American Politics and the African American Quest for Universal Freedom 8th edition Walton Solutions Manual

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Chapter 2: Federalism and the Limits of Universal Freedom

Chapter Summary

Federalism is an integral part of the American system of government. But from the beginning of the country's history, there has been tension and debate between those who favor state-centered power and those who favor national-centered power. For most of American history, advocates of state-centered power have been dominant. However, in three periods of national crisis—two of which were directly related to the African American freedom struggle—advocates of national-centered power triumphed. During the Civil War and Reconstruction, the Depression and the New Deal, and the 1960s civil rights revolution, the powers of the federal government in relationship to the states were enormously expanded. In each of these periods, the federal government began to play a more active role in protecting civil liberties and civil rights and in regulating the market economy. The Fourteenth Amendment, adopted after the Civil War to secure the freedom and equality of African Americans, has been central to the expansion of national-centered power, serving as the great charter of universal freedom for all Americans.

Yet after each period of expanding federal power, the forces of states' rights and localism reasserted themselves. In the earliest days of the Republic, these forces were generally liberal, progressive, antifederalist Democrats, but since the Civil War and especially since the New Deal, conservative Republicans have generally been hostile to expanding the power of the federal government. Since the election of Richard Nixon in 1968, Republican presidents have consistently called for a return of power to the states. The idea of states' rights appears to be the direction of the current conservative majority on the Supreme Court. Thus, the tide in American politics may once again be shifting toward state-centered power and limited rather than universal freedom.

Key Concepts

Civil Liberties
Civil Rights
Federalism
Fourteenth Amendment
National-Centered Power
Reconstruction
Sovereignty
State-Centered Power
States' Rights
Virginia Plan

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Lecture Outline

I. Introduction
   A. Views on federalism
      1. Robert Bork's view—freedom to leave or "vote with your feet"
      2. William Riker's view—freedom to deny or "oppress"
      3. Federalism and African Americans—ambivalent, contradictory effect on their quest for universal freedom
         a) Antebellum era—pro vs. anti-slavery factions
         b) Constitution and Fugitive Slave Act
         c) North "Promised Land" vs. South "Jim Crow"
         d) Civil Rights Act of 1964
         e) Voting Rights Act of 1965
         f) Fair Housing Act of 1968

II. Federalism: Origins and Operations in the United States
   A. Federalism—the sharing of powers between the national (federal) government and the states
   B. Who is Sovereign: The People or the States?
      1. States' rights
      2. Nullification
      3. *U.S. Term Limits Inc. et al.* v. *Thornton et al.*—the Supreme Court of the United States (SCOTUS) rejected state authority to impose term limits on congressional members—vision of uniform national system
      4. National vs. state power—ongoing debate
   C. Federalism: Advantages and Disadvantages
      1. Advantages:
         a) States serve as "laboratories of democracy"
         b) It allows for public policy experimentation with the best ways to deliver services and programs
         c) It allows for "diffusion of innovation"—learn/share the state's best practices
         d) It allows for "citizen choice"—freedom to "vote with one's feet" and seek out better life. The diversity of outlets and opportunities:
            i. Provides opportunities for minority groups in the country as a whole to be majorities or larger, more politically significant factions at state and local levels
            ii. Provides opportunities for minority factions to participate in politics and to get elected to public office
      2. Disadvantages:
         a) It impedes African Americans in their quest for universal rights and freedoms
         b) It allows the different states to define rights and freedoms for their citizens
         c) It leads to irresponsible (ineffectual) government
         d) It allows some citizens' interests to focus their attention on and activities toward one level of government rather than others (usually the most

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visible being the federal government at the neglect of state and local governments)—this can be an advantage and disadvantage for minority factions or interests

i. An advantage given their singular, uniform influence at the national level than at the state and local levels

ii. A disadvantage because it allows "devolution"; whereby minority factions or interests lose influence when power is diffused across 50 states and multiple localities

e) It grants authority to local majorities to create duplication and confused policies that mitigate against uniformity, which works against universal rights and freedoms

III. Reconstruction, the New Deal, and the Civil Rights Movement

A. National-centered power vs. state-centered power

B. Reconstruction

1. Abraham Lincoln's use of executive power
2. Andrew Johnson's use of executive power
3. The Civil War Amendments 13th (XIII), 14th (XIV), 15th (XV)
4. The Freedmen's Bureau, first social welfare agency established

C. The New Deal

1. Franklin D. Roosevelt's use of executive power
2. The Great Depression
3. Era of "cooperative federalism" or federal grants-in-aid given to states and sharing of responsibility for social welfare programs and government-supported public work jobs
4. Era of regulatory state in regards to banking, stock market, industry and agriculture

D. The Civil Rights Revolution and the Great Society

1. Lyndon B. Johnson's use of executive power
2. Great Society "War on Poverty" programs—public works, housing, health, and youth job training—universal access to health care for the elderly and to nursing homes for the poor elderly and health care for the poor (Medicaid and Medicare)
3. Civil Rights laws and reforms—The Civil Rights Act, 1957, 1960, and 1964; The Voting Rights Act, 1965; and the Fair Housing Act, 1968—guaranteeing access to the ballot, public education, employment, restaurants, hotels and other public places, and the sale and rental of housing
4. Two Constitutional Amendments—24th (XXIV) and 25th (XXV)—right of the people of the nation's capital to elect the president/vice-president (victory for the largely African American city of Washington, DC) and the abolishing of poll taxes
5. President deployed federal troops in the South to enforce civil rights—Little Rock in 1957 and University of Mississippi in 1962
6. Reemergence of countervailing forces with Nixon, Reagan, and conservatism

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IV. The Fourteenth Amendment
  A. Origins and Development
    1. *Slaughterhouse Cases*
    2. Expansion of power of the federal government in relation to the states as the basis for the protection of freedom
    3. Section 1—The "Privileges and Immunities," "Due Process," and the "Equal Protection" clauses were used for the "incorporation" of the Bill of Rights to apply to the states
  B. The Supreme Court and the Fourteenth Amendment, 1865–1925
    1. Era when universal freedom is denied
    2. SCOTUS began to alter views to restrict the 14th Amendment
      a) Declared Civil Rights Act, 1875, unconstitutional
      b) *Plessy* v. *Ferguson*, 1896
      c) *Lochner* v. *New York*, 1905
  C. The Supreme Court and the Fourteenth Amendment, 1925–2015
    1. Era when universal freedom is expanded/protected
    2. SCOTUS began process of "incorporating" or "universalizing" the Bill of Rights to protect civil liberties on case-by-case, amendment-by-amendment basis—Amendments 1, 2, 4, 5, 6, 8, 9 (I, II, IV, V, VI, and VIII, IX)
    3. *Brown* v. *Board of Education* in Topeka, Kansas, 1954 and 1955
    4. *Heart of Atlanta Motel* v. *the United States*, 1964
  D. The Rehnquist and Roberts Courts and the Revival of State-Centered Federalism
    1. Revival of state-centered federalism
    2. SCOTUS rules in favor of state power over federal
      a) *New York* v. *United States,* 1995
      b) *United States* v. *Lopez,* 1995
      c) *Pennsylvania* v. *Union Gas,* 1989
      d) *Seminole Tribe of Florida* v. *Florida,* 1996
      e) *United States* v. *Morrison et al.,* 2001
      f) *Kimel* v. *Florida Board of Regents,* 2001
      g) *Board of Trustees of the University of Alabama et al.* v. *Garret et al.,* 2001
      h) *Nevada Department of Human Resources* v. *Hibbs,* 2004
      i) *Tennessee* v. *Lane,* 2004
      j) *Coleman* v. *Court of Appeals of Maryland et al.,* 2004

Faces and Voices in the Struggle for Universal Freedom

- Link to online biography/history on Eleanor Roosevelt at FDR Library: [www.fdrlibrary.marist.edu/education/resources/bio_er.html]

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For Discussion

1. Explain federalism, and discuss how it may advantage and disadvantage racial or ethnic groups in their quest for freedom and equality.
2. Explain the relationships between federalism, race, felonies, and the right to vote.
3. Explain the difference between national-centered power and state-centered power.
4. What was the role of the Freedmen's Bureau and how did it facilitate the freedom and citizenship for formerly enslaved Africans and poor whites?
5. Why is the Fourteenth Amendment referred to as the American charter of universal freedom?

Suggested Websites and Resources

- Link to Fugitive Slave Acts: 1793 and 1850
  [www.history.com/topics/black-history/fugitive-slave-acts]

- Link to Supreme Court decisions (Access at oyez.org)
  - *Slaughterhouse Cases (1873)*—83 U.S. 36 (1873)
  - *Civil Rights Cases of 1883*—109 U.S. 3 (1883)
  - *Dred Scott v. Sanford* (1857)—60 U.S. 393 (1857)
  - *Plessy* v. *Ferguson* (1896)—163 U.S. 537 (1896)
  - *Brown* v. *Board of Education I* (1954)—347 U.S. 483 (1954)
  - *Brown* v. *Board of Education II* (1955)—349 U.S. 294 (1955)
  - *U.S. Term Limits, Inc. et al.* v. *Thornton et al.* (1995)—514 U.S. 779 (1995)

- Digital History Online: *America's Reconstruction*
  [www.digitalhistory.uh.edu/exhibits/reconstruction/index.html] and

  see also Digital History *Visual Timeline of Reconstruction: 1963–1877*
  [www.digitalhistory.uh.edu/exhibits/reconstruction/timeline.html]

- The Freedmen's Bureau (maps and figures)
  - [http://www.freedmensbureau.com/
  - [http://www.archives.gov/research/african-americans/freedmens-bureau/
  - [www.pbs.org/wnet/jimcrow/stories_events_freed.html]

- Links to Jim Crow Timeline:
  - [www.ferris.edu/HTMLS/news/jimcrow/timeline/jimcrow.htm]
  - [www.pbs.org/wnet/jimcrow/segregation.html]
  - [www.ushistory.org/more/timeline.htm]

- American Federalism: 1776–1997 (By: Eugene Boyd, Analyst in American National

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Government, Government Division, US Embassy)
[https://usa.usembassy.de/etexts/gov/federal.htm]

- Civil Rights Timeline
  [https://www.sitinmovement.org/history/america-civil-rights-timeline.asp]

  Digital History Online: *Timeline for African American Civil Rights*
  [www.digitalhistory.uh.edu/timelines/timelinetopics.cfm?tltopicid=4]

- Timeline of Federal Actions Affecting Poverty in the United States
  [https://networklobby.org/wp-content/uploads/2013/12/PovertyTimeline.pdf]

- Brennan Center for Justice at the New York University School of Law
  - Issues on "Voting Rights" [www.brennancenter.org/issues/voting-rights-elections]
  - See also, "Restoring Voting Rights" [www.brennancenter.org/issues/restoring-voting-rights]

- Link to Gettysburg Address by Abraham Lincoln
  - [www.history.com/topics/american-civil-war/gettysburg-address]

- Link to "I Have a Dream" by Rev. Dr. Martin Luther King
  - Youtube video "I have a dream" [https://www.youtube.com/watch?v=smEqnnklfYs]
  - American Rhetoric Top 100 Speeches
    [www.americanrhetoric.com/speeches/mlkihaveadream.htm]

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