government in foreign affairs that the Supreme Court has declared do not depend on constitutional grants but rather grow out of the very existence of the national government.

### POWERS OF THE STATES

Reserved powers are those held by the states alone. They are not listed (as delegated powers are), but they are guaranteed by the 10th Amendment as reserved to the states respectively, or to the people. Reserved powers include establishing local governments and regulating trade within a state. States also have police power - the authority to legislate for the protection of the health, morals, safety, and welfare of the people. However, because these powers are not listed in the Constitution, there is sometimes a question about whether certain powers are delegated to the national government or reserved for the states.

### CONCURRENT POWERS

All powers not granted in the Constitution to the national government are reserved for the states. States, however, may hold some of the same powers that the national government has, unless they have been given exclusively to the national government, either by provision of the Constitution or by judicial interpretation. Concurrent powers are those that both national and state governments hold. Examples are the concurrent powers of levying taxes and establishing and maintaining separate court systems. Even so, federalism limits state powers in that states cannot "unduly burden" their citizens with taxes. Neither can they interfere with a function of the national government, nor abridge the terms of a treaty of the United States government.

### DIVISION OF POWERS IN AMERICA

* **Expressed powers**: also known as enumerated powers, those specifically given to the national gov’t (Articles I-V)
* **Implied powers**: although not expressed, powers that may be reasonably inferred from the Constitution (Article I, Section 8, Clause 18 - the Necessary and Proper Clause or Elastic Clause)
* **Inherent powers**: powers that exist for the national government because the government is sovereign
* **Concurrent powers**: powers that belong to both the national and state governments
* **Reserved powers**: powers belonging specifically to the state because they were neither delegated to the national government nor denied to the states (Article IV; Amendment 10)

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| **National Powers (Expressed, Implied, Inherent)*** Regulate **interstate** commerce
* Coin and print money
* Declare war
* Establish federal courts below the Supreme Court
* Conduct foreign relations
* Make all laws “necessary and proper”
* Acquire and govern U.S. territories and admit new states
* Regulate immigration and naturalization
 | **National and State Powers (Concurrent)*** Levy taxes
* Borrow money
* Spend for general welfare
* Establish courts
* Enact and enforce laws
* Charter banks
 | **State Powers (Reserved)*** Regulate **intrastate** commerce
* Establish local governments
* Establish public school systems
* Administer elections
* Protect the public's health, welfare and morals
* Regulate corporations
* Establish licensing requirements for certain regulated professions
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**PROHIBITED POWERS**

Powers that are denied to the national government, state governments, or both (Article I, Sections 9 and 10; Amendments); For example, neither the national government nor state governments may pass an ex post facto law or a bill of attainder.

# EXPANSION OF CENTRAL GOVERNMENT POWERS

These constitutional powers expand the power of the federal government.

**THE SUPREMACY CLAUSE**

Article VI of the United States Constitution contains the Supremacy Clause, which helps to resolve conflicts between national and state laws. Because two levels of government are operating within the same territory and over the same people, conflicts are bound to arise. The Supremacy Clause states that the Constitution, its laws and treaties shall be the "supreme law of the land." The Supreme Court upheld this supremacy in *McCulloch* v. *Maryland* (1819).

* States may not override national policies; this restriction also applies to local units of government, since they are agents of the states (Constitution and national laws are the supreme laws)
* The supremacy clause in the Constitution states that federal law takes precedence over state law when the laws conflict

**THE POWER TO REGULATE INTERSTATE AND FOREIGN COMMERCE**

The national government has the responsibility to regulate commerce between the U.S. and foreign nations, as well as trade between states (interstate commerce). The commerce clause (Article One, Section 8, Clause 3) gives Congress the power "to regulate Commerce with foreign Nations, and among the several states, and with the Indian Tribes." The government regulates a wide range of human activity, including agriculture, transportation, finance, product safety, labor relations, and the workplace. Few aspects of today's economy affect commerce in only one state, so most activities are subject to the national government's constitutional authority.

The meaning of the commerce clause was at issue in the 1824 *Gibbons* v. *Ogden* case. At issue was the definition of commerce and whether the national government had exclusive power to regulate interstate commerce. The New York legislature gave Robert Livingston and Robert Fulton exclusive rights to operate steamboats in New York waters and Aaron Ogden the right to operate a ferry between New York and New Jersey. Thomas Gibbons had received a national government license to operate boats in interstate waters. Ogden sued Gibbons and won in the New York courts; Gibbons appealed to the Supreme Court. The Marshall court defined commerce as including all business dealings, and the power to regulate interstate commerce belongs exclusively to the national government. Today, the national government uses the commerce clause to justify the regulation of numerous areas of economic activity.

The Commerce clause also has been used to sustain legislation outside of commercial matters. In 1964 the Supreme Court upheld the 1964 Civil Rights Act forbidding discrimination based on race in public accommodations because "Congress's action in removing the disruptive effect which it found racial discrimination has on interstate travel is not invalidated because Congress was also legislating against what it considers to be moral wrongs."

Discrimination affects interstate commerce, so Congress constitutionally could legislate against discrimination. Again, many years later, Hamilton's loose interpretation of the Constitution insured that the principle of national supremacy prevailed over that of states’ rights.

* The Power to Regulate Interstate and Foreign Commerce
	+ Through the commerce clause, Congress can regulate many activities and sustain other legislation as well
		- *Gibbons v. Ogden* (1824)
		- Only National government (Congress) may regulate interstate commerce
		- Power is not shared with the states
* The federal government’s role has been greatly expanded through the interpretation of this clause.
	+ *Heart of Atlanta Motel* v. *U.S.* (1964) - Congress has a right to regulate individual businesses in the interest of promoting interstate travel.

**THE WAR POWER**

The national government is responsible for protecting the nation from external attacks and for declaring war when necessary. Today, defense includes not only maintaining a standing army, navy, and air force, but also the ability to mobilize industry and scientific knowledge to back the efforts of the military.

* The War Power
	+ The national government has the power to wage war
	+ The president can send troops because he is commander-in-chief of the military

**THE POWER TO TAX AND SPEND**

Even when Congress lacks the constitutional power to legislate (for example, education and agriculture), its power to appropriate money provides Congress with a great deal of control. When Congress finances an undertaking, it determines how the money will be spent.

Congress may threaten to withhold funds if a project does not meet federal guidelines. In recent years Congress has refused to finance any program in which benefits are denied because of race, color, or national origin, and more recently, gender and physical handicap.

* The Power to Tax and Spend
	+ By attaching conditions to its grants of money, Congress may regulate what it cannot directly control by law
		- While Congress cannot technically legislate on everything, it can spend funds on virtually anything.
		- States don’t have to accept federal money, but if they do, they must follow federal guidelines (e.g. federal highway funds can be denied if a state’s alcohol purchasing age is less than 21, federal education funds can be denied if states do not comply with No Child Left Behind Act) – Federal “strings” attached to funding are ways in which the federal government can get its way on things.
		- Recent example: Obamacare – Supreme Court ruled it was a tax and that gov’t could require people to have healthcare

# THE NATIONAL COURTS AND FEDERALISM

***MCCULLOCH V. MARYLAND* (1819)**

The Supreme Court dealt with the issues of the necessary and proper clause and the supremacy clause when Maryland imposed a tax on the Baltimore branch of the Second National Bank of the United States. Chief cashier James McCulloch refused to pay the tax, Maryland state courts ruled in the state's favor, and the United States government appealed to the Supreme Court. Marshall ruled the Maryland law that established the tax unconstitutional with his famous statement: "The power to tax is the power to destroy." The power to destroy a federal agency would give the state supremacy over the federal government, so the states may not tax a federal agency. The court ruled that although no provision of the Constitution grants the national government the expressed power to create a national bank, the authority to do so can be implied by the necessary and proper clause (Article I, Section 8, Clause 18). This ruling established the implied powers of the national government and national supremacy, the basis used to strengthen the power of the national government.

* John Marshall established the doctrines of implied national power and national supremacy
* *McCulloch v. Maryland* was significant in providing support for nationalism
* Maryland attempted to tax a branch of the Bank of the U.S.:
	+ It argued that taxing was one of its reserved powers.
	+ In addition, it argued that the Bank was unconstitutional, anyway.
* The Court’s decision (under Marshall):
	+ Need for more flexible interpretation of the Constitution so that it would endure >> Bank was “necessary and proper” >> establishment of implied powers.

o “Power to tax involves power to destroy” >> states clearly not free to destroy the national government >> establishment of national supremacy.

###### FEDERAL COURTS AND THE ROLE OF THE STATES

* Actions by state and local officials can be challenged before a federal judge
* Preemption - federal laws take precedence over state and local laws (civil rights, water quality)
* Supreme Court has generally favored powers of federal government over the states

###### THE CONTINUING DEBATE BETWEEN CENTRALISTS VERSUS DECENTRALISTS

* *The* ***CENTRALIST*** *(nationalist) position*
	+ The Constitution is a supreme law established by the people; it was intended that the central government's powers be liberally defined.
	+ The national government is a government of all the people, and each state speaks for only some of the people.
	+ Constitution created by people (“We the people...”) and not the states.
	+ Elastic, commerce, and taxing/spending clauses give great power to national government.
	+ Powers go to states only if they have been surrendered by national government.
	+ When in doubt, matter should be resolved in favor of national government.
	+ Implied loose interpretation of the Constitution.
	+ Size of bureaucracy has remained relatively constant for last 40 years.
	+ While state govt’s may be closer to people, some of those state governments have violated people’s basic rights (e.g. South during first 70 years of 20th century) – national government has been key protector of rights.

###### THE “DEVOLUTION REVOLUTION”

* *The* ***DECENTRALIST*** *(states’ rights) position*
	+ The national government is nothing more than an agent of the states, and every one of its powers should be narrowly defined.
	+ Constitution carefully limits national authority to delegated powers.
	+ The 10th Amendment prohibits the national government from using delegated powers to interfere with activities reserved for the states.
	+ 10th Amendment gives broad powers to states.
	+ When in doubt as to which holds a power, matter should be resolved in favor of states.
	+ Implies strict interpretation of the Constitution.
	+ National government has gotten too big and impersonal.
	+ State governments are closer to the people.

Although the trend toward national supremacy has continued throughout most of American history, a movement has begun in recent years to devolve more responsibilities back to the states. The movement began as a Republican initiative shortly after the 1994 elections, when the Republicans became the majority party in both houses of Congress. The new conservative leadership looked for ways to scale back the size and activities of the national government. A major focus was the welfare system, and as a result, the welfare to work legislation passed in 1996 has led to a major shift of responsibility for welfare programs from federal to state governments. The national government continues to give block grants to states, but overall federal funding for welfare programs has decreased dramatically. The federalist system is rooted in the Constitution, and governmental powers certainly will continue to be shared among national, state, and local levels.

* + - Shifting of some authority from national government back to the states
		- Associated with Nixon, Reagan, and especially associated with 104th (1995-1997) and 105th (1997-1999) Republican Congress: “Devolution Revolution”
		- 1980s (Reagan) started shifting the responsibilities and costs for many programs to state governments
		- Example: use of block grants in Welfare Reform Bill of 1996 (Ended welfare as federal entitlement program and gave control to the States)
		- Unfunded Mandates Reform Act of 1995 restricted future unfunded mandates
		- Use of block grants to replace categorical grants

# FISCAL FEDERALISM

The national government's patterns of spending, taxation, and providing grants to influence state and local governments is known today as fiscal federalism. The national government uses fiscal policy to influence the states through granting or withholding money to pay for programs.

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| **FISCAL FEDERALISM – “THE CARROT”** | * The national government’s primary means of influencing state governments is giving money to states in the form of grants-in-aid (or grants).
* Since World War II, states have come to rely heavily on federal money.
* Likewise, the national government has also relied on the states to administer some federal policies >> fiscal federalism.
* The nation’s leaders originally designed them to help fund agriculture, land grant colleges, and farm-related education.
* They grew to encompass many other types of funding such as public housing, urban development, and school lunch programs.
* To use a common metaphor, the national government uses the need for fiscal assistance as both a carrot and a stick.
* The carrot is the federal dollars needed by the state, which come in the form of grants-in-aid.

o As citizens’ needs expand, the states look to the national government to assist in meeting the financial aspects of fulfilling those needs. |

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| **WHAT ARE FEDERAL GRANTS?** | **PURPOSE OF FEDERAL GRANTS** |
| * *Federal revenue given to state and local governments to establish minimum national standards in important areas (urban development, education, transportation, water quality)*
 | * *To equalize resources among the states (both rich and poor)*
* *To attack national problems, yet minimize the growth of federal agencies (reduces growth of federal bureaucracy >> federal government simply provides money to states and has states run the programs - under federal guidelines, of course)*
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| **TYPES OF FEDERAL GRANTS** | * **CATEGORICAL GRANTS**
	+ Congress appropriates funds for specific purposes (e.g. roads, airports, housing, bilingual education)
	+ States don’t have to accept these, but if they do they must comply with federal standards >> weakens the power of state governors and legislators
* **BLOCK GRANTS**
	+ Granted to support a collection of general programs (e.g. transportation, urban development, education) >> more state leeway in spending of the money = few federal restrictions
	+ Associate these with 104th and 105th *Republican* Congress and devolution of power back to states
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**THE POLITICS OF FEDERAL GRANTS**

##### Democrats have generally favored greater funding, but with more “strings” associated with categorical grants.

* Categorical grants are appropriated by Congress for specific purposes - highway or airport building, welfare, or school lunches. These grants usually require the state to "match" (put up money) the federal grants, although the matching funds can vary widely. There are hundreds of categorical grant programs, but a few, including Medicaid and Aid to Families with Dependent Children (AFDC), account for almost 85% of total spending for categorical grants. State and local officials complain that these grants are often too narrow and cannot be adapted easily to local needs.

##### Republicans have generally favored less funding, but with fewer “strings” associated with block grants.

* Block grants consolidate several categorical grants into a single "block" for prescribed broad activities, such as social services, health services, or public education. This type of grant was promoted by Ronald Reagan, and during the early 1980s, Congress consolidated a number of categorical grants into block grants. Later Presidents have advocated that more consolidation occur, but Congress has been reluctant to do so. Block grants give Congress less control over how the money is used, and representatives cannot take credit for grants to their particular districts. State governors generally have supported block grants, because they give states wide control of how and where the money is spent.

# REGULATORY FEDERALISM

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| **REGULATORY FEDERALISM – “THE STICK”** | * The stick comes in the form of regulation and compliance with federal mandates to receive the money or to continue to obtain grants-in-aid.

o Regulations such as minimum wage, speed limits, and handicap accessibility are examples of “sticks,” or mandates, that states must comply with to receive the national funds.* One way for Congress to pass mandates is to impose regulations and standards on state and local governments.
* In the past, Congress has forced state governments to meet certain federal guidelines. This is known as regulatory federalism.
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###### FEDERAL MANDATES

A recent federal control on the activities of state governments is a mandate, a rule that tells states what they must do in order to comply with federal guidelines. Often the mandates are tied to federal grants, but sometimes the mandates have nothing to do with federal aid.

Most mandates apply to civil rights and environmental protection. State programs may not discriminate against specific groups of people, no matter who pays for them. Today, anti-discrimination rules apply to race, sex, age, ethnicity, and physical and mental disabilities.

States must comply with federal laws and standards regarding the environment, as well.

Mandates have been criticized strongly by state and local governments. From their point of view, it is easy enough for Congress to pass mandates when the states must foot the bills (known as unfunded mandates). For example, the 1986 Handicapped Children's Protection Act provided federal regulations meant to assure equal access and opportunity for disabled children. Federal guidelines included requirements for public schools to build access ramps and elevators, provide special buses and personnel, and widen hallways, all with no federal money to help schools comply.

* Mandate: a federal order imposed upon states. Examples:
	+ Americans with Disabilities Act (governors and mayors don’t like because of costs to remodel)
	+ Various environmental acts (e.g. Clean Air Act, Clean Water Act).
	+ Individuals with Disabilities Education Act.
* Purposes: to meet a goal of the federal government.
* Impact upon the states:
	+ Financial burdens, especially with **UNFUNDED MANDATES** (e.g. ADA has imposed large costs upon states as they make “reasonable accommodations” for the disabled).
	+ State complaints about federal heavy-handedness (e.g. if a state does not devise a plan and pay for the requirements of the Clean Air Act of 1990, the federal government will impose its own plan upon the state).
	+ State complaints about federal blackmail (e.g. if a state doesn’t comply with the Clean Air Act standards, federal funds can be withheld in other programs).
	+ State complaints that federal government is altering the nature of federalism with its excessive power.

**NEW TECHNIQUES OF FEDERAL CONTROL** (fall under the category of unfunded mandates)

* DIRECT ORDERS
	+ State or local government must act under the threat of criminal or civil penalties
	+ Pits the legal authority of Congress against the constitutional rights of the states.
* CROSS-CUTTING REQUIREMENTS
	+ Conditions on one grant extended to all federally-supported activities
	+ Requirements imposed on virtually all grants to further various national social and economic policies.
	+ The federal government will force states to follow the law through the Civil Rights Act and if the state doesn’t, it risks losing money on all federally funded projects
* CROSS-OVER SANCTIONS
	+ Permit the use of federal dollars in one program to influence state and local policy in another
	+ Failure to comply with the requirements of one program can result in reduced or terminated funds from another program that was separately authorized and separately begun.
* PARTIAL PREEMPTION
	+ Federal law establishes basic policies but requires states to administer them usually without any federal funds
	+ Total preemption: national governments power under the supremacy and commerce clauses to preempt conflicting state and local activity.
	+ Some programs give states an option not to participate, but if a state chooses not to do so, the national government steps in and runs the program.

# KEY LEGISLATION

#### Judiciary Act, 1789:

* Set the foundation for our judicial system; established federal court system.
* Permitted mandamus cases to come to the Supreme Court in its original jurisdiction. This part of the act was famously struck down by John Marshall in *Marbury* v. *Madison*.

#### Civil Rights Act of 1964:

Title II bans discrimination in public places on basis of race, color, national origin, or religion.

Title VII:

* Prohibits employment discrimination on basis of all of the above plus sex. Allows employers to give racial preferences in hiring.
* Executive Order #11246 required federal contractors to adopt affirmative action programs.
* Allowed class action suits.
* Enforced by EEOC.

***Age Discrimination in Employment Act, 1967:*** Bans age discrimination for jobs unless age is related to job performance.

#### Air Quality Act, 1967 and various Clean Air Acts, 1960s-1990s:

* Established emissions standards for cars and factories.
* Established minimum standards for states.

#### Title IX of Education Act of 1972:

* No institution of higher learning that receives federal funding may discriminate on the basis of gender.
* Schools forced to increase funding of women’s programs, especially sports programs.

#### Gun-Free School Zones Act, 1980:

* Using the commerce clause, Congress ordered schools free from guns.
* Declared unconstitutional in *U.S. v. Lopez* as an unreasonable application of commerce clause.
* Example of Conservative court unwilling to infringe upon state discretionary power.

#### Americans with Disabilities Act, 1990:

* Bans job discrimination against disabled if "reasonable accommodation" can be made.
* Requires access to facilities for handicapped.

#### Brady Act, 1993:

* Gun control act. Limited types of guns that could be purchased.
* The provision of this law in which Congress required local law enforcement officers to do background checks on gun buyers was declared unconstitutional in 1997 - it interfered with the discretionary powers of the states.

#### Unfunded Mandates Reform Act of 1995:

* Requires CBO to analyze impact of unfunded mandates on states.
* Requires separate congressional vote on bills that impose unfunded mandates.

#### Personal Responsibility and Work Opportunity Reconciliation Act (Welfare Reform Act of 1996):

* Ended federal entitlement status of welfare.
* In its place, federal government gave block grants to states to administer welfare.
* "Strings" attached to these grants:
1. Recipients must work within 2 years.
2. Recipients cannot receive benefits for more than 5 years.

#### No Child Left Behind Act, 2001:

* States must adopt education accountability standards.
* States must annually test students.
* Sanctions against schools that fail to meet adequate yearly progress.

#### USA Patriot Act, 2001:

Strengthens the federal government's power to conduct surveillance, perform searches and detain individuals in order to combat terrorism.

# KEY COURT CASES – UNIT 1

***Marbury* v. *Madison* (1803)** - Established judicial review; "midnight judges;" John Marshall; power of the Supreme Court.

***McCulloch* v. *Maryland* (1819)** - Established national supremacy; established implied powers; use of elastic clause; state unable to tax federal institution; John Marshall; "the power to tax involves the power to destroy."

***Gibbons* v. *Ogden* (1824) -** Congress can legislate and regulate all matters of interstate commerce as long as there is some commercial connection with another state.

***Heart of Atlanta Motel* v. *U.S.* (1964) -** Congress has a right to regulate individual businesses in the interest of promoting interstate travel.

***U.S.* v. *Lopez* (1995)** - Gun Free School Zones Act exceeded Congress' authority to regulate interstate commerce.