Although scholars have defined federalism in multiple ways, federalism as currently understood in American political and scholarly debate has to do with the role of subnational governments as both independent decision-makers and as implementors of federal legislation. The use of federalism as a term typically signals a concern with the independence and political autonomy of subnational governments in policy-making or with the complex relationships which exist among levels of government as they carry out policy adopted in Washington.

To what degree should subnational governments be able to act independently? To what degree are they able to do so? How much power should Washington be able to exercise? These questions have framed the federalism discussion in the USA for many decades. Much of the literature argues that the nationalization of the
federal system since the 1970s mitigates against subnational governments being able to bring their discretionary resources to bear on their unique needs. The possibilities of significant policy diversity within the system have therefore been reduced. In that sense, the "politics of federalism" actually have to do with the politics of implementation of federally-designed policies and the politics of intergovernmental management involved in such implementation rather than with diversity within the overall federal system.

The complexities of American federalism are such that while some scholars argue the system has become highly centralized, others focus on the considerable discretion that state governments still possess. The paradox of American federalism in fact may lie in that scholars differ so widely in their analysis of—and conclusions about—the system.

While Samuel Beer views federalism as having been important only in the area of representation rather than in the recognition of territorial diversity (Beer 1978), others (Chhibber and Kollman 2004) argue that it is the centralization of authority in that system which has led to national parties. Some view the concentration of authority in Washington as a negation of a federal system while others see it as simply a change in a system which can vary from decentralization to centralization. Some view the states as counterweights to Washington while others focus on their technocratic capabilities. While some view the federal system as "coercive," others conclude that it reflects a "pragmatic" set of norms leading the federal government to be relatively sensitive to state concerns (Glendenning and Reeves 1984; Elazar 1990; Kincaid 1990; Gormley 2005). While some analysts—especially those contributing to the theoretical literature on political economy—argue from a normative perspective rather than show an interest in the actual role of institutions (Rodden 2006), others carry out detailed analyses of what is actually going on in financial transfers. The literature on federalism in fact seems as disparate and confusing as the topic it is trying to analyze.

This chapter analyses the shape of American federalism and concludes by arguing that the conflict between territorial and functional politics lies at the heart of the politics of federalism in the United States. National institutions, Congress in particular, are organized by functional areas whereas the representation of subnational governments' interest involves the insertion of territorial criteria into that functionally dominated process. Given the structural dominance of functional politics in the American national arena, and the weaknesses in the system by which states and local governments represent their own interests, it is not surprising that federalism as a value has become of secondary importance in Washington.

Whereas traditional notions of federalism viewed diversity as an intrinsic strength of a federal system, the increased nationalization of the system is caused by a desire to achieve more national uniformity and less diversity. The growth of the national regulatory state has been a major force in triggering such nationalization, especially as state and local governments have not been exempted from its reach. "Cooperative federalism," it is argued, existed when the process of nationalization was much less advanced; currently the force of mandates and the lack of clout wielded by intergovernmental groups are such that the system is one of "coercive federalism" (Kincaid 1990, 1996). Still other scholars argue that the federalism in the US is a continuum in terms of national-state relations, ranging from nil to cooperative to coercive with the precise location of a given relationship on the continuum determined by function or component of a function concerned" (Zimmerman 2001, 28).

Constitutionally, federalism in the USA involves the relationship between Washington and state capitals. The Tenth Amendment reads, "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people." States rather than "subnational" governments are the topic. Governments below the level of state governments were not included; they do not have constitutional standing. State governments could not be abolished but those below the state level did not have constitutional protection.

The constitutional protection granted to state governments by the US Constitution does anchor American federalism. Krause and Bowman argue that the "persistent tension regarding the proper balance of power between the national government and the states is an enduring feature of American federalism" (Krause and Bowman 2005, 360). Having acknowledged the role of the states, however, it is also true that federalism in the USA, when expanded beyond its constitutional/legal dimension, is characterized by the existence of tens of thousands of local governments which themselves have organized into national associations and form part of the so-called "intergovernmental lobby."

Contemporary federalism, therefore, focuses on the relationship between Washington and subnational governments. The fact that federalism in the USA is not limited to the relationship between Washington and state capitals is extremely important in understanding the political dynamics of American federalism. Counties, municipalities, public authorities, and special districts (all categorized as local governments) are, in legal terms, not only constitutionally unprotected but are "creatures of the state."

It is true that Krause and Bowman have found intriguing empirical evidence for the thesis that the partisan color of state governments influences whether Congress is willing to grant authority to state governments. They conclude that "when national level Democrats scan state institutions and find Democrats in control, they are more willing to shift power to the sub national level" (Krause and Bowman 2005, 365). The same holds for national-level Republicans when state-level Republicans are in power (Krause and Bowman 2005). Whether intergovernmental
lobbing constitutes the mechanism through which such partisan coupling is managed is unclear.

We do know that in practice, constitutional standing and partisan identity notwithstanding, state governments constantly compete with local governments for their place in the federal system. The role of state governments is far less privileged politically than it is constitutionally. Mayors and county officials as well as governors and state legislators lobby Congress. Cities and counties as well as state governments implement federal legislation. Mayors and county officials do not accept the argument that states should have privileged access to Washington. They do not accept that they should play a secondary role to governors in intergovernmental politics or in national policy-making. State and local officials are therefore constantly competing with one another for privileged access to Washington. “National–state” relations should often read “national–state and local” relations. Thus, the constitutional dimension of federalism differs very considerably from the political/policy dimension which has developed.

Access to Washington, however, has become more problematic over time. The policy-making process in Congress is structured functionally, and the policy communities which have developed are also functional. That is, they focus on specific policy areas, and the policy debate is cast in programmatic terms. Many of the major interest groups are also functionally oriented. By contrast, state and local governments, when presenting their case, necessarily are focusing on jurisdictional prerogatives. Their claim is based on territorial rather than programmatic or functional representation. The claims of territory do not fit easily into a system which is structured along very different lines.

The conflict between territorial and functional politics lies at the heart of the politics of federalism in the United States. National institutions, Congress in particular, are organized by functional areas whereas the representation of subnational governments’ interests involves the insertion of territorial criteria into that functionally-dominated process. Given the structural dominance of functional politics in the American national arena, and the weaknesses in the system by which states and local governments represent their own interests, it is not surprising that federalism as a value has become of secondary importance in Washington.

1 Territorial Politics

Debates about federalism are very much debates about the claims of territory. They involve disagreements about the importance of the spatial dimension in governance, in public policy, and in representation. To what extent should Washington legislate in the arena of domestic policy? To what extent should the federal government pass laws which do not exempt state and local governments? To what extent should federal monies destined for state and local governments have "strings" (i.e., conditions) attached? To what extent should the elected officials of a territorial unit be given access to or be given special standing by Congress? Most fundamentally, to what extent should states be conceptualized as “polities” as opposed to “managers” in an “administrative chain of command” with Washington at its head (Elazar 1981, 71)? Should Congress treat states as it treats individuals and companies or should states be given special deference?

Some scholars have valued the autonomous role of state (and local) governments in legislative decision-making for reasons having to do with a defense against the abuse of power, as an avenue of democratic participation, or as a way to provide choice for taxpayers. Daniel Elazar and Thomas Dye both have forcefully argued that states are not simply administrative units or sub-units of the federal government. Elazar, defined states as “polities” and argued that the states were not “middle managers” (Elazar 1981). Thomas Dye argued that “state and local governments are political systems, not administrative units of the national government. Their primary function remains political, not managerial” (Dye 1990, 4). In this latter view, informed by public choice theory, one of the key political functions of state and local governments was to “compete for consumer-taxpayers by offering different packages of services and cost [so that] the closer each consumer-taxpayer can come to realizing his or her own preferences” (Dye 1990, 14). State and local governments could only compete with one another if they were free to decide for themselves on the shape of the “package of services” that would be offered to the consumer-taxpayer.

In practice, the role of the states, however, is very much shaped by the institutional structure of the federal government. The US Senate, in a comparative perspective, is extremely unusual in that each state elects two senators, regardless of the state’s population (Lee and Oppenheimer 1999; Tsebelis and Money 1997). However it is electorates (constituents) from states rather than state governments themselves which are represented. Functional (policy) interests sometimes have a territorial dimension in the American Congress, as some policy interests are territorially concentrated (Sbragia 2002). Nonetheless, even in those cases, the representatives who speak for such interests are elected by voters; representatives are accountable to voters rather than to subnational officials. Furthermore, the very structure of the committee system in both houses of Congress is shaped around policy areas. Conflict primarily centers around the content of programs as well as the territorial distribution of programmatic benefits—and not around the role of subnational governments. Functional interests trump the interests of subnational governments.

The role of territorial governments—and the difference between functional and territorial politics—in the political arena becomes clear when examining
The Seventeenth Amendment led to senators being directly elected. The direct election of officials would legislate within their own territory within many policy areas. Although originally senators were selected by state legislatures, the Seventeenth Amendment cut the tie between state-level institutions and national decision-making. While the German state executive branch is represented as an institution in Washington, are not involved in national decision-making. They do not have a "seat" at the decision-making table in Washington. The original notion of "dual federalism" mandated a separation between the national and the state level—each would legislate in its own "spheres of action" (Kincaid 1996, 39). Thus, state officials would legislate within their own territory within many policy areas and the federal institutions would legislate for the entire country in a restricted number of policy areas. Although originally senators were selected by state legislatures, the Seventeenth Amendment led to senators being directly elected. The direct election of senators cut the tie between state-level institutions and national decision-making.

The Seventeenth Amendment has deeply altered the nature of American federalism. A comparison with the German federal system demonstrates the importance of direct state representation in the states' exercise of constitutional prerogatives. Whereas German federalism allows state governments to be involved in a great deal of national decision-making, American federalism views state governments as making decisions which apply only to the residents of their particular state. While the German executive branch is represented as an institution in the national parliament's second chamber (the Bundesrat), American state governments are not represented in either the Senate or the House. Governors are only represented by their national interest groups.

Territorial politics—the representation of territorial interests as expressed through state governments—is central to the organization of the German federal system. Territorial interests can even override partisan differences. The German equivalent of governors sit in the Federal Republic's upper chamber. In the USA, by contrast, governors are not national decision-makers. Governors are lobbyists in Washington rather than decision-makers, a crucial distinction. While they can and do lobby at the national level, they are not constitutionally-designated decision-makers at the federal level as are the German Länder (Cammisa 1995; Sbragia 1992).

The lack of a "seat" for state governments in Washington means that the latter can ignore territorially-based claims. Thus, states and localities can be refused if they claim privileges or exemptions based on federal principles. States are powerless to prevent the national government from asserting its own jurisdiction in policy areas traditionally dominated by subnational governments. This fact became particularly important as a national regulatory state developed in the postwar period and shapes the contemporary debate about federalism. Not surprisingly, therefore, the No Child Left Behind Act "federalized" public education, an area traditionally dominated by subnational governments. Claims related to federal principles are not typically found to be compelling. Some programmatic adjustments will be made and financial assistance may be provided, but the fundamental decision about whether the federal government will assert its own authority in a policy area will not typically be influenced by arguments related to federalism as such.

2 Territorial Governments and Representation

American states, while constitutionally privileged in that they cannot be abolished by Washington, are not involved in national decision-making. They do not have a "seat at the decision-making table" in Washington. The original notion of "dual federalism" mandated a separation between the national and the state level—each would legislate in its own "spheres of action" (Kincaid 1996, 39). Thus, state officials would legislate within their own territory within many policy areas and the federal institutions would legislate for the entire country in a restricted number of policy areas. Although originally senators were selected by state legislatures, the Seventeenth Amendment led to senators being directly elected. The direct election of senators cut the tie between state-level institutions and national decision-making.

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3 Territorial Interest and Public Policy

The issues tied to federalism in the USA are as old as the republic itself. Those, such as Alexander Hamilton, who argued for a strong national system which would allow the US to become a major commercial republic, have debated those, such as Thomas Jefferson, who feared that a strong central government would endanger the very roots of democracy and liberty. Those debates, while transformed, have not disappeared. Those who argue for diversity among the American states and argue against the imposition of federal rules and laws on states confront those who view broad national policies as the only way to ensure some kind of uniformity for all citizens regardless of their place of residence.

The rationale of such arguments has varied. The argument for national policies has been put forth by those who want to achieve equal civil rights for all citizens as
well as some kind of "floor" in both economic opportunity and social protection. However, it can also be made by those who want a relatively non-interventionist government, one which is seen as "market-preserving," and who do not therefore want interventionist state governments counterringacting the impact of national policies designed to build (rather than correct) markets (Weingast 1995; Sbragia 2000). As an example of the latter case, the (Republican) Reagan administration, which stressed its support of states' rights, supported business firms when they came into conflict with state-level administrative agencies (Gormley 2005). When state regulators came into conflict with business firms, state regulators lost. Federalism was to be secondary to market forces.

The Reagan administration's rhetorical support for states rights, however, has been the norm for those wishing to limit the role of government generally. Federalism in the USA typically has been emphasized by those interested in less rather than more government. The assumption has been that many state governments, if left to their own devices, would be less interventionist than the federal government has been since the New Deal. Furthermore, such latitudes would encourage competition among the states, with "competitive federalism" being favorably viewed as most supportive of those incentives conducive to economic growth and the expansion of markets (Dye 1990; Lowry 1992).

By contrast, those in favor of greater public intervention have typically argued for a stronger federal role in the belief that Washington would establish a "floor" higher than that found in many states. Such intervention has historically been tied to the expansion of the welfare and regulatory state, and thus a centralized federalism has become associated with social protection. Those interested in urban (rather than state) issues have also argued for a strong federal role in redistributive policy, concluding that only the federal government has the tools to carry out redistributive policy without harming the prospects for economic development (Peterson 1981). In this view, states, engaged in competitive federalism, are unable to redistribute resources as effectively as can the federal government (Thomas 2000).

More recently, however, those seeking more social protection have begun viewing the states rather than the federal government as possible allies (Nathan and Doob 1987: 527). Once conservative Republicans controlled Congress and the presidency, advocates of the welfare state and environmental protection began viewing the states as possible counterweights to the conservative policies coming out of Washington. Governors began being viewed as more pragmatic and less ideological than their party brethren in Washington, and more willing to consider policies which were viewed with hostility in Washington. The issue area of climate change was perhaps the most striking in this respect: while neither President Bush nor Congress would support legislation restricting carbon dioxide emissions, both Republican and Democratic governors began experimenting with an emissions trading scheme (Rabe 2004).

The view of states as liberal counterweights to Washington is relatively new however. More typical has been the view that many state governments, if left to their own devices, would, in the view of liberals, begin a "race to the bottom," or if the view of conservatives, allow market forces to work as they should. The conflict between a vision based on competitive federalism with its concomitant reliance on state rather than federal power and one based on centralized federalism with Washington wielding very considerable power underlies both public policy and the scholarship—much of it with strong normative overtones—one American federalism.

Literature interested in the intersection of public authority and markets tends to make the argument for competitive federalism—the view being that competitive federalism is "market-preserving." By contrast, both activists and scholars interested in either social regulation (such as environmental protection) or social protection (such as assistance to the needy or rights for the disabled) tend to make the argument for various degrees of federal preemption of state authority. States are very engaged in economic development activities—which requires them competing with one another to keep and attract business firms as well as creating the infrastructure conducive to business activity (Fosler 1988; Thomas 2000). Man therefore fear that without the intervention of Washington, competitive federalist forces generous states to become more conservative in order not to frighten—a well as to attract—mobile capital. In a similar vein, generous states are viewed a running the risk of becoming "welfare magnets" so that only federal social policy can effectively address poverty (Peterson and Rom 1990, 8). Generous states, in fact may support federal intervention precisely to avoid being isolated and to insulate themselves from the forces of competitive federalism.\(^2\)

It should be noted that there is still no scholarly consensus regarding the extent to which competitive federalism affects welfare policies. Research on competitive federalism and welfare policy revolves around the questions of whether more generous benefits have an impact on the locational decision of the poor (namely whether generous states become "welfare magnets") and on whether states compete down with neighboring states, reducing benefits if their neighbors reduce them. The "race to the bottom" hypothesis. It should be noted that these questions may not be empirically linked, in that political incentives may induce state policy-makers to engage in a "race to the bottom" over welfare benefits even though more generous benefits do not affect, or only marginally affect, the location decisions of prospect welfare recipients (Bailey and Rom 2004, 327; Brueckner 2000, 508).

Empirical results on both hypotheses have been mixed. As regards the first hypothesis, some have found little evidence of states acting as welfare magnets (Schram, Nitz, and Krueger 1998; Schwartz and Sosin 1998; Levine and Zimmerman 1999; Allard and Danziger 2000). Others do find evidence that supports the welfare magnet hypothesis, although the size of the effect of welfare benefits on location decisions tends to be small (Bailey 2003).

As regards the race-to-the-bottom hypothesis, most research has found statistically significant (although in most cases substantively small) effects, indicating that there is some competition for welfare benefits among similar states, even though the extent of the impact of this competition on actual benefit levels is low (Figlio, Kolpin, and Jirid 1999; Saavedra 2000; Rom, Peterson, et al. 2003).
In the real world of policy-making, however, the scene is murkier. Although Republicans have traditionally been seen as supporters of both more power to the states and deregulating market forces, it was a Republican president (George W. Bush) who engineered the No Child Left Behind Act, a piece of legislation which nationalized public elementary and secondary education in a way that was new to the United States. While the field of public education had traditionally been viewed as firmly under state and local control, it became nationalized with relatively little opposition and with support from key Democratic political leaders in Congress. In fact, President Bush, although a former governor of Texas, has not emphasized federalism as a value. In a similar vein, President George Herbert Walker Bush managed to renew far-reaching federal environmental legislation, legislation which in fact had been originally passed under the Republican President Richard Nixon. Republican presidents, therefore, have supported federal legislation which significantly erodes the power of state governments and which constrains market forces. Programmatic preferences have overridden claims regarding subnational autonomy.

Furthermore, those Republican leaders who have emphasized federalism, while agreeing that Washington is too powerful, have also differed very significantly in their proposals for change. President Nixon did not see “government as the problem” while President Reagan and Newt Gingrich, the Speaker of the House of Representatives in 1995–8, wanted to scale back all government at all levels. In Conlan’s words:

Nixon viewed his federalism strategy as a means of improving and strengthening government, especially at the state and local levels. His proposals, unlike those of subsequent Republican reformers, were intended to improve government, not dismantle it. Reagan, in contrast, viewed his New Federalism proposals as part of a broader strategy to reduce the role of government in society at every level... Reagan’s positive vision, though heavily localist, lacked a strong role for government of any kind... Gingrich argued... [that] the appropriate solution would be to eliminate the national welfare state, root and branch. (Conlan 1998, 12–14)

In spite of Nixon’s commitment to decentralization, perhaps best symbolized by revenue sharing, Conlan concludes that “Nixon left behind a federal system that was probably more centralized than the one he inherited. Federal expenditures for many domestic functions were increased dramatically, and an unprecedented federal intergovernmental regulatory presence was institutionalized” (Conlan 1998, 91). It is precisely that outcome which has led many scholars to agree that although a form of “devolution revolution” has been promised many times, it has not materialized (Kincard 1998; Nathan 1996).

Schneider 1986; Berry, Fording, and Hanson 2003; Bailey and Rom 2004). However, some research has disputed these findings. In particular, Craig Volden has argued that competitive federalism affects the choices states make with regard to the benefit levels they offer, but not in the sense that they are engaged in a race to the bottom. Rather, state interaction slows down the increase in benefits, in that states increase their benefit levels only after their neighbors have also raised them (Volden 2002).

Although the constitutional definition of federalism in the USA privileges only state governments, scholars such as Thomas Dye (1990) invariably included local governments as components of the federal system. It was that extension of the federal system which underpinned the term “intergovernmental relations,” a term which has come to be used interchangeably with federalism in a great deal of literature. Yet the replacement of federalism, with its political connotations, with intergovernmental relations, with its administrative and managerial overtones, was vehemently opposed by scholars such as Dye. And in fact the implicit assumptions of those two types of analyses are quite different. Federalism has tended to remain a normative concept subject to political and scholarly conflict while “intergovernmental relations” revolves around issues of management and administration, with administrative rather than political elites playing a key role.

Nonetheless, in much scholarly literature, the concept of federalism has become linked to the complex ways in which the system of public authority actually works in the USA—a system which includes Washington, state capitals, county governments, municipalities, and special districts as well as school districts has become entangled with the study of intergovernmental relations to such an extent that the two terms are often used together to refer to similar phenomena. Federalism refers to the constitutional division of powers and authority between the federal government in Washington and the state governments of the American states. Intergovernmental relations refers to the complex set of relationships which entangle all levels of government with one another. The fact that the two terms are often used nearly interchangeably points to the fact both that power in the American system has become concentrated in Washington over the last decades and that the relationship between Washington and other governments does not focus exclusively on state governments.

The relationships between levels of government incorporated in the term “intergovernmental relations” (IGR) have increasingly involved administrative officials who play key roles in operating the system. As scholars of public administration in particular have focused on the role of such officials, the term intergovernmental management (IGM) has been introduced into the literature. Federalism, intergovernmental relations, and intergovernmental management therefore coexist uneasily in a disparate literature which is largely segmented and divided between those who argue from a normative position and those who examine the actual workings

4 In many works, the terms federalism, federal system, and intergovernmental relations are used interchangeably. See for example Anton 1989; O'Toole 2000; Zimmerman 1992; Camissa 1995; Posner 1998; Wright 1990.
of an intricate system which incorporates both elected officials and administrators. Del Wright captures well the evolution of the scholarly discussion in the field of "federalism" broadly defined:

The concept of federalism has two centuries of U.S. history, tradition, law, and practice behind it. The concept of IGR has a comparatively short half century of application to the American context, and it remains a term that falls somewhat short of either standardized or universal usage. By way of contrast, IGSM appeared as a phrase on the public scene only recently—during the 1970s. (Wright 1990, 170)

The reason that intergovernmental relations have received a great deal of attention, however, is precisely because subnational governments have become so entangled in the implementation of federal programs. Such programs are adopted by Congress and the implementing regulations, which are in fact the key requirements for subnational governments, are developed by federal agencies. It is that combination of legislation and regulation which forms the structure within which subnational governments can exercise discretion and be subject to constraint. And it is that structure which maximizes the importance of management within a system of tremendous complexity.

5 Nationalization of Policy

It is not surprising that the term intergovernmental relations became popular in the post-Second World War period. It is in that period that state and federal functions became entangled in particularly dense ways. The concentration of power in the American system is tied to both the Sixteenth Amendment, which allowed Washington to impose a federal income tax, and the New Deal, which expanded the regulatory and social welfare functions of the federal government. The income tax gradually allowed the federal government to increase its power within the federal system because of the amounts of money that flowed into it as the economy grew. During the Second World War, Washington was able to "withhold" tax monies from salary checks so that its revenue stream became more predictable while the tax burden became politically more palatable in that tax monies were withdrawn weekly or monthly rather than being paid in lump sums at the year’s end.

State and local governments retained their traditional taxing powers, but their tax policies became tied to those of Washington in complicated ways. In fact, the links became especially noticeable when the second Bush administration dramatically reduced estate and capital gains taxes, forcing states to decide whether to "couple" or "decouple" their state tax systems with the federal system.

The question of whether there has been a net centralization of power in the postwar period is not settled in the scholarly literature. Scholars who focus on periods in which Washington seems to be moving power back to the states tend to be more sanguine about the process of "devolution" than are those who examine the entire postwar period (Donahue 1997). Further, much research focuses on just one policy sector or examines one institution (the Supreme Court, for example) (Conlan and Vergniolle de Chantal 2001). Different studies use different time periods so that it is difficult to draw general conclusions. Finally, as Walker argues, "in the regulatory, judicial, program, and fiscal areas, no one tendency is consistently dominant" (Walker 2000, 2).

However, the most comprehensive quantitative study on policy centralization in the period 1947-98 (the data-set consists of public laws and executive orders but excludes the judicial arena and administrative tools such as waivers) concludes that "in terms of policymaking authority, the pulls have been far more powerful than the pushes. Elected federal officials have demonstrated less interest in restoring lost policymaking power to sub national governments than previously presumed" (Bowman and Krause 2003, 320). Another, studying the period 1981-2004, examining three policy sectors, and including legislation, lawsuits, waivers, and partnerships in his data, finds "a pattern of growing sensitivity and responsiveness by federal government to the needs and preferences of the states. Federal funding has increased, unfunded mandates have declined" (Gormley 2005, 2-26). Yet, as Gormley points out, "for every waiver that is granted, the federal government extracts some concessions that require states to make policy adjustments they would rather not make....Thus what the federal government perceives as flexibility and responsiveness, state governments perceive as micro-management and red-tape" (Gormley 2005, 37).

The judgment about the relative balance of power between Washington and subnational governments has to do with the benchmark being used. If the benchmark is the period of cooperative federalism in which even regulatory laws exempted state and local governments in deference to the norms of federalism, there has clearly been a net centralization of power. If the benchmark, however, moves to the period when a host of laws dealing with social regulation (such as environmental policy) were being adopted with inflexible provisions leading to lawsuits (Kelemen 2004, 68), and which led to the label of "coercive federalism," Gormley's findings seem rather different. In that case, the kind of responsiveness found by Gormley seems like "pragmatic" federalism rather than the coercive federalism symbolized by that initial phase of building the American regulatory state.
6 Money and Regulation

The building blocks of intergovernmental relations are federal monies and federal regulation. Both are highly visible federal interventions. From the point of view of subnational governments, grants are positive and regulation is much more mixed.

Federal monies became increasingly important to states and localities in the 1960s. Such monies came in different forms depending on the decade and the programs involved.

Categorical grants in aid were particularly restrictive so that the advent of revenue sharing and block grants in the Nixon administration were viewed as a boon to intergovernmental flexibility. However, as federal deficits began to balloon, such monies became increasingly controversial. The Carter administration initially cut back aid, and the Reagan administration subsequently dramatically limited financial assistance to subnational governments. Revenue sharing was terminated in 1986.

The federal government became more generous under the first President Bush, under President Clinton, and in the second President Bush's first term. Nonetheless, in 1980, federal grants were 16 percent of federal outlays, and they did not reach that level of priority until 1990 (although they were 14 percent or higher between 1993 and 1999). In 2003, the figure rose to 17 percent and in 2004 federal grants were 18 percent of federal outlays (Gormley 2005, 32). Block grants became more prominent under both the Reagan and Clinton administrations. Even though the second President Bush proposed block grants, Congress refused to approve them and only established four new block grants during his first term (Gormley 2005, 10).

In the period between 1981 and 1995, the federal government became particularly interventionist as federal mandates became almost routine. Some mandates involved complete federal preemption while others underfunded the activities subnational governments were required to take. However, it was the so-called "unfunded mandates" which became particularly visible as governments began to quantify their cost.

The burden of mandates was not surprising as the 1980s witnessed the creation of more intergovernmental regulatory programs than did the 1970s. As Posner points out, "mandates as a term can potentially apply to a wide range of policy actions... including grant conditions, cross-cutting requirements, cross-over sanctions, partial preemptions, and total preemption" (Posner 1998, 9–11). From the point of view of state and local governments, they became ever more onerous (Posner 1998, 223; Conlan 1998, 192). Imposing costs on subnational governments through mandates was a "free" way for Congress to act without contributing to the federal deficit.

As Congress in the 1970s began to adopt new legislation in the area of social regulation (in contrast to the economic regulation imposed by the New Deal), subnational governments began to feel the "bite." Prior to that time, state and local governments had been exempt from major regulatory statutes adopted by Congress (Posner 1998, 22–3). However, as the value of federalism as traditionally defined gradually waned, state and local officials found themselves subject to the same kinds of constraints and regulations as individuals and companies. The lack of funds accompanying such restrictions only made the situation worse. In spite of President Reagan's view of government, the 91st Congress, for example, passed environmental legislation which imposed significant new costs on subnational governments (Conlan 1998, 193).

The decreasing influence of state and local government officials in Congress was at least partially due to their fading influence in their political parties. As long as they had been influential in the two political parties, they exerted informal influence in Congress. (The fact that mayors and county officials were important actors in parties helps to explain why governors were never able to become the "supreme" subnational leaders and had to compete with county and municipal elected officials for influence). Once they lost their leverage in the nomination process, their political clout in Congress declined. In fact, state and local officials competed with congressional candidates for money and visibility. Reference to the norms of federalism declined (Posner 1998, 79–80).

The Unfunded Mandates Reform Act (UMRA), adopted in 1995, was initially seen as a major force in restoring the balance between Washington and subnational governments. State and local governments were to be protected from mandates which cost them money. Yet in fact, mandates continued to be adopted (Posner 1998, 182–190). The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 reformed welfare and while providing generous block grants also imposed numerous new requirements on the states (Posner 1998, 189; Weaver 2000; Winston 2002). Although that reform was a major example of devolution, it gave states flexibility while also constraining them.

In the first term of the second Bush administration, waivers from federal requirements became particularly important in the area of Medicaid. That program, more expensive than Medicare, was consuming roughly 20 percent of state budgets by 2003. The waivers granted by the Bush administration allowed states both to improve the quality of care and to cut the number of beneficiaries. States did both, and, to critics, those states who used their waivers to cut the number of beneficiaries in an effort to control rising costs symbolized the problems created for vulnerable populations when the federal government loosened its regulatory grip. However, the need to obtain waivers is seen by many state officials as emblematic of the problems with federal controls on the states. Jeb Bush, Republican governor of Florida, argued:

States should not need waivers to establish meaningful co-payments, charge fair premiums, target care for certain populations or geographic areas. States should be able to implement managed care in its various forms, establish nursing-home diversion programs, or implement consumer-directed care, without first seeking waivers from Washington. (Serafini 2003, 1078)
7 Intergovernmental Lobbying: Functional vs. Territorial Claims

Given that state governments are not represented in the US Senate, they, along with their local counterparts, can only make their views known through lobbying. In that sense, they are similar to other interests. In fact, state and local governments have organized governmental interest groups who represent governments rather than voters. The emphasis here is on the plural, for subnational officials do not speak with a unitary voice. County officials belong to the National Association of Counties, municipalities belong to the National League of Cities, mayors of big cities belong to the US Conference of Mayors, and state legislators belong to the National Conference of State Legislatures. Collectively, these groups are known as the “intergovernmental lobby.”

Their lobby is often as—if not more—interested in who will control the process of implementation than it is in the actual programmatic contents of legislation. Subnational officials, when organized into public interest lobbies, represent a “spatial or geographic interest” above all. As Ann Commissa, drawing on work by Donald Haider, points out:

Government lobbies have a spatial interest (maintaining authority over their own geographic sphere) as well as a functional (policy) interest. While government lobbies are interested in particular policies, they ... are also interested in the spatial dimension of any policy, that is, who will have the authority in implementation and control over the funds. ... Subnational governments are interested in the process of policy (that is, who implements it) to a greater extent than its outcomes. (Commissa 1995, 22; Haider 1974)

The intergovernmental lobby faces two key problems. The first is that Congress is organized by policy area. Committees are organized by functional area, and functional interest groups and policy communities have grown around each policy arena. For example, interest groups representing low-income groups were actively involved with the legislation dealing with welfare reform (Winston 2002). Beneficiaries of programs are critical to lobbying efforts (Anton 1989), and they are not interested in the intergovernmental dimensions of legislation unless it affects benefits in some fashion. There is a “mismatch” between the “programmatic” structure of Congress and of policy communities and the “spatial” concerns of the intergovernmental lobby.

The dilemma is particularly acute because the lobbies representing governments, especially those representing elected officials such as the National Governors Association, at times come into conflict with lobbies representing state program officials lobbying for a particular program. In a sense, governors can come into conflict with the members of their own executive branch who are programmatically committed and who view mandates as useful in giving them leverage in budget battles back home. Lobbyists for the National Governors Association spend a good deal of time “fighting organizations of state bureaucrats” (Posner 1998, 83) “picket fence federalism” presents real problems for elected officials fighting to retain control over programs.

Secondly, the intergovernmental lobby finds it very difficult to create and sustain internal cohesion. Levels of government compete with one another. Mayors want a direct relationship with Washington, whereas governors argue that states are best equipped to allocate resources to lower levels of government. Counties for their part argue that they are the critical local units. Given that the federal system assumes that the federal government will not itself deliver services, the competition among other governments to be the key service provider in any policy area can be fierce. Furthermore, partisan divisions can also be important. For example, during the debate over welfare reform, the Republican Governors Association “played a central role with the bipartisan ... NGA stymied by internal dissension... about funding formulas” (Winston 2002, 44).

The problem of cohesion is so serious that intergovernmental lobbies are far less effective than one might imagine, especially when they are confronting functionally-based interests. Even if they can agree on general positions, they find it difficult to agree when it comes to specific proposals. Even though competition among subnational officials has been a truism, the partisan splits within those groups are multiplying the problems they face. The usual divisions based on territorial diversity are being exacerbated it seems by partisan cleavages which are deeper than they have been previously.

8 Conclusion

Contemporary American federalism is unsettled and so is the scholarly literature. Perhaps that is to be expected for as Anton has argued, the federal system is one in which relationships among governments are permanently unstable (Anton 1989, 231). The federal system is extraordinarily complex precisely because it is so intergovernmental, involving all types of local as well as state governments. These governments compete with one another, with the federal government being able to choose the winners.

The federal system presents a clear challenge to political scientists interested in understanding how territorially-based claims, programmatic outcomes, administrative dynamics, and political parities intersect. The nationalization of policy has proceeded in spite of attempts to reverse that process, and thus the system is like an
archaeological dig with some programs showing the scars of attempted "devolution" coexisting with new programs which impose new requirements on subnational governments. Identifying systematic patterns across policy areas and programs and across defined time periods represents a huge methodological challenge for the discipline.

The twentieth century has been one of overall policy centralization coexisting with the fact that state and local governments have taken on new functions themselves. Federalism as a norm or as a value has in practice been downgraded. Both Republicans and Democrats, presidents and Congress members, have typically chosen to impose policy preferences on subnational governments while making concessions in terms of the conditions attached to implementation. The strategic decisions about public policy, however, have been taken in Washington without much consideration of the "federal dimension."

Such centralization has been due to multiple factors, but the difficulty of maintaining the strength of territorial politics in a system characterized by institutions dealing with functional issues and the fragmentation of the intergovernmental arena itself are two components. The fragmentation of the "subnational" government universe almost guarantees that federalism will be defined by national rather than subnational institutions. The lack of a unified "territorial" interest which can be easily mobilized and articulated has led to programmatic policy goals trumping those of territory. Functional interests consistently outweigh territorial ones; subnational elected officials are unable to defend their jurisdictional prerogatives.

Beneficiaries of federal programs, organized into coalitions, typically do not give priority to territorially-based claims unless those claims support programmatic goals. Given the role that beneficiaries play in the federal system (Anton 1989) and given the lack of cohesion of the intergovernmental lobby, it is not surprising that territorial claims often do not find a receptive audience in the United States.

It is important, however, to understand the conditions under which territorial claims do matter. Given the current state of the field, it will be important to study systematically the dynamics of intergovernmental relations across multiple policy areas in order to move beyond the use of case studies. Data-sets need to be developed so as to allow researchers more easily to build on each other's work. Case studies, however, will continue to contribute to our understanding of the administrative politics intrinsic to making the federal system work. Issues of research design need to be more explicitly taken into account when using the case study method to study administrative politics.

Perhaps the most important intellectual step that needs to be taken in the next phase of scholarly research, however, is to integrate the study of American federalism into the emerging field of comparative federalism. Comparisons with Australia, Canada, Germany, and the European Union may well provide new research questions. The emergence of the European Union, with a policy-making system which resembles that of the American in its fragmentation, provides a particularly useful comparative case (Kelemen 2004; Sbragia forthcoming). Being able to compare the USA with a another "separated system" (Jones 1994, 2) should facilitate the development of theoretical frameworks which have heretofore been lacking.

While the study of American federalism has been viewed by many political scientists as much less theoretically interesting than the study of federal institutions such as Congress, integrating the study of such federal institutions into the study of federalism may lead to both better theory and a better understanding of the American political system as a whole. The use of comparison, when judiciously implemented, seems to be the best bet for improving the theoretical sophistication of the study of American federalism.

References