

FIRST YEAR CORE COURSE LEADERS' COMMUNITY OF PRACTICE TOOLKIT

Flexible learning: HD essay exemplar

Teacher: Cassandra Star

Course: POL1000 - Government, business and society

Rationale

Cassandra provides an HD standard exemplar of her final assignment so students can see what a successful attempt looks like. She also provides pass and fail standard exemplars for students as a point of comparison. The use of exemplars, such as this, and marking criteria help make lecturer expectations more transparent to students and help them understand what they have to do.

Activity

Cassandra has used the comment function to include notes about what the student has done well, in relation to assessment criteria, and what could be improved. Other means of inserting comments include the use of 'call-outs' and dividing the page into two uneven columns, with the essay on the left and comments on the right.

Sample text

HD Essay exemplar [see next page].

FIRST YEAR CORE COURSE LEADERS TOOLKIT ITEM

Flexible learning

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Question Answered: “Federal systems of government are a political compromise between regional autonomy and nationhood” (Ryan, Parker and Brown 2003, p. 112). Discuss this statement, using a country of your choice that is a federation, and provide examples.

This paper will use Australian federalism as a model to suggest that the claim that federal systems of government are a compromise between regional autonomy and nationhood does not stand up to scrutiny. Indeed it would perhaps be more appropriate to turn the statement on its head and say that federalism in Australia has compromised regional autonomy for the sake of nationhood. Federalist notions of regional autonomy in Australia have become severely compromised by Commonwealth financial control and the external affairs power. Questions of regional autonomy are vitally important as they go to the heart of federalism but perhaps most importantly because: “effective government at the local or regional levels of society can be just as important to citizen’s quality of life as government at the national level” (Brown 2004, p. 11). This is especially the case in geographically expansive countries such as Australia. This paper will begin by defining federalism and examining its differences from unitary systems of governance.

Initially, this paper will seek to establish a working definition of federalism and outline the differences between federalism and unitary or merely decentralised systems. The core American designs continue to encapsulate the theory of federalism today (Galligan 1995, p.18; Forell 1974, p. 22). Federalism is at its essence a web of compromises (Blainey 2004, p. 27). Semantically, the system has its roots in the latin word foedus, meaning union (Frenkel 1986, p. 55). This aptly describes the manner in which federalism is a division or dissipation of power between the national government and territorial governments (Singleton et al 2006, p. 30; Brown 2004, p. 11; Emmy and Hughes 1988, p. 264; Solomon 1973, p. 117). This division allows for a degree of regional autonomy which is central to the federalist system (Emmy and Hughes 1988, p. 264). Without such autonomy the system would be merely decentralised and not federalist (Frenkel 1986, p. 55). Federalism differs from unitary forms of government as a federalist system is united but not unitary. In a federalist system there is genuine power sharing with, and autonomy of, another tier of government (Frenkel 1986, p. 55).

Federalism as a form of governance is not without it’s critics. Some sources describe federalism as a complex and unpopular form of government (Solomon 1973, p. 116). Others see federalism as a transitional system which is inherently too weak to remain as a permanent fixture in any polity (Emmy and Hughes 1988, p. 265).

Comment [FoB1]: A contextual sentence at the beginning of the assignment would improve it.

Comment [FoB2]: Makes clear the (1) argument, and (2) key topic.

Comment [FoB3]: Makes very clear the author’s position.

Comment [FoB4]: A clear signpost on how the essay will proceed.

Comment [FoB5]: Overall, a clear introduction and argument, but a bit more signposting would improve it.

Comment [FoB6]: Begins by outlining the key concepts.

Comment [FoB7]: Shows an excellent grasp of the literature and the author’s ability to understand and synthesise the important positions/points.

Comment [FoB8]: Clearly establishes a link back to the main question; the discussion is clear, focussed and concise with appropriate detail and depth.

Comment [FoB9]: Shows a range of perspectives within the literature, not just one position.

They suggest that a federalist system is always drifting towards either centralism or cessation of its regional entities. Critics of Australian federalism often see the Realpolitik of declining regional autonomy in this light.

Comment [FoB10]: This section could be improved with a little more detail/depth.

Comment [FoB11]: There is no link made between this section and the next – this leads to essays seeming disjointed. Always aim to link between your sections seamlessly.

The Constitution, like all documents is a reflection of the time in which it was drafted (Singleton et al 2006, p. 30). The Constitution's concern with the primacy of states stems from colonial times where each colony was the focus of governance for the people that lived within it (Summers 2004, p. 136). A feature of federalism is the manner in which it arises as a direct response to external threat (Emmy and Hughes 1988, p. 263). Indeed some sources describe this as a defining feature, the absence of which denotes a system that is not of a federal nature. Australia differs in this way from other federal systems in that it did not form a federation for any high ideal or because of some external threat (Summers 2004, p. 136). This, it has been suggested is the reason why "the federal system has been a perennial source of tension and debate in Australian politics" (Emmy and Hughes 1988, p. 263). Australian federalism began as a political arrangement of convenience which necessitated that protection of colonial interests in the Constitution. In recent years however the balance of power has shifted greatly towards the Commonwealth.

Comment [FoB12]: This is an example of poor use of a quotation. You should not use quotes to make a point. Instead, they should be used to highlight or illustrate a point.

Comment [FoB13]: A good example of linking between paragraphs.

The history of Australian federalism has involved a shift in the balance of power to the Commonwealth greatly limiting regional autonomy. Indeed, this shift in power has meant that the written word of the constitution does not reflect the actuality of the power relationship between the two tiers of government (Summers 2004, p. 155). As Summers suggests: "the states are no longer independent political entities which are sovereign in their own areas of constitutional responsibility. To the extent that the constitutional division of power is eroded, the benefits of federalism-diversity, the accommodation of regional difference, protections against the concentration of power-are diminished" (2004, p. 155). Why then have the States become, as some have argued mere 'agents of the Commonwealth' (Hurford 2004, p. 48) The financial control of the Commonwealth is a key source contributing to the loss of regional autonomy in Australia.

Comment [FoB14]: An example of good use of a quote. The quote follows on from a discussion of a related point, and use used to back up or highlight this point that has already been made.

Comment [FoB15]: Good link to next paragraph.

There is little doubt that vertical fiscal imbalance caused in large part by the monopoly the Commonwealth has in relation to income tax revenue, has led to a

strong decline in regional autonomy (Lucy 1993, p. 296). Vertical fiscal imbalance explains the way in which the States spend more revenue than they raise whilst the Commonwealth raises more revenue than it spends (Solomon 1973, p. 127). During the period spanning World War Two the Federal government sought to gain control of income tax. It subsequently offered grants to the States in compensation for lost income tax with the condition attached to such grants that the States do not re-enter the income tax field. The constitutional veracity of such legislation was upheld by the High Court in the *Uniform Tax* cases in 1942 and 1957 (Saunders 2004, p. 66). The Commonwealth repealed this legislation in 1959 however the arrangement has survived due to the financial power imbalance between the two tiers of government. As Blainey suggests, “What was intended during a crisis of war to be only a temporary loss of each State’s independence became permanent” (2004, p. 27). Adding to the extent of the fiscal imbalance is the political unpopularity of the forms of taxation the States were left with. The States revenue raising options are anti-employment, anti-business and anti-social, such as payroll, stamp duty and gambling taxes (Hurford 2004, p. 48). Political limitations therefore limit the State’s abilities to gain revenue from these sources. The Goods and Services tax has furthered the decline of State independence by also acting to limit the amount of indirect taxation the states can levy (Lucy 1993, p. 296). Furthermore, *Ha v. New South Wales 1997* decreased state ability to collect excise tax increasing state dependence on the Commonwealth (Summers 2004, p. 143). Another, related reason for the increase in Commonwealth financial power is the advent of Specific Purpose Payments (SPP) or tied grants.

Comment [FoB16]: Italicise all names of cases.

Comment [FoB17]: How does this paragraph related back to the original question? You should clearly and consciously establish the relationship between individual points, the main argument and the question for each paragraph.

Comment [FoB18]: This paragraph is a little long. Each paragraph should take and carefully develop just one key idea or element of your argument.

SPP’s are essentially grants from the Commonwealth to the States with conditions tied to them. This has allowed the Commonwealth to exercise considerable control over the manner in which the States spend their money. Some would even suggest that the “Commonwealth now exercises the same degree of overall fiscal control over the states as over its own departments and agencies” (Mathews cited in Galligan 1995, p. 17). SPP are allowed by virtue of S96 of the Constitution and they have been upheld by the High Court since the Federal Roads case 1926 (Summers 2004, p. 139). They have in effect seen the Commonwealth make inroads on traditionally State policy areas, for example, schools and transport (Lucy 1993, p. 298). Some would argue that SPP’s are not such a threat to regional

autonomy as many payments have allowed considerable leeway in their implementation. This however largely ignores the significance of the fact that the Commonwealth is not only able to decide the amount of revenue the States can receive but the manner in which it is spent. Such a situation is the antithesis of regional autonomy (Summers 2004, p. 141).

Comment [FoB19]: Good tie back to the main question.

The 1980's saw a number of key High Court decisions that have greatly expanded the authority of the Commonwealth. Most significantly the broad reading by the court of the external affairs power in section 51(xxix) has allowed the Commonwealth government the ability to legislate on matters that were traditionally the province of the states if these matters relate to international obligations (Summers 2004, p. 13). Given the explosion of international law over recent years this does not leave many areas of governance that are beyond Commonwealth reach (Summers 2004, p. 137). Some examples of such cases include the Koowarta case 1982 which related to anti-discrimination legislation. Another example identifying the break down in State autonomy due to the external affairs power is the Tasmanian Dam case 1983 (Summers 2004, p. 138). This allowed the federal government to overrule the Tasmanian government's plans for a hydro-electric scheme based on international heritage agreements. A similar outcome was seen in the Lemonthyme and Southern Forests case 1987 which prevented logging of old-growth forests in Tasmania. Some see this power as a direct threat to constitutional democracy in that the Commonwealth's power comes from international treaties it enters into and not from Constitutional sources. In any case/ it has seen a further shift in the federal power divide that has acted to decrease regional autonomy.

Comment [FoB20]: A stronger link between the two paragraphs needed.

Comment [FoB21]: Avoid informal language. Academic writing is quite formal.

Comment [FoB22]: Choose just one case and explore it in depth to support your argument.

In Summary, Australian federalism has compromised regional autonomy. This paper has demonstrated that the Australian federal system has seen a significant shift in power away from the States towards a more centralised system of governance. Regional autonomy has been compromised in Australia by a Commonwealth taxation monopoly which has created an extensive vertical fiscal imbalance of an extent not seen in any other federation in the world. Furthermore, the Commonwealth has gained policy control over traditionally State governed areas by the use of Special Purpose Payments. Finally, a reduction in regional autonomy has resulted from the High

Comment [FoB23]: A conclusion is more than a summary – see the marking guide on the three elements of a conclusion.

Courts expansive reading of the Commonwealth's external affairs power. These factors have led to a situation in which the original constitutional federal arrangements have been eroded to such a point that the advantages of federalism in terms of regional autonomy are all but nominal. Sadly, "many of Australia's regions continue to be forgotten and left behind in the operation of our system of governance in partice" (Gray 2004, p.17).

Comment [FoB24]: A critical part of any good essay is the "take home message" – this is a very good example of one.