

# Introduction to the American Political Process

## Class 13: Federalism

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## 1. Readings

Michener, “Fragmented Democracy”

Miller, “The Invisible Black Victim”

Hertel-Fernandez, “State Capture”

## Readings

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Michener, “Fragmented Democracy”

# A working definition of federalism

*“Federalism is a political organization in which the activities of government are **divided** between **regional governments** and a **central government** in such a way that each kind of government has some activities on which it makes final decisions.”* (Riker 1964)

How is federalism inscribed in American government?

- Recall that the Constitution grants national government **enumerated powers** and **implied powers**
- The Supremacy Clause makes national law the “supreme law of the land”
- The Tenth Amendment dictates that states retain all powers not otherwise delegated

# Powers that fall to subnational governments

To the states:

- *The power to develop and enforce criminal codes, administer health and safety rules, and regulate the family via marriage and divorce laws. The states have the power to regulate individuals' livelihoods ... to define private property ... the state may seize your property for anything it deems to be a public purpose. (Lowi et al.)*

To cities, counties, and municipalities:

- No formal powers granted by the Constitution, but in practice: housing, transportation, land use, education, policing, immigration enforcement...

# Federalism and American political development

Note the many conflicts in American history that have been animated by federalism:

- Issues concerning the maintenance of white supremacy: slavery, Jim Crow, civil rights
- Issues of capitalism and economic development: unionization, tariffs, antitrust laws
- Issues around individual rights: marriage equality, abortion
- Issues around redistribution and social service provision: health care, welfare
- Crisis response: most recently, Covid-19

# Federalism is a dynamic institution

## 1. Dual Federalism (pre-1930)

- National government had prescribed and limited role, states and localities did most of the governing

## 2. Cooperative Federalism (1930-1970)

- Role of national government expanded significantly, but subnational governments played cooperative role

## 3. Coercive Federalism (1970-)

- Ambitious national projects (Great Society, War on Poverty) increasingly leaning on top-down coercion → rising tension

## 4. Progressive Federalism?

- *“Given an increasingly polarized political system, progressive federalism posits federalism as a mechanism for transcending political gridlock, cultivating democratic discourse, setting the national agenda, and catalyzing productive policy conflicts.”*



# Federalism's “democratic credentials”

**Discussion:** Why might federalism *promote* democracy, at least in theory? Why might it impede democracy?

# Michener, “Fragmented Democracy”

*“How do Americans understand and respond to a political system that confers (or withholds) access to resources for the most indigent — not on the basis of needs or rights — but on the basis of geographic location?”*

Michener tries to answer this question through the lens of Medicaid. Why?

- Operates on three axes of disadvantage:
  1. **Income** (means-tested program)
  2. By extension, **race**
  3. **Health**
- Greatest reliance → most affected by regional variation

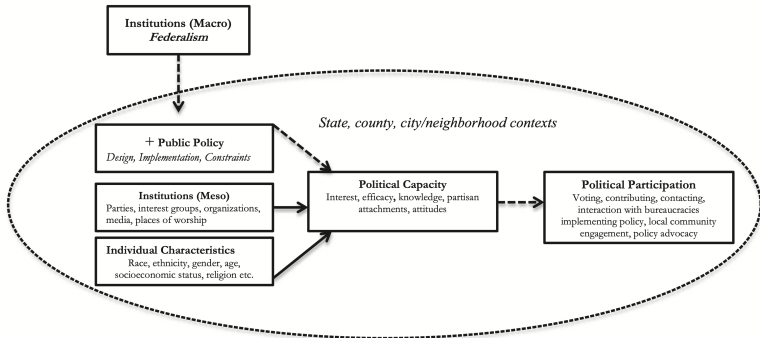
# What drives political participation?

In general, **individual characteristics + institutions + contextual factors + policy feedback**

- **Individual characteristics:** race, ethnicity, gender, socioeconomic status, religion
- **Institutions:** parties, interest groups, political & non-political organizations, media, places of worship...
- **Context:** economic, social political; states, cities, neighborhoods
- **Policy feedback:** Social Security, welfare, GI Benefits, criminal justice

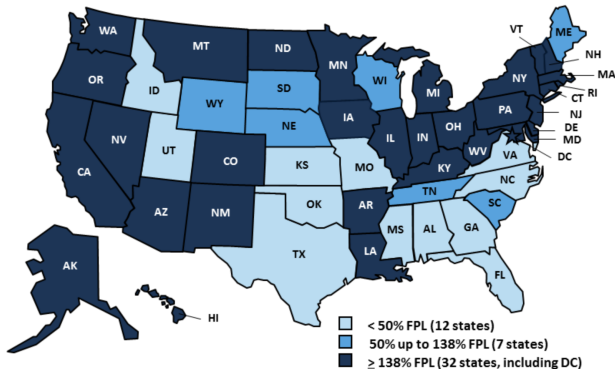
# Putting it all together: “Contextualized Feedback”

## D. Contextualized Feedback Model of Participation



# State-Level Variation in Medicaid Eligibility

## Medicaid Income Eligibility Levels for Parents, January 2017



NOTE: Eligibility levels are based on 2016 federal poverty levels (FPLs) for a family of three. The FPL for a family of three in 2016 was \$20,160. Thresholds include the standard five percentage point of the FPL disregard.

SOURCE: Based on results from a national survey conducted by the Kaiser Commission on Medicaid and the Uninsured and the Georgetown University Center for Children and Families, 2017.

# Findings

- Overall, Medicaid beneficiaries participate in politics less than non-beneficiaries
- **But**, important variation across states:
  1. States offering a wider scope of optional services → more likely to vote
  2. States that have recently expanded benefits → more likely to register to vote
  3. States that have recently reduced benefits → significantly less likely to register and vote

**Policy shapes politics.**

## Readings

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Miller, “The Invisible Black Victim”

# Political mobilization at different levels of government

What are the key differences between when crime control is in local vs. federal hands?

- Engagement/constituencies in play
- Framing of the issues
- Breadth of focus
- Desired policy response

**Discussion:** What are the advantages and disadvantages of having multiple (federal + local) venues for addressing the same issues?



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Hertel-Fernandez, “State Capture”

# A Federalist Spin on Party Politics

Why parties again?

1. Aldrich: to help ambitious politicians achieve their goals
2. **UCLA School: constructed and led by interest groups/high demanders for policy**

AHF contributes to this school, but also tells us:

- Coalition formation is hard
- Federalism helps: promote different agendas in different states
- Old view focused on national primary; neglected critical role of **state politics** (but recall Schickler)

Since 2010, a dramatic increase in surprisingly uniform state legislation on:

1. “Stand your ground” laws: allowing lethal use of force
2. Voter ID laws
3. “Right to work” laws: cannot compel members of unionized industries to pay dues

Hertel-Fernandez traces the origins of this “red wave” to the coordinated efforts of a right-wing troika: ALEC, SPN, and AFP

Compared to Congress, state legislators generally:

- Are less experienced in politics
- Have less staff to help draft legislation
- (Were) less partisan and have less coherent platforms
- Are juggling other jobs and responsibilities

ALEC took advantage of all this to write legislators' bills for them, promoting a coherent agenda across Republican state legislatures.

# ALEC Model Bills

<i>Bill</i>	<i>ALEC Text</i>	<i>Bill Text</i>
2011 Wisconsin AB 110 “Special Needs Scholarship Act”  <i>More similar to ALEC model bills than 22% of all state legislation</i>	(A) A resident school district shall annually notify the parents of a student with special needs of the Special Needs Scholarship Program and offer that student’s parent an opportunity to enroll the student in a participating school of their choice.  Section 6. [Accountability Standards for Participating Schools]	Annually, each school board shall notify the parents of each child with a disability enrolled in the school district of the program under this section.  (4) Private school duties. Each private school participating in the program under this section shall do all of the following: (a) Comply with all health and safety

# ALEC Model Bills

2013 Arizona  
SB 1348  
“Prohibition  
on Paid Union  
Activity (Release  
Time) by Public  
Employees Act”

*More similar to  
ALEC model bills  
than 93% of all state  
legislation*

## Section 2-A

A public employer shall not enter into any employment bargain with any public employee or union to compensate any public employee or third party for union activities.

Any employment bargain that includes compensation to public employees or third parties for union activities is declared to be against the public policy of this state and is void.

## Section 23-1422-A

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# Top ALEC Bills Enacted

Table 2.3. Top ALEC Bills Enacted, 1995–2013.<sup>a</sup>

<i>ALEC Bill</i>	<i>Enactments</i>
ALEC Education Reform Package	314
Taking the Best: ALEC's Comprehensive Medical Liability Reform Proposal	178
Long-Term Care Insurance Act	56
High-Risk Health Insurance Pool Model Act	49
Resolution Urging the Obama Administration to Launch Negotiations for a Free Trade Agreement with Taiwan	42
College Savings Account Act	41
Resolution to Restate State Sovereignty	27
Resolution Calling for a Federal Balanced Budget Amendment	23
Rescission External Review Act	20
State Responses to Kyoto Climate Change Protocol	18
Vulnerable Adults Act	17
Resolution in Favor of a US Constitutional Amendment on Judicial Taxation	16
Expanded Consumer Choice in Financial Services Act	16
Resolution on Disease Management of Chronic Obstructive Pulmonary Disease	16
The A-Plus Literacy Act	16

# Top ALEC Bills Enacted

*Table 2.4. ALEC Bill Introductions and Enactments by Policy Area, 1995–2013.<sup>a</sup>*

<i>Policy Area</i>	<i>Introductions</i>	<i>Enactments</i>
Healthcare	2,839	427
Education	2,065	414
Agriculture, energy, and the environment	734	167
Finance	229	72
Government reform	686	71
Budget and taxes	710	66
Criminal justice	557	64
Civil justice	679	58
Foreign policy	88	52
Transportation	252	42
Social welfare and benefits	245	39
Guns	322	30
General regulation	393	26
Housing	152	25
Labor unions	373	15
Voting and elections	46	5



# Implications

1. Just as federalism can create divergence, it can also be used as a force for national change (Schickler)
2. Federalism as a powerful tool for the minority to obstruct the will of the majority
  - ALEC-derived state bills did more to dismantle Obama's ACA than any abortive national efforts to repeal it