

## Foundation of American Federalism: An Analysis of its Strengths

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**Abstract:** *Federalism aims to build a political union made up of varied regions and people based on a mutually agreed-upon constitutional and legal framework that governs the interaction between the federal government and its constituent units. The federalism in America is the most powerful and well-known around the world. It is used as an example around the world anytime the federation is discussed. It is a model for the rest of the globe. This paper explores the factors that make the US federation the strongest around the globe.*

**Key Words:** USA, Federalism, Strong Upper Chamber, Federal-States Relations

### Introduction

The word "federation" comes from the Latin word "foedus," which means "contract." As a result, the federation is a contract-based type of government. The USA was the world's first federation. Thirteen colonies joined together to become the United States of America (preparation, 2022). Federalism is a form of government in which a central government and its constituent political divisions constitutionally share power. It is based on democratic institutions and principles, with the national and provincial governments working together to create a federation (McIntosh, 2018).

The division of powers between the federal and state governments is established by a federal constitution. Federating units are typically given the authority to legislate on regional issues, which they must enforce through their respective government

machinery. On topics of national importance, when uniformity of laws and policies is necessary, the central government is given governmental powers. However, this does not imply that both governments function in isolation from one another; rather, areas of cooperation are also defined. A federal system represents a blend of unity and variety. Because two types of governmental authority, each with its jurisdiction, must coexist inside a federation, supreme constitutional legislation is required to keep them within their respective jurisdictions. Both the federal and regional governments get their authority from the constitution, which is why constitutional law is so important. A rigid constitution is essential to effectively apply the basic principles of separation of powers, ensuring that no government can arbitrarily expand its powers. As a result, the technique of amending the constitution offered in constitutional law is comparatively difficult and distinct from that

of ordinary legislation changes. However, the establishment of a unitary state may be adaptable, as in the United Kingdom. Most federations, such as the United States, Canada, Australia, and Switzerland, have federating entities that collaborate with the national government to modify the constitution. In Pakistan, however, only the central government has the authority to modify the constitution. The presence of an independent and impartial body that can adjudicate disputes arising between the central and regional governments over subjects relevant to their respective authority is important to maintain the supremacy of the constitution. The presence of an independent and impartial body capable of resolving disputes between the central and regional governments on subjects within their respective authority is required. In most federal states, superior courts have the power to declare void any law, policy, or conduct of the government that violates the constitution. The Supreme Court in the United States wields this authority. The power of judicial review, on the other hand, is not explicitly granted in the constitution. In the case of *Marbury v. Madison*, Chief Justice Marshall asserted it as implied power. The citizens of the federation are bound by two sets of laws. They must follow both central government and regional government laws. Both sorts of laws govern their rights and responsibilities (Sarwar, [2015](#)).

The origin of the federation can be traced back to the US War of Independence, when, on July 4, 1776, the thirteen North American colonies proclaimed their independence from the British Empire; they realized the importance of coordinating their war efforts and cooperating in general. To achieve these goals, they adopted the Articles of Confederation, a constitution that created a league of independent nations committed to cooperating in military, foreign, and other important areas. During the war with England, the Articles barely kept the states united, and after the war's triumphant end, they utterly disintegrated as the states pursued

their interests rather than the new United States' national goals (Siegel, [1997](#)).

There are two separate branches of the US federal government: the center and the provinces. America has a strong federal system, and different nations are interested in researching their states. The rest of the power is the national government constitution granting more powers to states than the central government in the rest of the power are national government constitution grants more powers to states, but the doctrine of implied power has helped the national government to keep more practical (Yosafzai, [2019](#)).

The United States of America, which was founded in 1776, was founded on natural rights and a social contract. All of them formed the cornerstones of America's constitutional government. In 1781, the first known article of confederation was written. It was a federation that was doomed to fail. The Confederate system, which included 13 states, arose from the United States of America (Mallick, [2020](#)). The US federation is the world's strongest federation the main reason behind its strength is the presence of a strong upper house i.e. the senate. The US federation is bicameral and composed of two houses. The upper house is the senate, which is created to safeguard the rights and interests of the federating units. The total strength is 100. Two members come from each state. Unlike the upper houses in other states, the US Senate is very strong and is the main cause of its strong federation. The senate has important legislative and executive and judicial powers. The position of the Senate in legislative affairs is much better than that of any other second chamber in the world. It has co-equal powers with the House of Representatives. The president of the US cannot ignore its opinion on any important matter. The Senate must first approve any significant international treaties or agreements that the US president enters into. This powerful position of the senate in the political system of the US makes it distinguished from the rest of the federations in the world (Choudhary [n.d](#)).

Written in 1787 and implemented in 1789, the American constitution is a legal document. It consists of seven articles, three of which deal with the composition and functions of the legislative, executive, and judicial branches of government, and the remaining four with the status of the states, methods of the amendment, the primacy of the national power, and ratification. The supreme law of the land is also the constitution. The constitution of the United States of America is the most rigid in the entire world. This means that amending it requires a special and difficult procedure. The proposed amendment requires a 2/3 majority vote in both chambers of Congress, as well as ratification by 3/4 state legislatures (n, 2021). Dual citizenship is permitted in the United States. If you are a naturalized citizen, you are not required to relinquish your citizenship in your home country. Dual nationality is not prohibited under U.S. immigration law. The American Supreme Court also declared that people might "have and exercise nationality rights in two countries." As a U.S citizen, you will now have new rights and obligations, including the freedom to work and travel freely internationally. Without a work visa, you can work anywhere in the United States. You may however be ineligible for certain federal occupations that require particular security clearances if you are a dual citizen. Because you are also a U.S citizen, the U.S department of state may consider your case to be a conflict of interest. You have complete freedom to travel for as long as you like. International travel is included in this. You don't require re-entry permission if you plan to stay in a foreign nation for more than a year, unlike green card holders or permanent residents, and you can get green cards for your family members. Any election in the United States is open to you to vote in. You can attend a U.S school without needing a student visa or paying a foreign student fee. If you meet the qualifying standards, you can get whatever public benefits you require. This covers government financial aid for students who are citizens of the United States of America. Obtaining dual

citizenship in the US might be difficult (Petts, 2021).

The senate is the American congress's upper chamber. In the political system of the US, it is a very "real and living force". The senate was built on the principle of equal representation for all states. Every state, no matter how large or tiny, sends two representatives to congress. According to the constitution, no state can be denied equal senate representation without its permission. The Senate is made up of only one hundred (100) members. Each state sends two senators to the Senate, regardless of population or geographical region. To be elected to the Senate, a person must meet specific requirements. He is at least thirty years old. He must be a resident of the state in which he desires to run for office. He had to have spent at least nine years residing in the US. Senators were elected by state legislators before 1913, but the constitution was modified in that year. Senators are directly elected by the state's citizens, according to the 17th amendment. As a result, senators are chosen by popular vote in a direct election. The Senate is a permanent body that cannot be dissolved. Senators are chosen for six-year terms, and one-third of the Senate retires every two years. Senators enjoy the same privileges and immunities as members of the House of Representatives. However, Senators get some specific benefits in addition to the usual ones. They are not allowed to be arrested during the preceding unless they are accused of gross misconduct, treason, or endangering public peace. In the Senate, senators have unfettered freedom of speech. Any senator can talk for as long as he or she wants on any issue or bill. He might even talk about a bill that has been killed. The constitution mandates that both houses of Congress convene at least once a year. The president, on the other hand, has the authority to call extraordinary sessions. The house and senate sessions started and ended at the same time. The vice president of the United States serves as the presiding officer of the Senate. When the vice president is not present, the Senate is presided over by a "president pro tempore," who is a member of the majority

party. The senators elect the president pro tempore from among themselves. The majority of the senate's work is done by its committee, which is made up of its senators. The committee chairs are always senior members. The appropriate committee receives all Senate questions for review and guidance.

The senate is equivalent to the House of Representatives, and it shares certain administrative powers with the president. The senate has extensive legislative authority. In ordinary legislation, it has the same power as the House of Representatives, with the exception that the House of Representatives is the only place money bills can come from. A money bill, on the other hand, can be amended as many times as the senate wishes. The senate assists and advises the president in carrying out his executive function. The president's high appointments are subject to the senate's approval and recommendation. The Senate is in charge of the country's internal administration. The senate appoints inquiry committees to determine the outcome of the president's administration. The Senate selects the vice presidential election in cases where no candidate wins a clear majority of the vote. In the United States, the senate serves as the court of impeachment for the president, vice president, and other top officials. Supreme Court justices are appointed by the president with Senate approval. The Senate is the second chamber in the world with the most power. The senate is a formidable institution. It possesses power, activities, and influence that no other second chamber in the world possesses (Junaid, [2019](#)).

### **Strengths of the US Federal System**

The United States has a federal system. The constitution has divided the powers between the central and states. The US federal system serves as a global model for federalism. It has a number of characteristics that boost its effectiveness and success.

### **Strong Upper House**

The America senate is possibly the most powerful, even though it was not designed to

be such. However, as can be seen through an examination of the senate's rights and prerogatives, the provisions of the constitution and its evolution have made the senate the more powerful and privileged house of congress. The Senate was created by the framers of the constitution to be more than just the higher chamber of congress. They wanted the senate to be a dual check on the president on the one hand, and on the popular House of Representatives on the other, although they supported checks and balances and the separation of powers. The president must share his power of selecting federal officers with the senate, as mandated by the constitution. By a simple majority, the president nominates and the Senate confirms such appointments. However, this procedure has evolved significantly beyond what the constitution's framers intended. They aspired to be a check on the president's executive powers. All treaties negotiated on behalf of the president must be presented to the Senate for ratification by a two-third majority vote, according to the constitution. The Senate does not participate in these discussions; instead, it either affirms or denies approval to a treaty that the president has negotiated. Nobody can anticipate whether or not the treaty presented to the Senate for approval will be ratified.

It is estimated that it "has unconditionally accepted 900 of the approximately 1100 or more treaties submitted to it; many of the remaining accords have been passed with amendment or reservations." The senate has the power of impeachment under the constitution. It states that the senate may impeach the president, vice president, and civil officers of the United States, which has sole jurisdiction over all impeachment proceedings. The Senate serves as a court of law in such cases, while the House of Representatives serve as the prosecutor. If a president is impeached, he or she will be removed from office. The Senate will be led by the Chief Justice of the Supreme Court. The verdict in such cases is limited to removal from office and disqualification from holding any future public office, and only two-thirds of the members present must concur. The person

who has been found guilty, however, may go on trial before a judge. We've just gone over the particular authorities and prerogatives that only the senate has, such as the ability to approve presidential appointments, ratify treaties, and impeach federal officers from the president on down. Even though the founding fathers intended the senate to be only the upper chamber of the legislature and that it should be co-equal in legislative affairs with the house, it has grown in importance as a result of the unique function it plays.

The senate is a coordination body, not a subordinate chamber, even in studying legislative affairs, according to the constitution. In making federal legislation, it has co-equal authority with the House of Representatives. All bills, except money bills and budgets, can be introduced in the senate. Congress has particular investigative powers under the constitution to find facts, opinions, and information, as well as seek advice for legislative reasons. In terms of political skills, camaraderie, and spirit, the senate outperforms the House of Representatives. "Senators are a unique breed of political animals compared to the average representative." Not only do they have more experience, but they also have more solidity and dedication to their chamber. "The senate is alert against any possible threat of pressure from either the president or the house of representatives, "Swarthout and Bartley observed, "and it is quick to reject any move it regards to be a challenge to its prerogative or its tradition." The senate, on the other hand, is supposed to be a bulwark of conservatism and so a check on the radicalism of the House of Representatives (Haq, 2003).

### **Rigidity of Constitution**

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In the entire world, the American constitution is the most rigid. It means that it can be changed using a challenging, intricate, and special procedure that is distinct from the standard legal process. The proposal of the amendment and ratification of the proposal are the two steps that make up this amending process. It is on account of the rigidity of

amending process that until now only 26 amendments have been made to the constitution. The two-thirds majority of both houses must agree on proposals before the constitution can be changed, or a convention must be called if two-thirds of the state legislatures request it. The amendment must be ratified by three-fourths of the state legislatures or by a convention made up of three-fourths of the states. One ratification method or the other may be suggested by Congress. It is the utility of its rigidity that 50 U.S. states have been kept welded in a strong federation for more than 200 years only 26 amendments have been made to the constitution since its implementation in 1789. The U.S.A is a federation of a large number of states and such a federation needs a very rigid constitution (Khan, [2008](#)).

### **Dual Citizenship**

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A distinctive aspect of the American political system is dual citizenship, which requires a person to be a citizen of both the United States and the state in which they currently reside. This feature is in sharp contrast with Pakistani and other political systems where there is a single citizenship system. It reveals the degree of independence and importance of the US federating units (Khan, [2008](#)).

### **Bicameral states' Legislatures**

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One of the major reasons for the strong US federation is bicameral state legislatures. The state legislatures are empowered to make better legislation regarding their matters (Bill, [2022](#)).

### **Each State has its Constitution**

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Every state has a constitution that serves as the foundation for its laws. The executive, legislative, and judicial branches of state governments are all modeled after the federal government. All states must uphold a "republican form" of government, though the three-branch system is not required, according to the U.S. Constitution. State constitutions thus closely resemble the US constitution in

terms of fundamental design. They include a preamble, a bill of rights, articles outlining how the executive, legislative, and judicial branches are separated, as well as a framework for establishing local governments (Bill, [2022](#)).

## **Conclusion**

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The United States is one of the world's most powerful democracies. It is a superpower that defends human rights and freedom. It has the federal government system that is most effective. The United States of America has a four-hundred-year-old history. The world's oldest written constitution is the one found in the United States, having been drafted in 1787. The Philadelphia meeting, which laid the foundations of the constitution, was attended by people of different interests and pursuits. The constitution is the most democratic one that provides safeguards for each citizen's rights and liberties. The study of American constitutional history reveals how the structure of the constitution has been shaped by the demands of time. The formation of the federation was prompted by the unusual organization of the 13 colonies. In 1787, the US adopted a federal government system. It was the world's first federal constitution, establishing a new government with a defined range of powers. Control over matters of

national importance, such as defense, diplomacy, trade, and currency, among other things, was delegated to the federal government and state governments. The constitution's founders divided power between the federal government and the state governments. The federation was originally comprised of 13 states, but presently there are 50 federating states. The member states surrendered some powers to become the United States of America. As a result, the federal government has delegated the stated authorities, and the states retain the remaining powers. The USA is the world's most populous country, which successfully proved the strengths of its federal government system. It balances the federal government's might with the autonomy and diversity of local governments. All of the previous federations had either become unitary states or devolved into chaos and discord. The main reasons for such a strong federation are the presence of a powerful upper chamber which unlike the other upper houses have equal legislative powers. It protects the rights and interests of the federating units. The federating units are autonomous in their respective domains. They have a check and control over the executive, all these factors make it a stronger and model federation.

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