**Sovereignty and Federalism in the European Union**

**Introduction:**

The European Union exists as a unique legal entity in the world. It is not a “state” or “nation,” but it also is not an “international organization” or “intergovernmental organization” either. It exists as a “supranational” organization, with elements of both International Organizations and States present concurrently.

The members of the European Union have agreed to “pool” their sovereignty in some areas, such as agriculture and in the case of Eurozone nations, monetary policy, while maintaining their sovereignty in others areas, such as defense. In yet other areas, like foreign policy, members maintain their own set of foreign policies while also being represented abroad by the European External Action Service, which maintains diplomatic missions throughout the world and represents the EU as a whole. These decisions allow the EU to facilitate joint policy making in some areas, and to coordinate policy in others.

The setup of the EU is in some ways similar to the Federal structure of the US, in that individual states remain sovereign and under the US constitution, have some powers retained to them exclusively. In other areas, they are denied power, and yet in others, individual states share power with the national government. Comparing the US Federal Government to the EU can help students understand better the relationship between the EU and its members, as well as the concepts of sovereignty and Federalism.

**Procedure:**

The teacher should begin by helping students define the terms “state” and “nation.”

Nation: A group of people who have a similar culture, language, history, customs, etc.

State: A legal entity that has clearly defined borders that controls and that typically has widespread acceptance, and that also has total control over what occurs inside of those borders (ie, control over its population).

The teacher should tell students that while the terms “nation” and “state” are often used interchangeably, they are not always the same. For instance, in the US, the Cherokee Nation exists, but while it is a nation, it could not be considered a state, as it does not have international recognition of its borders or have total control over what happens in those borders. Similarly, a state does not always comprise a “nation” of people. In the AP Comparative Government curriculum, Nigeria is a good example of a “State” that is not a “nation,” due to the various ethnic and religious groups that comprise the country.

The teacher should then inform students that because “states” have internationally recognized borders and control of what goes on in those borders, they are said to have “sovereignty,” a legal term that characterizes most countries, like the US.

The teacher should ask students to brainstorm a list of characteristics that sovereign states have. Answers may include:

* Constitutions
* Military
* Judicial systems
* Foreign, Defense, and Economic policy
* Legislatures
* Executives
* Governmental Agencies
* Enforceable domestic laws
* Membership in international organizations

Note that while places like Taiwan and Kosovo may have many of these characteristics, they cannot be considered completely sovereign because of questions over what government controls their territory.

Next, the teacher should explain that there are three major types of governmental structures: Confederation, Federal, and Unitary. The teacher should help students define where each of these derive their power:

In a **Unitary** government**,** the national government derives its power from the people, and the subnational, or regional governments (referred to as “states” in the US) derive their power from the national government, which can increase or decrease the power of the subnational governments at any time. Many states in the world are unitary, in the AP Comparative Government curriculum, they include the UK, China, and Iran. In the UK, “devolution” has occurred, where power has been devolved by the UK Parliament to local authorities in Scotland, Wales, and Northern Ireland. However, this is not true Federalism, as the UK government can take back this devolved power at any time.

In a **Confederation,** the subnational, or regional governments, derive their power from the people, and the national government derives its power from the subnational governments. Probably the best example of a Confederation in the world today is Switzerland, in that its individual Cantons still maintain large degrees of power. Historically, under the Articles of Confederation, the US also was a Confederation at one point in its history. If the teacher wanted, they could at this time ask students why so few confederations exist/why the US government under the Articles of Confederation were unsuccessful.

In a **Federal** government, both the national and subnational, or regional, governments derive their power from the people. As a result, both national and subnational governments share power and also have exclusive powers. Additionally, one cannot destroy the other. The United States was the first “federal” nation, due to its unique founding as a nation. However, the US model has been copied by other nations, including Canada, Australia, India, Germany, and Brazil. In the AP Comparative Government curriculum, Federal nations include Nigeria and Mexico, with Russia practicing “asymmetrical federalism” or a situation where some of its regions are granted more autonomy than others.

Under Federalism, both the national and subnational, or regional government maintain sovereignty. This can best be seen in cases where the national government exercises its right to set monetary or foreign policy without input of the states, or when states determine educational standards, or in several recent high-profile cases, conduct executions of foreign nationals convicted of crimes after being asked by the Federal government to grant stays of execution. At the same time, there are also areas of “shared” control, such as the power of both Federal and State officials in the US to raise taxes, charter corporations, and operate court systems.

 At this point, ask students to compare the European Union to the United States. Ask them in what ways the US is similar to the EU. Answers may include:

* Common market
* Standardized rules across boundaries
* “Supreme Court” role in EU served by ECJ.
* For nations that belong to the Eurozone, common monetary policy

If students do not cover this, the teacher can also explain that, just as in the US where there is “national citizenship” as well as citizenship of the state where people live, in the EU, there is EU citizenship, along with the citizenship of the country a person belongs to. Just as with the US, different citizenships mean different rights, and obligations, to those that hold it. Specifically, the EU, through the ECJ, has issued rulings overturning national courts to protect the rights of EU citizens, similar to the way the US Supreme Court exercises the power of judicial review over state actions in the US.

Then, ask students to explain in what ways the EU is not like the US. Answers may include

* Lack of currency shared by all nations
* Lack of one written Constitution
* Lack of three co-equal branches of government
* Lack of a military
* States as members that are stronger that states in the EU
* Weaker democratic institutions (only the European Parliament is elected directly by the people).
* Students may also mention lack of nationalism or lack of a founding historical myth, like the American Revolution

At this point, the teacher should break the students off into groups, and have each one answer the following questions:

1. What are the advantages and disadvantages to Federalism?
2. Should the Federal government of the US start to exert more control over the states? What are the advantages and disadvantages to this?
3. In light of your answers to Question #2, do you think the EU should gain more power over its member states? How do you feel the member states would react to such a situation?

Student answers to these questions will vary, but may include

1. Advantages: Allows for more access to power (more offices for more people), allows for more experimentation at the local level, allows for solutions that are sensitive to local concerns (especially important in areas with significant ethnic or religious minorities, such as in Nigeria), serves as another check on national power.

Disadvantages: Slows up decision making, can lead to differing sets of laws applied, results in tensions between national and regional governments, can be used as a tool to discriminate (the American South in the first half of the 20th century).

1. Advantages: Speeds up decision making, eliminates differences in local laws, ensures everyone is receiving the same level of services, could make government cheaper and more efficient.

Disadvantages: Makes people feel as though they are losing control and their voice, “one size fits all” laws and regulations may not be the best, concentrates power in the national government, eliminates the ability to experiment at the local level.

1. If the EU continues to gain more power, it theoretically could ensure that its members adhere to the rule of law, ensure democracy continues to flourish, and provide better protection to “EU citizens.” However, it could also mean an erosion of national sovereignty and the stirring of internal dissention among members and citizens. Fears over the growing power of the EU helped fuel the Brexit vote of 2016. Additionally, fears over a resurgent Germany or a Franco-German alliance dominating European politics through the EU could be heightened if the EU continues to gain more power, this is a fear especially for the smaller members of the EU.

Finally, ask students to determine which is more powerful, relative to its regional governments, the US or the EU? Most students will identify the US. Ask students why they think this is. Answers may include:

* A sense of “being an American” is stronger than “being a European”
* The US civil war settled questions of national supremacy
* In the 20th century, the Great Depression and World War II established the need for a strong central government
* A common language has facilitated the movement of people across the US, helping to eliminate regional differences and prejudices
* The US has a much longer history of common institutions
* America has a common history, whereas European nations have more focus on their individual histories
* The US Constitution, due to the Supremacy Clause and the Necessary and Proper Clause, is able to act in ways the EU legally cannot

The teacher can ask students what they believe would need to happen for the EU to truly become a “United States of Europe.” Answers may include:

* A growing sense of “European-ness” among EU citizens, as opposed to thinking about their own nation first
* A crisis that forces members closer together
* Continual gradual integration over many years

The teacher can then ask students to assess the likelihood, based on the conversation of the lesson, as to whether or not the EU will more closely resemble the US in future years. As part of this conversation, the teacher may wish to reference again the US under the Articles of Confederation, and ask students if they think the EU will follow a similar pattern of gradually giving more power to EU institutions at the expense of national power, similar to the way that the Federal government of the US gradually acquired more power at the expense of the states, and what the difficulties for this would entail.