Political Coercion and Administrative Cooperation in U.S. Intergovernmental Relations

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Contemporary American federalism can be described as an era of coercive or regulatory federalism in which the predominant political, fiscal, statutory, regulatory, and judicial trends have entailed impositions of federal dictates on state and local governments. This era began in the late 1960s and succeeded a 35-year era commonly referred to as cooperative federalism. The era of coercive federalism has been marked by a shift of federal policy-making from the interests of places (i.e., state and local governments) to the interests of persons (i.e., voters and interest groups). That is, elected federal officials, as well as the federal courts, have been highly responsive to electoral coalitions, interest groups, and campaign contributors operating in the national arena and much less responsive to elected state and local government officials. Elected state and local officials no longer have any privileged voice in Congress or the White House as elected representatives of the people; instead, they must behave like interest groups and compete with all other interest groups in the federal policymaking arena where, quite frequently, they are unable to prevail against powerful interest groups that can bring crucial financial, ideological, and voter rewards and punishments to bear on the electoral fortunes of federal officials. Consequently, as U.S. Senator Carl Levin (Democrat-Michigan) commented to this author in 1988, 'There is no political capital [for members of Congress] in intergovernmental relations,' that is, in catering to the concerns of governors, state legislators, county commissioners, mayors, and the like.
At the same time, and somewhat paradoxically, cooperative federalism endures in the administrative arenas of the American federal system. Federal, state, and local bureaucrats generally maintain open and fluid lines of cooperation and coordination in the implementation of intergovernmental policies and programmes. Federal officials are rarely coercive with respect to policy implementation and administration, and state and local bureaucrats are rarely obstructionist. Even elected state and local officials are generally cooperative with respect to implementation, in part because they can often have more influence on policy implementation compared to policy formation. There are, of course, conflicts in intergovernmental administrative relations, but bargaining and negotiation are the principal tools of conflict resolution, with recourse to the courts being the last resort.

Characteristics of Coercive Federalism

The era of coercive federalism is marked by the following characteristics that set it apart from previous eras of cooperative federalism and dual federalism in U.S. history.

Grants-in-Aid

Although federal aid to state and local governments, which flows through some 608 categorical grants and 17 block grants, increased under President George W. Bush from $318.5 billion in 2001 to $466.6 billion in 2008 (about 15.9 per cent of federal outlays), federal aid has taken on three significant characteristics in this era of coercive federalism.

First, aid has shifted substantially from places to persons; that is, almost two-thirds of federal aid is now dedicated for payments to individuals (i.e., social welfare), compared to one-third in the mid-1970s. Among the long-term consequences of this shift is that place-oriented aid for such functions as infrastructure, economic development, and education has declined steeply, and the increased aid for social welfare has locked state budgets into programmes ripe for escalating federal regulation and matching state costs.

Medicaid (enacted in 1965), which alone now accounts for almost 45 per cent of all federal aid and serves nearly 52 million people, is the leading example of this shift. Medicaid is a matching grant programme for states to provide health care to poor people. Combined federal and state spending on Medicaid increased by 63 per cent during the past five years. The federal government provides 57 per cent of the nearly $300 billion of total Medicaid
funding. President Bush proposed $45 billion in Medicaid reductions over ten years, a proposal strongly resisted by the governors. In turn, Bush wanted to give states more flexibility and to reduce or eliminate the current process by which states must apply for waivers from federal rules in the administration of Medicaid. However, even with state cutbacks in services, Medicaid continues to display a voracious appetite for state dollars.

A second characteristic has been increased use of conditions of aid to achieve federal objectives that lie beyond Congress’s constitutionally enumerated powers and to extract higher levels of spending on federal objectives from state and local governments. Conditions of aid, which are often mistakenly called ‘mandates’, are a powerful tool for federal policymakers. The 670-page No Child Left Behind Act (NCLB) of 2002, which provides federal aid to public elementary and secondary schools, is the states’ current cause célèbre because of the costly testing and performance requirements established by the NCLB in an effort to ensure that all children will be grade-level proficient in reading and mathematics by 2014. Even the governor and legislature of Utah, the state that voted the most for Bush in 2004, have demanded more freedom from the NCLB’s ‘mandates’. Recent research seems to confirm state officials’ complaints that the NCLB’s compliance costs substantially exceed the law’s grant-in-aid funding. Although the U.S. Department of Education took a more flexible approach to enforcing the NCLB after Bush’s 2004 re-election, President Bush wanted to extend the NCLB’s requirements beyond the eighth grade to all public high schools. The ability of the federal government to impose these conditions is somewhat astonishing because the federal government provides only about eight per cent of all funding for public elementary and secondary education; however, no state wishes to forego this federal money.

Another example is the Adam Walsh Child Protection and Safety Act of 2006, which imposes various requirements on states, including establishment of a statewide registry of sex offenders that conforms to federal standards and is compatible with a new National Sex Offender website. All states must also have a three-tier system for classifying sex offenders. States failing to comply by July 2009 will lose 10 per cent of their funding under the 1968 Omnibus Crime Control and Safe Streets Act.

After a two-year battle, Congress reauthorized the Individuals with Disabilities Education Act (IDEA) in 2004 and even authorized the federal government to pay by 2011 nearly 40 per cent of the states’ annual excess costs of educating the nation’s 6.5 million children with disabilities. This 40 per cent had been promised when IDEA was enacted in 1975, but it
never exceeded 19 per cent. However, IDEA funding remains discretionary, and the reauthorized IDEA imposes new regulations on the states while also providing relief from some previous rules.

In response to this trend, the National Conference of State Legislatures recently revived its Mandate Monitor, estimating that the costs to states of carrying out federally mandated programmes exceeded $35 billion in 2005. Strictly speaking, only few, if any of these costs, stem from mandates. Instead, the costs stem from such things as conditions attached to federal aid, federal failures to release funds, substantive changes to entitlement programmes, reduced funding for administration, unfunded increases in administrative rules, increased sanctions, and changes in federal tax policies.

The third notable change affecting the delivery of aid to places has been a significant increase in congressional earmarking (i.e., pork-barreling) in which grant-in-aid funds are appropriated for specific projects and programmes requested by members of Congress for their states and districts. The number of earmarks increased from under 2,000 in 1998 to 9,362 by 2003. For example, the 2004 surface-transportation bill (SAFETEA) contained some 2,881 earmarks compared to 538 in the 1991 act and 1,800 in the 1998 law. Earmarks in appropriations bills increased to 13,997 in 2005 and then dropped to 9,963 in 2006, according to a watchdog group, Citizens Against Government Waste. The price of earmarks increased from $27.3 billion in 2005 to $29 billion in 2006. An estimated 11,144 earmarks costing $15 billion were embedded in Congress’s 2008 spending bills.

To use another example, for the first time in its history, the Fund for the Improvement of Postsecondary Education (FIPSE) cancelled its 2005 competition for grants because 89 per cent of the appropriation was already consumed by 419 earmarked grants (compared to two earmarks accounting for 18 per cent of the appropriation in 1998). Earmarking advocates argue that members of Congress, as elected officials, are better qualified than 'bureaucrats' and even elected state and local officials to make funding allocations for states and localities. As the Wall Street Journal opined in 2005:

Republicans ... aren't using their majorities to rework transportation spending to fit their federalist principles. GOP highway bills are just as bad as those Democrats used to pass, with their top-down, feds-know-best direction. States and localities would know better how to spend the money .... But of course that would reduce the political leverage of individual Members [of Congress] doling out the cash.
Mandates

Mandates are another characteristic of coercive federalism. A mandate is a direct federal order requiring state or local governments to provide certain services or perform certain duties. Failure to comply can trigger civil and/or criminal penalties. Congress had enacted one major mandate in 1931, one in 1940, and then none during 1941-1963. From 1964 to 1969, however, Congress enacted nine major mandates, followed by 25 during the 1970s, 27 during the 1980s, and eight in the early 1990s. However, after vigorous protests by state and local officials, as well as the Republican victories in the 1994 congressional elections, mandating plateaued with the enactment of the Unfunded Mandates Reform Act (UMRA) of 1995. UMRA cut new mandate enactments sharply, but did not eliminate standing mandates.

A sizable new mandate is the REAL ID Act of 2005, which requires states to replace all existing driver’s licenses with new licenses that conform to federal security standards. States argue that REAL ID is under-funded and could cost $11 billion for states to produce compliant driver’s licenses. States, which originally had to comply by May 2008, can opt out of REAL ID’s rules, but then their residents’ licenses will be unacceptable for federal-government purposes, including boarding an airplane, riding Amtrak trains, purchasing a firearm, opening a bank account, applying for federal benefits, and entering a federal building.

About 17 states (e.g., Maine and Washington) enacted anti-REAL ID measures in which they refused to participate, expressed opposition to the law, and/or asked Congress to amend or repeal the law. In 2007, Senator Susan Collins (Republican-Maine) introduced a bill in Congress to delay implementation. When it appeared that she had a veto-proof majority behind her bill, the U.S. Department of Homeland Security (DHS) proposed to ease regulations.

In January 2008, the DHS issued new rules and estimated that state implementation-costs will not exceed $3.9 billion. On May 11, 2008, state driver’s licenses and identification cards were no longer valid for federal purposes unless the DHS ruled that a state had complied with REAL ID or had received a DHS waiver authorizing a compliance extension. All states requested an initial extension of compliance until the end of 2009. The DHS expects all states to comply by 2011, but states will have until May 11, 2014, to issue compliant licenses to drivers born after 1964, and until December 1, 2017, for drivers born before 1964. Congress has appropriated $90 million to help states implement REAL ID, though only $6 million has been obligated. Bush’s FY 2009 budget proposed $50 million
Varieties of Federal Governance

for verification system development and connectivity support, as well as a new $100-million National Security and Terrorism Prevention Grant.

Preemptions

Preemption, which follows from the U.S. Constitution's supremacy clause (Article VI), means that the federal government overrides and displaces state or local authority or laws with a uniform federal law. In cases of total preemption, state and local governments must either comply completely with a new federal legal standard or stop acting in the area now covered by federal law. In cases of partial preemptions, the federal government ordinarily establishes minimum national standards (e.g., many areas of environmental protection), but state or local governments can enact higher standards.

The era of coercive federalism has been marked by an exponential increase in federal preemptions of state and local powers. According to available data, from 1970 to 2004, a period of 34 years, Congress enacted some 320 explicit preemptions compared to about 200 preemptions enacted from 1789 to 1969, a period of 180 years.\textsuperscript{8} Put differently, 62 per cent of all explicit preemptions in U.S. history have been enacted during the past 15 per cent of years of U.S. history. U.S. Representative Henry Waxman (Democrat-California) reported in June 2006 that during the previous five years, Congress voted at least 57 times to preempt state laws. Of those votes, 27 yielded preemption bills signed by President George W. Bush (2001–2008).

The historically unprecedented levels of federal preemption characteristic of coercive federalism was well symbolized by enactment of the federal Class Action Fairness Act of 2005, which prohibits state courts from hearing most class-action suits that involve more than 100 plaintiffs and $5 million in potential damages. Such suits must now be heard by federal courts. This is a major change in tort law and, thus, a major derogation of an historic state power. The act, however, is only the first of what President Bush and many members of Congress foresaw as much broader preempting of state tort powers.

In March 2004, the U.S. Office of the Comptroller of the Currency issued a final rule preempting a range of state laws previously applicable to national banks. Comptroller John D. Hawke said,

"Federal preemption is not a new idea, Its roots lie in the Supremacy Clause of the Constitution, and the courts have repeatedly held that the states cannot restrict the federally authorized activities of national banks."\textsuperscript{9}
Insurance regulation, long a state responsibility, will likely come under increased congressional scrutiny, especially with insurance companies pressing for federal intervention and with the collapse of some large insurance companies during the financial crisis of 2008. As U.S. Senator Richard C. Shelby’s office put it, “If the state regulators are not up to the task of regulating the insurance industry, we may have to look at alternatives.”

Preemption is frequently upheld by the U.S. Supreme Court. In fact, the ‘Federalism Five’ justices who ordinarily voted for the states in federalism cases involving the commerce clause and the Tenth and Eleventh Amendments often voted against the states in preemption cases. In a pair of 2004 cases, for example, the Court unanimously held that patients’ rights laws in ten states that allowed patients to sue their health plans over decisions to withhold coverage were preempted by the 1974 federal Employee Retirement Income Security Act (ERISA).

Taxation

Another characteristic of coercive federalism has been federal constraints on state taxation and borrowing, beginning especially with the enactment of limits on tax-exempt private-activity bonds in 1984. Federal judicial and statutory prohibitions of state taxation of Internet services and sales are among the most prominent, current constraints. In November 2004, Congress extended its Internet-access tax ban (i.e., the Internet Tax Non-Discrimination Act) to November 2007. In October 2007, President Bush signed a seven-year extension of this moratorium on state-local taxation of Internet access.

In response, a number of states negotiated the Streamlined Sales and Use Tax Agreement to collect sales taxes on interstate mail-order sales, but Congress has not endorsed the agreement and authorized states to require sales-tax collections by out-of-state vendors. Obtaining congressional endorsement, even with a Democratic president, will be difficult.

Congress did revive the federal income-tax deduction for state and local sales taxes (which had been eliminated in 1986) for 2004–2008, primarily to benefit taxpayers who live in states lacking an income tax (e.g., Florida, South Dakota, Texas, and Washington). However, itemizing taxpayers can only deduct their state and local income taxes or sales taxes, not both.

Talk in Congress and the White House about possibly repealing the estate tax permanently, limiting or eliminating the deductibility of all state and local taxes, providing new federal-tax deductions, and offering new tax incentives for saving and charitable giving could lead, directly and
indirectly, to reductions in state and local revenues. Even more ominous for state-local revenue systems is the growing discussion of enacting a federal sales tax or Value Added Tax (VAT).

Federalization of State Criminal Law

Another feature of coercive federalism has been the federalization of state criminal law, to the point where there are now some 4,450 federal criminal offenses, nearly half of which have been enacted since the mid-1960s. The number of federal prisoners has increased from about 20,000 in 1981 to nearly 180,000 today, and the number of federal prosecutors jumped from 1,500 in 1981 to more than 7,000 now. Generally, federal criminal laws are tougher than comparable state laws and make prosecutions and convictions easier than under state laws.

Demise of Intergovernmental Institutions

Coercive federalism has been marked, as well, by the demise of executive and congressional intergovernmental institutions established during the era of cooperative federalism to enhance cooperation. Most notable was the death of the U.S. Advisory Commission on Intergovernmental Relations (ACIR) in 1996 after 37 years of operation. This process began in the early 1980s with the abolition of the federal government’s ten regional councils and of the president’s Office of Management and Budget’s intergovernmental unit in 1983. The U.S. Senate’s once-active Subcommittee on Intergovernmental Relations was reorganized into a low-prestige Subcommittee on Efficiency, Federalism and the District of Columbia in 1987. The U.S. House’s subcommittee was re-named Human Resources and Intergovernmental Relations in 1987 in order to focus more attention on social-welfare programmes than on intergovernmental relations. The intergovernmental policy unit in the U.S. General Accounting Office was disbanded by 1993. The remaining intergovernmental affairs offices in the Cabinet departments became substantially politicized by the late 1980s.

Decline of Political Cooperation

There also has been a decline in federal-state political cooperation in major grant programmes such as Medicaid and surface transportation, with Congress earmarking and altering programmes more in response to national and regional interest groups than to elected state and local officials, who themselves are viewed as little more than interest groups today.
Federal Court Litigation

Coercive federalism also has been marked by unprecedented numbers of federal court orders and a quantum leap in the number of times state and local governments are sued in federal courts. Although federal court orders dictating major and costly changes in such institutions as schools, prisons, and mental-health facilities have declined since the early 1990s, state and local governments are subject to high levels of litigation in federal courts, with various interests often trying to block major state policy initiatives through litigation. The U.S. Supreme Court resurrected the U.S. Constitution’s Eleventh Amendment in the 1990s to restrain some types of such litigation, but the reach of the Court’s decisions has been quite limited.

Since 2002, the Supreme Court has exhibited a reluctance to continue its state-friendly federalism rulings initiated in 1991. In fact, in a major federalism case of 2003–2004, the Court, voting 5-4, held that states have no Eleventh Amendment immunity under Title II of the Americans with Disabilities Act against citizen lawsuits over gaining physical access to courts. The justices also upheld unanimously a 1984 federal law that makes it a federal crime to bribe a state or local official whose agency receives more than $10,000 in federal grants or contracts. The Court then generated turmoil in about a dozen state criminal-justice systems, plus the federal justice system, by overturning a Washington law that allowed judges to independently increase a convicted defendant’s sentence beyond the usual length for the crime. The Court even sustained one of the key structural supports for coercive federalism, namely, partisan gerrymandering, which creates so many safe U.S. House seats and fosters ideological polarization in Congress. By a 5-4 vote, the Court rejected a Democrat challenge to post-2000 census partisan gerrymandering in Pennsylvania.

Origins of Coercive Federalism

The origins of coercive federalism lie mainly in the disintegration of the unique party system that under-girded the Democratic Party’s New Deal coalition of 1932–68 and, thereby, an era of cooperative federalism. That coalition, which elected Franklin D. Roosevelt to the presidency in 1932, consisted primarily of strong Democratic urban party organizations (i.e., political machines) in the northern states and strong county party organizations (so-called ‘courthouse gangs’) in the Democratic South. As a result, Democrats controlled the federal government as well as a majority
of state governments more often than not during the 1932–68 era of cooperative federalism. Republicans captured the presidency only during 1953–60 and constituted a majority in both houses of Congress only briefly in 1947–48 and 1953–54. Otherwise, the Republican party was organized similarly to the Democratic party; that is, the centers of power in both parties were in the states and localities, especially in counties. This is because counties were the most important unit of local government in the South, counties administer state and federal elections, and, in both the South and the North, election districts for the U.S. House of Representatives and both houses of state legislatures conformed, in most states, to county boundaries.

The dominance of the Democratic Party did not lead to massive centralization of the federal system because white southern Democrats were consistent champions of states’ rights whose representatives in Congress strongly resisted policy proposals that would authorize federal infringements upon the prerogatives of state and local governments. In this, southern Democrats were often joined by conservative Republicans, thereby creating an effective block to intrusive federal legislation. As a result, for example, President Roosevelt did virtually nothing to assist black Americans in the South during his more than twelve years in the White House.

This party system, along with the states’ rights South, disintegrated during the 1960s in the face of multiple onslaughts. Most important was the rise of the black civil-rights movement of the 1950s and 1960s which, in effect, set about to liberate persons from the tyranny of places, namely, state and local governments. Given that the U.S. Constitution reserves police powers to the states, state and local laws, policies, and practices embodied the prevailing cultural and political orientations of their dominant residents and political forces. In the South, for example, this meant laws and policies that mandated race segregation and oppression of black Americans. Seeking relief from these state ‘apartheid’ regimes, black Americans appealed to the federal courts which, consisting of appointed judges, responded to those appeals, most notably in the U.S. Supreme Court’s 1954 Brown v. Board of Education18 ruling, which compelled southern states to dismantle their segregated school systems. Enforcement of federal-court orders mandating race desegregation required, at times, the use of U.S. troops, U.S. marshals, FBI agents, and other federal officers dispatched to recalcitrant states. Other civil-rights movements blossomed during the 1960s to advance individual-rights and equality protections for other minorities, such as Latinos and American Indians, as well as women, homosexuals, and disabled persons. As a result, a huge phalanx of federal-
court rulings, congressional statutes, and executive orders began to cut down vast fields of state and local laws, policies, and practices deemed discriminatory and to require state and local governments to conform to an ever larger array of federal rules and policies. This process culminated, perhaps, in the U.S. Supreme Court’s 2003 ruling that struck down the last anti-sodomy laws then still extant in 13 states.19

The traditional states’ rights South declined as well because southern states experienced substantial industrialization, modernization, and diversification away from agriculture after World War II. In addition, the invention of air conditioning to cool homes and businesses and the post-war construction of highways opened the South to massive migration from northern states, which induced cultural changes throughout the South.

These civil-rights movements and socioeconomic changes detached the southern states from the Democratic party and split the Democratic party in other states as various traditional Democratic voters, such as Roman Catholics and labor-union members, became disaffected from the party’s support of such culturally volatile issues as abortion and gay rights. However, because Democrats had nationalized these and so many other issues, Republicans, who were often traditionally supporters of states’ rights, also necessarily nationalized issues as they embarked on their march into federal power with the election of Richard M. Nixon to the presidency in 1968. Thus, the decisive 1994 congressional elections, which finally gave the Republicans majority control of the Congress – a position they maintained until 2006 – featured the Republicans’ ‘Contract with America,’ which deliberately nationalized those off-year elections as a winning strategy. Consequently, the Republican majority, like previous Democratic majorities in Congress, has regularly championed federal policies that override states’ rights.

This nationalization, however, is under-girded by the 1960s’ reapportionment revolution triggered by the U.S. Supreme Court in response to the equal-rights demands of civil-rights movements. That is, in 196220 and 1964,21 the U.S. Supreme Court ruled that, henceforth, election districts for the U.S. House and both Houses of state legislatures must be equal in population so as to conform to a ‘one person, one vote’ rule. Even though state legislators sought desperately to continue to conform election districts to county lines while complying with these court rulings, these efforts proved impossible. Consequently, the new election districts consolidated, cross-cut, and carved up counties, thus eviscerating the county as the fundamental unit of electoral representation and fundamental building block of the Democratic and Republican party organizations. Redistricting in conformity with the Court’s rulings was not completed in
all the states until after the 1970 census, producing in 1973 a Congress, especially the House, that was highly reformist and more egalitarian and individualistic than any previous Congress. In short, one-person, one-vote redistricting substantially transformed and nationalized the Congress.

At the same time, the rise of primary elections also weakened traditional party organizations and the power of party bosses. In primary elections, the rank-and-file members of each party vote to determine who the party’s candidates will be for president, representative, senator, governor, and so on in the November general election. The 1968 Democratic National Convention, held in Democratic boss Richard Daley’s Chicago, produced the last presidential nomination that was not dominated by primaries. Indeed, it was reformers at this convention who subsequently expelled the party bosses, demanded more primaries to determine presidential nominees, and insisted on proportionate representation of women, African-Americans, young people, and other groups, especially minorities, in all state delegations sent to future presidential nominating conventions. The Republican Party similarly reformed itself, especially with respect to primaries. As a result, the national Democratic and Republican party organizations have become much more important.

By the early 1960s, moreover, television had become a universal and ubiquitous feature of American life. The debates between presidential candidates John F. Kennedy and Richard M. Nixon in 1960, the Cuban missile crisis, the assassination of President Kennedy in 1963, and the Vietnam War all demonstrated the political value and power of television. This new medium contributed to rise of coercive federalism in three respects. First, television focused predominant attention on the federal government, especially the president but also the Congress and Supreme Court, to the detriment of coverage of state and local government and politics. Second, television became a key campaign mechanism, thus considerably reducing candidates’ reliance on traditional party mechanisms to gain election. Indeed, the rise of television and primaries, as well as other changes, has given rise to congressional and presidential candidates who, while affiliated with a political party, build and fund their own campaign organizations and run their own campaigns. Third, the cost of campaigning has required congressional candidates to rely on national groups, in addition to local groups, to help finance their campaigns.

The combination of (a) primary elections, which attract more ideologically motivated voters than middle-of-the-road voters, and (b) partisan redistricting (i.e., gerrymandering) has produced an increasingly ideological and ideologically polarized Congress, especially in the House, where incumbent reelection rates regularly exceed 90 per cent and most
members represent rather ideologically homogeneous districts. Members of Congress are attentive to their districts, but they are attentive to voting constituents, interest groups, and campaign contributors much more than to state and local government officials.

In summary, unlike the era of cooperative federalism wherein both presidents and members of Congress were substantially beholden to state and local government officials for their electoral fortunes and were, thus, prevented from imposing coercive policies on those governments, both presidents and members of Congress began to become substantially disconnected from state and local government officials during the 1960s. No longer being beholden to state and local government officials for their election fortunes, the prevailing electoral incentives for presidents and members of Congress shifted over to policies that are responsive to their ideological and financial supporters regardless of the impacts of those policies on state and local governments.

Cooperative Intergovernmental Administration

The rise of coercion and decline of cooperation in the intergovernmental political arena has not been accompanied, however, by a corresponding change in intergovernmental administrative relations. Instead, the implementation of federal policies, compliance with federal policies, and administration of federal grants-in-aid remain generally cooperative. Tensions and conflicts do, of course, occur in administrative intergovernmental relations, but the predominant tenor of those relations is cooperative, with negotiation and bargaining being key tools of cooperation. Why this is so, remains to be explored systematically, but a number of factors appear to contribute to this cooperation.

For one, the carrots and sticks of federal aid help to foster cooperation. Federal aid accounts for about one-quarter of state-local budgets. Second, many federal statutes associated with coercive federalism contain penalties, including, in some cases, civil or criminal penalties, aimed at uncooperative state and local officials.

At the same time, the U.S. federal system is not one of executive federalism whereby states are constitutionally obligated to execute federal framework legislation. Instead, the federal government is expected, for the most part, to carry out its own policies. To do so effectively, however, often requires the cooperation and assistance of state and local officials. Federal administrative officials, therefore, usually have incentives to work cooperatively with their state and local counterparts. In addition, the federal government does not, per se, share revenue with the states or engage in
fiscal equalization; thus, it does not have need for the administrative control and co-decision mechanisms usually required for those policies. Instead, the federal government operates a sprawling grant-in-aid system consisting of about 608 categorical grant programmes and 17 block grants. Given that most federal-aid money flows through categorical grants, the federal government exercises control through the purposes for which these grants are established, but otherwise works cooperatively on the administration of those grants and usually allows state and local officials' discretion in implementing those grants so long as each grant's purposes are realized, at least approximately. Block grants afford state and local governments even more discretion, but block grants have never accounted for more than about 18 per cent of all federal-aid money.

Another factor fostering cooperation is the courts. The courts play a large role in American intergovernmental relations. Following the era of massive resistance by southern state and local government officials to the federal courts in the 1950s and 1960s, state and local officials have become highly deferential to the courts, thus being generally cooperative with court rulings and orders, which are seen as central to the rule of law. State and local officials also know that the courts stand as potential hammers to compel compliance; hence, they have incentives to work cooperatively with federal officials. Likewise, federal officials, in seeking to foster compliance, are likely to negotiate and bargain with state and local officials before seeking judicial intervention.

Since the fall of massive resistance to desegregation in the South by 1965, there has been no cultural, ethnic, religious, or linguistic region in the United States having strong incentives to thwart or distort intergovernmental administrative relations. Similarly, partisanship does not play a major role in intergovernmental administrative relations. A predominantly Democratic state, for example, is not necessarily uncooperative, or less cooperative than a predominantly Republican state, with policies emanating from a Republican Congress and/or White House. In the political arena, there may be substantial partisan conflict over such huge intergovernmental grant programmes as Medicaid and surface transportation, but once federal policies on these matters are enacted into law, there are strong incentives for the bureaucrats to cooperate across party lines so as to administer those programmes effectively and efficiently for their constituents.

In an era of civil-service rules and professionalization, most federal, state, and local administrators also tend to shed the sharp edges of partisanship so as to focus on the execution of tasks under existing rules and within existing budgets. As such, they have incentives to cooperate.
In addition, federal, state, and local administrators within policy fields often share the same professional training and interact with each other in the same professional associations, which are usually more important to them than party affiliations. Federal, state, and local law-enforcement officials, for example, share common training and professional backgrounds as well as a general professional camaraderie that facilitate intergovernmental cooperation.

Additionally, state and local administrators are often advocates of tougher standards and higher spending in their policy field and, thus, often welcome federal intervention. State and local environmental officials, for example, are likely to welcome federal rules that set stricter environmental standards and require more state and local spending on environmental protection. Indeed, it is fairly common for state and local bureaucrats to lobby for federal policies that are opposed by state and local elected officials who can be punished at the ballot box for implementing unpopular federal policies or raising taxes in order to pay for state or local implementation of those policies.

Interest groups play roles too. After achieving a federal policy objective, they pressure state and local governments to cooperate in implementing that objective. There has been tremendous growth in interest-group activity within the states since the late 1960s; one cause of growth has been the need for interest groups to induce cooperative state and local compliance with national policy objectives.

Most likely, a process of socialization has occurred, as well, during the era of coercive federalism whereby the dominance of the federal government in many policy fields is simply an unquestioned fact of administrative life. For rank-and-file administrators, the origins of their dictates are less important than their preoccupation with how to implement those dictates and satisfy the citizens who will ultimately vote for or against the elected officials who preside only in a general and distant way over policy implementation. In this, federal, state, and local administrators have incentives to work cooperatively.

For these and perhaps other reasons, cooperative federalism endures in the administrative interstices of coercive federalism.

By contrast, though, interjurisdictional cooperation is less developed, in part because of collective action problems and transaction costs. For example, the formal constitutional mechanism of interstate compacts is not used as frequently as one might expect in a highly interdependent system. Some 61 compacts were formed from 1921 to 1954; then 67 compacts were established from 1955 through 1969. Since 1969, however, only about 48 compacts have been established by the states. The decline
in compact activity since 1969 is probably due to two factors. For one, states have found other ways to cooperate without negotiating formal compacts, and, second, coercive federalism has established numerous uniform national policies, thereby reducing the range of activities that can be, or need to be, brought within the jurisdiction of interstate compacts. Otherwise, states are mutually cooperative in complying with the federal constitutional clauses that mandate such cooperation, namely, the privileges and immunities clause, full faith and credit clause, and extradition clause (Article IV, Sections 1 and 2).

Interlocal cooperation has, for more than a century, been an unrealized goal of many urban reformers. Although interlocal cooperation has grown quite notably in recent decades, it is not robust and falls far short of binding local governments together into coherent metropolitan regions. Sentiments of local autonomy are deeply rooted in the country's 3,033 counties, 36,011 cities and townships, and 13,051 independent school districts. In addition, local special-district governments increased from 18,323 in 1962 to 37,381 in 2007. Having lost many elements of autonomy to the state and federal governments during the era of coercive federalism, localities seem to cling to the vestiges of autonomy that can be sustained vis-à-vis each other.

Conclusion

The disintegration during the 1960s of the states' rights South and the historically long-standing state-based and locally rooted party system that supported the era of cooperative federalism produced a continuing era of coercive federalism in which there are few constitutional, political, fiscal, or judicial constraints on the ability of the federal government to impose policy dictates on the states and their local governments. At the same time, however, the collapse of that party system, with its political bosses and clientelistic patronage, gave rise to civil-service reform and increasingly professionalized bureaucracies that generally foster intergovernmental cooperation in the implementation of coercive federal policies. The collapse of the states' rights South also produced a convergence of the 50 states toward greater homogeneity and policy activism in which incentives for intergovernmental cooperation outweigh incentives for intergovernmental conflict. The election of a Democratic president and/or Democratic majorities in Congress would likely produce increases in certain types of federal aid for state and local governments but not alter the course of coercive federalism or intergovernmental administrative cooperation.
Endnotes


