Shrinking Local Autonomy: Corporate Coalitions and the Subnational State

by

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Abstract

Using focus groups and government finance data, we explore three areas of US state rescaling at the subnational level: revenue tools, expenditure responsibilities and policy authority. Expenditure responsibilities, especially social welfare, have been devolved to the subnational level, while local revenue tools and policy authority are preempted. This decoupling of responsibility and power is cracking the foundations of fiscal federalism. At the behest of corporate-legislative coalitions, subnational state governments are shrinking local capacity and authority to govern. This is not state shrinkage; it is a fundamental reshaping of the subnational state to the detriment of democracy and the social contract.

Keywords

State Rescaling, Fiscal Federalism, Austerity, Preemption, Democracy, State and Local Finance

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Introduction

The Great Recession provided the fiscal cri- sis necessary to support an austerity narrative that called for shrinking the state (Blyth, 2013; Lafer, 2017; Peck, 2014). Many OECD countries have increased decentralisation of revenues and expenditures to the subnational level since the recent recession (OECD, 2016). However, recent works in the USA (Lobao et al., 2009; Xu and Warner, 2016) and UK (Pike and Tomaney, 2009) observe a broader process of 'state rescaling' (that is, shifts in state power across government scales) in which higher scales of government are downloading responsibility for redistribution to lower scales in the government hierarchy. The USA is an interesting case because it has always been highly decentralised; subnational governments collect 42% of government revenue and spend 48% of government expenditures (only Canada, Denmark and Chile have higher fiscal decentralisation; OECD, 2016). Thus, the US case provides an opportunity to assess the nature of state shrinkage (if any) and state rescaling in an environment of high and persistent decentralisation.

While the USA has always been highly decentralised, the nature of decentralisation has shifted over time (Warner, 2001). In the 1970s, there was 'devolution with dollars' under President Richard Nixon (1969–1974), who initiated general revenue sharing with cities for the first time. In the 1980s, there was 'devolution without dollars' under President Ronald Reagan's (1981–1989) 'New Federalism', which shifted many responsibilities to the 50 states. In the 1990s, 'devolution of authority' began under President Bill Clinton (1993–2001), whose welfare reform shifted decisions regarding benefit levels and programme structure to the subnational states. In the 2000s, state and local governments called for 'mandate relief' as the devolved expenditure responsibility to the state and local level became difficult to finance. Since the Great Recession in 2007, the USA has witnessed a 'devolution of fiscal stress' as subnational states have reduced fiscal transfers to local governments while downloading expenditure responsibility. At the same time, state preemption of local policy authority has intensified. This article focuses on this most recent rescaling process.

What theoretical lens can we use to understand this rescaling process? We challenge the old theories of fiscal federalism, which assumed a rational allocation of expenditure responsibilities across scales of government, with higher scales of government shouldering redistributive functions and lower scales pursuing development functions (Musgrave, 1959; Oates, 1972). We argue that in the current rescaling process, the subnational state uses the federalist structure to dump fiscal responsibilities to lower levels. We also challenge public choice theory's claims of efficiency and effectiveness from decentralisation (Brennan and Buchanan, 1980; Oates, 1972). While decentralisation is being championed internationally as 'best practice' by the World Bank and the OECD based on these claims (OECD, 2016), empirical work is finding increased spatial inequality and crowding-out of economic development prospects (Rodríquez-Pose, 2018; Xu and Warner, 2016). In this article, we use theories of state rescaling (Brenner, 2004; Jessop, 2003; Kitson et al., 2011; Lobao and Adua, 2011; MacLeod, 2001) to look explicitly at shifts in

state power—especially at the subnational level—with respect to expenditure, revenue and policy authority.

Empirically, there is limited research at the US subnational level, even though 'what remains of the Keynesian commitment to public services in the USA is basically delivered at the state and local level' (Peck, 2014, 337). This article addresses this gap in the literature by using local government focus group and finance data to assess recent changes in state–local government relations in the USA. In detail, we look at state rescaling in three areas: revenue tools, expenditure responsibilities and local policy authority (Figure 1). We focus our analysis primarily on the rescaling process between the subnational states and local government, as this is where rescaling has been strongest in the post-Great Recession period.

We find the state is not shrinking, but responsibility and authority is shifting across different scales of government. Expenditure responsibility for social welfare has shifted from the federal to the state level and increasingly to the local level (Lobao and Adua, 2011). While expenditure responsibility shifts downward, revenue authority is being restricted (Wen et al., 2018). A third trend, the preemption of policy authority, involves states usurping local policy authority in a wide range of areas from revenues and expenditures to environmental, economic and social rights (NLC, 2017). Corporate coalitions that want to reduce government's authority to regulate the economy are big drivers of this preemption because they view the subnational state as the easiest point to penetrate in a federal system (Lafer, 2017; MacLean, 2017; Swindell et al., 2017). Thus, we argue for an analysis of state rescaling that recognises shifting roles and power relations in a federal system and gives explicit attention to the role of the subnational state.

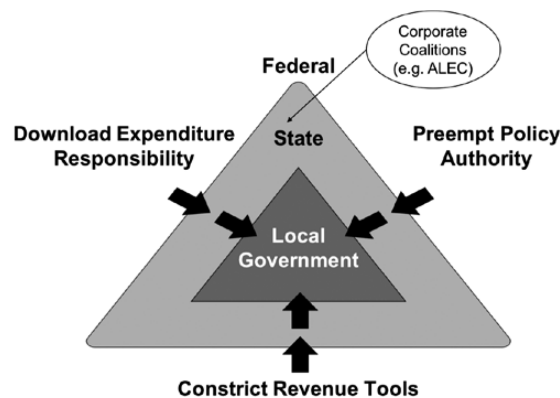

Figure 1. *Components of state rescaling.*

As devolution has intensified over time, we find the precepts of fiscal federalism no longer hold. Instead, we see a system where responsibility and power are delinked in a process of scalar dumping (Peck, 2014), so that a higher scale makes policy but dictates a lower scale deliver services—without providing the revenue to do so (Kim, 2018). To understand what drives this decoupling, we look at the expanding influence of corporate coalitions in shrinking state power. We show how these corporate-legislative coalitions, most notably the American Legislative Exchange Council (ALEC), take advantage of the three-tier federal structure—using the

subnational state tier to undermine local authority and achieve policy changes not yet possible at the federal level (Lafer, 2017; MacLean, 2017).

Literature review

To address the current process of state rescaling, we must challenge the precepts of older theories, such as fiscal federalism, that assume a rational allocation of expenditure responsibility across national, state and local levels of government (Musgrave, 1959; Oates, 1972). Peterson (1995) argued that subnational governments would pursue economic development expenditures, while the national level would assume primary responsibility for redistributive expenditures. Recent empirical work challenges that assumption (e.g. Aldag et al., 2018; Kim, 2018) and shows that, with devolution of the social welfare state, US local governments must balance economic development and social welfare expenditures (Aldag et al., 2018; Lobao and Adua, 2011). This has raised concerns about crowding-out of economic development expenditure by local government (Xu and Warner, 2016) and increasing spatial inequality (Rodríguez-Pose, 2018).

Historically, public choice theories argued for decentralisation as a means to control government spending. These theories assumed that public officials would maximise their own individual interests over the public's (Tullock, 1959), and government budgets would expand beyond an efficient size and become 'Leviathans' (Brennan and Buchanan, 1980). But this analysis fails to acknowledge the multi-scalar nature of government, especially in the post-Great Recession world where subnational states increasingly determine local revenues and expenditures (Benton, 2002, Xu and Warner, 2016). At the same time as states are shifting expenditure responsibility to local levels, they are also restricting local government revenue tools through tax and expenditure limitations (TELs; Mullins and Joyce, 1996; Wang, 2018; Wen et al., 2018).

Recent work on state rescaling directly challenges the assumptions of fiscal federalism and public choice by giving more attention to power in a multi-scalar governance system. State rescaling theory acknowledges that power is shifting upward to international bodies, downward to subnational governments and outward to private interests (Brenner, 2004; Jessop, 2003; Jonas and Pincetl, 2006; MacLeod, 2001), a process which has intensified with austerity since the Great Recession (Kitson et al., 2011). While much attention in this literature is given to the role of international bodies, such as the European Commission, or free trade agreements, in hollowing out nation-state power (Clifton, 2014), less attention is given to the role of the subnational states on local government. Geographers distinguish political from economic regional spaces (Jones and MacLeod, 2004), but with increasing fiscal stress and corporate influence, Jonas and Pincetl (2006) argue this distinction no longer holds. Even a strong economic city-region can be trumped by the subnational state because legal authority over local government is vested at the subnational state level in the USA (Frug and Barron, 2008). For this reason, we focus our analysis primarily on state-local relations.

Recent research in the USA has found decentralisation has become so deep that fiscal federalism's assignment of redistributive and developmental expenditures no longer applies. Studies of US counties find that local governments attempt to balance economic development and welfare redistributive expenditures (Lobao and Adua, 2011; Lobao et al., 2014), potentially

limiting local governments' developmental role (Xu and Warner, 2015, 2016). Further cracks in the foundation of fiscal federalism are due to rising levels of fiscal stress at the subnational state level that encourage states to engage in a process of scalar dumping, where they shift expenditures to the local level to relieve state fiscal stress (SBCTF, 2014; Kim, 2018; Peck, 2014).

State rescaling theory also recognises that a shift toward competition-based policy over redistribution will result in variation across space (Brenner, 2004; Jessop, 2003; Jonas and Pincetl, 2006; Jones and MacLeod, 2004). In the USA, spatial Keynesianism was never as strong as in Europe (Shortall and Warner, 2010). Spatial differences in state rescaling are most pronounced at the subnational state level in the USA (Cox, 2009). With the Great Recession, the role of subnational state policy regarding decentralisation, expenditure responsibility and state aid has become even more important in explaining which places bounce back from the recession and which do not (Xu and Warner, 2016). A recent study of US cities and counties in 2012 found levels of fiscal stress are higher in urban and rural places, compared to the suburbs (Kim and Warner, 2018). Case studies of cities with high levels of fiscal stress—Detroit, Stockton, San Bernardino—find cities cutting and privatising services in response (Donald et al., 2014; Peck, 2014).

State rescaling theory gives attention to the political/economic coalitions that drive shifts in power, authority and finance across government scales (Jonas and Pincetl, 2006; Jones and MacLeod, 2004). Historically, urban scholars conceptualised the city as a 'growth machine' where local business and real estate interests work in concert with local government to promote economic development and tax base growth (Logan and Molotch, 1987). While possibilities for progressive action are limited, they have emerged where mayors and councils have been motivated by community-labour coalitions to promote progressive policy reform (Clavel, 2013). Doussard (2015) points to the ability to scale up grassroots efforts by forming coalitions that support progressive city strategy, but these regional coalitions are limited by subnational state power as we will show later.

Political geographers have articulated a theory of austerity urbanism that argues a coalition of state, local and private actors are pushing an agenda to cut and privatise public services (Donald et al., 2014; Peck, 2014). This view sees local governments acquiescing to austerity pressures. Corporate interests play a key role in the austerity coalition, especially the ALEC (an association of state legislators and corporate lobbyists).

Warner and Clifton (2014), in a comparative study of the EU and the USA, find a more varied local response to state rescaling. They use a Polanyian framework to explain why some cities hollow out (more common in the EU, where cities are less autonomous) and others push back by using new revenue and service delivery tools (more common in the USA, where the higher fiscal autonomy of local governments makes this possible). But fiscal autonomy is not matched by political autonomy. US cities are subject to subnational state policies that restrict revenue authority and power over economic regulation and land use controls (Frug and Barron, 2008), and these have been increasing since the Great Recession (Schragger, 2016). These shifts in expenditure, finance and regulatory authority are the focus of our empirical analysis below.

Data and methods

What does state rescaling look like in the USA after the Great Recession? We examine state- to-local rescaling in revenue tools, expenditure responsibility and policy authority, using three sets of data for our analysis. First, we use US Census of Government Finance data for 2002, 2007 and 2012 to explore shifts in state and local government expenditures and revenues. This time frame captures the period immediately pre- and post-recession using the most recent available data.

Because the state rescaling process is dynamic and has intensified in recent years, we also collected more recent data through focus groups. We conducted three focus groups at the national conferences of the International City/ County Management Association (ICMA), National Association of Counties (NACo) and National League of Cities (NLC) in July, September and November of 2017. The focus group participants were city and county elected officials and local government managers. These focus groups explored three questions:

1. How does state policy affect your government's ability to raise revenues from sources other than property taxes?
2. How does state policy affect your government's ability to manage expenditures?
3. How has the state recently constrained your government's policy-making authority?

Lastly, we use reports from the NACo, NLC and National Conference of State Legislatures (NCSL) as well as media reports to capture 'preemption', the process whereby states usurp powers of lower levels of government, as this trend has been increasing since the Great Recession.

This combination of finance data, local government attitudes and legal changes gives us multiple perspectives on the process of state rescaling. We profile below state preemption of local ability to raise revenue, to control expenditures and to regulate the local economy. We conclude with a discussion of the role of political/economic coalitions in this rescaling process.

Rescaling revenue authority

We use data from 2002, 2007 and 2012 US Census of Government Finance to calculate averages for all states and for all local governments and special districts (such as school districts) within each state to explore shifts in state and local government expenditures and revenues. On the revenue side, we examine reliance on own-source revenue and on revenues from other levels of government (that is, federal aid and local transfers to states; federal and state aid to local governments) as a percentage of total revenues (excluding liquor store and insurance trust revenues). The top graphs of Figure 2 show that own-source revenue is the largest single source of revenue for both state and local governments. This reflects the high levels of fiscal autonomy among US state and local governments (OECD, 2016). Although federal aid rose slightly for states in 2007–2012, this is not likely to continue in the future. The federal aid increase represents the American Recovery and Reinvestment Act, which ended shortly after 2012; and federal support for state Medicaid Expansion under President Barack Obama (2009–2017) is ending now under the Trump Administration (2017–current). State reliance on own-source revenues (composed primarily of sales tax and individual income taxes) increased slightly in 2007 when the amount of federal aid dropped.

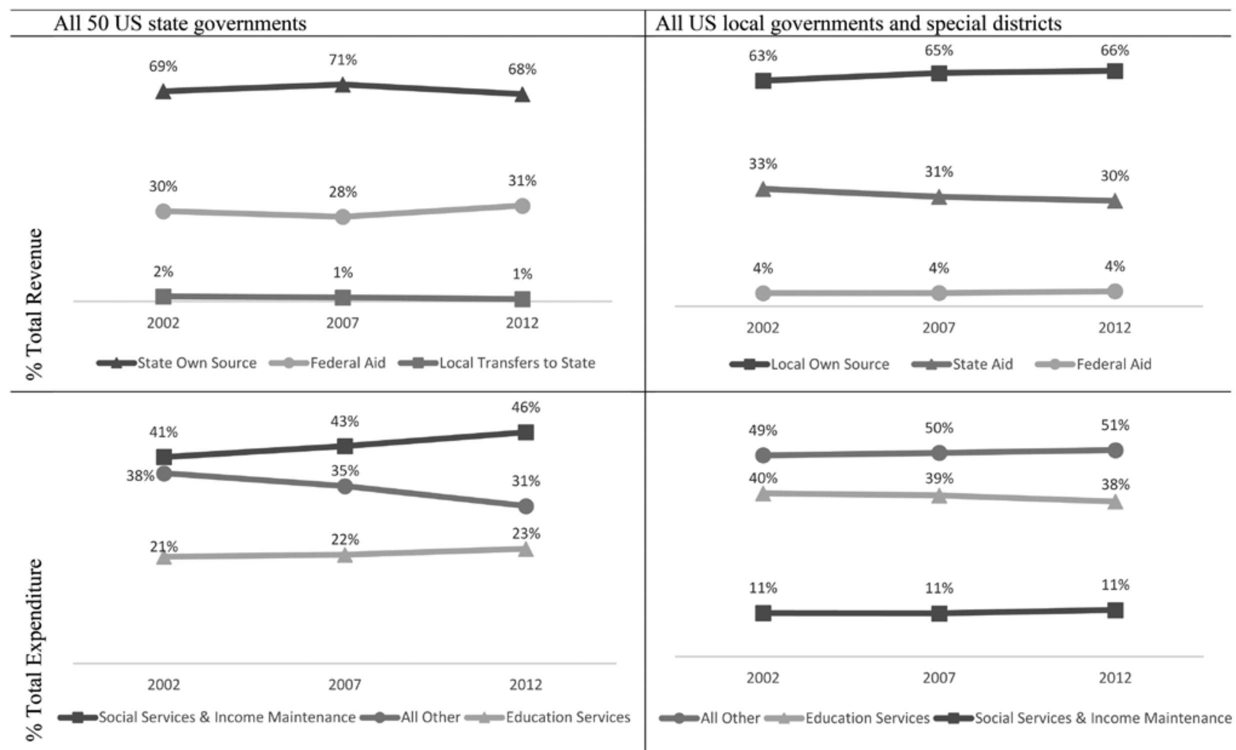

Figure 2. *Revenue and expenditure trends for US state and local governments (2002, 2007 and 2012).*
Note: Figures based on totals for all states and state averages for all local governments and special districts in each state (excluding Washington, DC). Total revenue excludes liquor store and insurance trust revenue. Total expenditure excludes intergovernmental, liquor store and insurance trust expenditures.
Source: 2002, 2007 and 2012 US Census of Government Finance.

Local governments have become more self- reliant on own-source revenue since the Great Recession as state aid has declined. Figure 2 shows local own-source revenue is the primary source of local revenue, with a statistically significant increase from 63% in 2002 to 66% in 2012. Own-source revenue comes primarily from property tax and charges, which are procyclical, making local governments especially vulnerable during recessions. State aid is the second most important source of revenue for local governments, but it showed a statistically significant drop from 33 to 30% of total local revenue over the 2002–2012 period. States reduced aid to local governments to solve their own fiscal problems after the Great Recession, in a process of scalar dumping. Federal aid to local governments is basically flat and only accounts for 4% of total local revenue.

Local own-source revenue is primarily based on the property tax, but state rescaling has been targeting the property tax as well. For example, focus group participants reported corporate lobbyists are using the ‘dark store’ strategy to pressure state governments to reduce the value of their local property tax assessments. Big-box retailers claim the property value of businesses should be assessed as if it were an empty building (or a ‘dark store’ with no business activities). The argument is these buildings would be empty ‘but for’ the large retailers, such as Walmart,

Target, CVS, etc. When this strategy is applied, the assessed value of the property is significantly lower. NACo (2016) confirms this strategy has been used in Alabama, Florida, Iowa, Michigan, North Carolina, Ohio, Tennessee, Washington, Indiana and Wisconsin.

Another way state governments constrain local ability to raise revenues is through TELs. These are laws that limit the growth of government taxes and/or expenditures. TELs are widespread, regardless of political party. State restrictions on local revenues, expenditures, or both, exist in some form in 47 states (Wen et al., 2018). Earlier TELs, such as California's Proposition 13 in 1978, were driven by popular referendums, but recent TELs, such as New York's 2011 Tax Cap are being driven by state legislatures. Earlier studies found local governments respond to TELs by shifting their budget reliance to state aid, charges and fees (Mullins and Joyce, 1996), but recent studies find local governments under more stringent TELs do not rely more on charges (Kim, 2017; Wang, 2018; Wen et al., 2018).

Studies of local government fiscal stress in the USA find state centralisation is more important to reduce local fiscal stress than state aid (Warner and Pratt, 2005, Xu and Warner, 2015). Centralisation of expenditure responsibility at the state level varies from 38 to 70% of all state and local expenditures across the 50 states, according to the 2012 US Census of Government Finance (Figure 3). While early TELs, such as California's Proposition 13 and Massachusetts Proposition 2½ in the 1970s and 1980s, were associated with increased state centralisation (shifting expenditure responsibilities to the state level) (Mullins and Joyce, 1996), we now find state centralisation is lower in states with more stringent TELs. Figure 3 uses Wen et al. (2018)'s municipal TEL stringency scores, which are based on coverage of TEL (revenue, expenditure, debt), difficulty of local overrides (simple majority, super majority) and number of exemptions (for example, infrastructure, emergencies) and graphs it against the level of state expenditure centralisation based on the 2012 US Census of Government Finance data. It shows that California and Colorado, which have the most stringent TELs, also have the lowest levels of state centralisation. The downward sloping curve between state centralisation and TEL stringency shows that this combination of policies puts local governments in a double bind (lower centralisation and higher restrictions on local revenue raising).

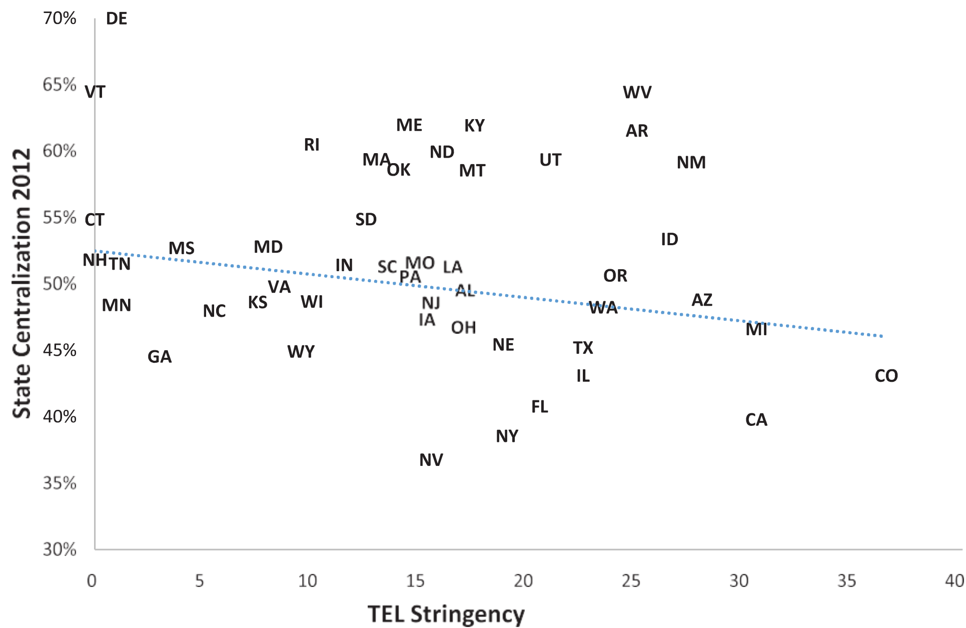

Figure 3. *US state centralisation and tax and expenditure limitations (TELs) severity.*
Note: State centralisation is the ratio of state expenditure to total state and local expenditure as a percentage.
Source: 2012 US Census of Government Finance, Wen et al. (2018) municipality TEL severity rankings.

Historically, states allowed local revenue diversification when they imposed TELs (Pagano, 1990). However, this is becoming more difficult. Wen et al. (2018) find TELs constrain counties more than cities, as counties provide more social services and have less scope to charge user fees.

Our focus groups revealed a recent example of increased restrictions. Local officials from Wisconsin reported that the state modified its TEL in 2010 (after implementation in 2006), such that if a local government switched from the general levy to user fees to fund snow ploughing, stormwater management, garbage, street sweeping or fire protection, it had to deduct the amount of those fees from the levy limit. In effect, this constrains local revenue tools in Wisconsin to just two sources—state aid and property taxes.

Dependence on own-source revenue at the state and local level will make it increasingly difficult to maintain expenditures. Dependence on inter-governmental transfers also is risky, for both states and local governments, as state rescaling encourages each level to reduce inter-governmental transfers and shift expenditure responsibilities to lower levels in the government hierarchy. Our analysis shows this process is most pronounced from the state to local level, but we anticipate increased pressure from the federal government on state and local governments due to recent federal policy changes.

The Trump Administration is proposing severe cuts in aid to states, and the 2017 tax reform will increase the pressure on state and local own-source revenue further as it limits the deductibility of state and local taxes from federal tax liability. This reform removes a 100-year tradition of no double taxation on state and local taxes, and further undermines the architecture of fiscal federalism. Limiting deductibility of state and local taxes to $10,000 affects the more urban states

and cities where taxes are higher. These are also the states with Democratic political control (for example, California, Connecticut, Massachusetts, New Jersey, New York), causing some to speculate the tax reform was politically targeted (Abramsky, 2018).

Rescaling expenditure responsibility

Under devolution, social welfare responsibilities have been pushed down to the subnational level. The bottom graphs of Figure 2 use Census of Government Finance data for 2002 to 2012 to show state and local expenditure trends as a percentage of total expenditures (excluding intergovernmental, liquor store and insurance trust expenditures). Social service expenditures are the primary expenditure for states, and showed a statistically significant increase from 41 to 46% of total state expenditures from 2002 to 2012. Education is next in importance and showed only a slight increase over the period. Expenditure in all other categories, which includes environment and housing, transportation, public safety and governmental administration among others, showed a statistically significant decrease from 38 to 31% of total state expenditures. By contrast, for local governments, the 'other expenditures' category is increasing and accounts for half of all local government expenditures, reflecting the wide responsibilities of local government. Education is the largest single expenditure for local governments (which include school districts), but this dropped after the recession. Social welfare is the next largest single category and makes up 11% of total local expenditures.

Devolution is causing expenditures to shift toward social welfare and away from other services and infrastructure. Under fiscal stress of their own, states are seeking ways to shift expenditure responsibility to the local level. While focus group participants recognised state mandates are necessary to ensure a minimum level of quality in services, they emphasised the problem of an increase in unfunded mandates. State governments have cut state funds for mandated services after the Great Recession, but local governments are still required to pay for these services. NACo (2016) found nearly three-quarters of states have increased the number and/or cost of mandates, decreased state funding for mandated services, or both, in recent years. In New York, the state association of counties reports that nine state mandates account for more than 100% of state-wide county property receipts (NYSAC, 2015). In Wisconsin, county officials pointed out that state appropriations for child and family protective services have not increased for the past 10 years, making it difficult to respond to the increase in service needs, especially with the recent opioid crisis.[1] In states with severe budget crises, such as Illinois, delay in reimbursement has become a more common strategy. After the Great Recession, the average delay in payments to local providers for state-mandated services in Illinois was over 7 months (SBCTF, 2012).

Municipalities are also being incentivised to pursue more debt. Debt and debt services are often exempt from tax and expenditure limits. According to Wen et al. (2018), 17 states exempt debt or debt services from their levy limit. For example, Kansas adopted a levy limit in 2015 that requires local governments to go to a referendum if they want to increase the levy above a state-adjusted Consumer Price Index. However, debt and debt services are exempt from this limit. A local official from Kansas foresees,

> In terms of the effect on expenditures we're going to see more cities bonding things and borrowing because there's no incentive to save…'oh I can bond for this fire truck instead of purchasing,' which increases your costs – your interest costs [and] bond issuance costs (NLC focus group).

In Wisconsin, municipalities are subject to an expenditure restraint programme that rewards municipalities that keep their non-debt expenditures below a certain level with additional state aid. The programme encourages local officials to use debt to keep their expenditures down so as not to lose this form of state aid. A Wisconsin local official in the NLC focus group explained,

> …levy limits do not apply to borrowing and frankly it was the ... bond-carriers that convinced the legislature [to make that exemp- tion]… 'We don't give a flip what you do with the rest of local government but that revenue stream [to pay municipal bondholders] has to be protected'.

Rescaling policy authority

In the past decade, a host of state laws have been passed that prohibit local governments from making local ordinances or laws. The Koch brothers-funded ALEC plays an important role in sponsoring these preemption bills and is pushing a corporate agenda to limit government regulation. They view the subnational state as the scale most easy to penetrate in a federal system. Unlike the federal level, state legislators are part-time, there is no accountability body (like the Government Accountability Office or Congressional Budget Office) to assess impact of policy actions, and policy watchdog groups are limited to just the largest states. ALEC maintains a database of bills that state legislators can use verbatim and many of these bills limit the role of government. ALEC's goal is to limit economic regulation, but ALEC also supports conservative social issues to broaden its appeal to a conservative political base (Lafer, 2017).

Variety across the 50 states and frequent changes in preemption laws make this form of state rescaling especially difficult to track. The NLC has published a report showing that preemptions have increased in recent years (NLC, 2017). The NLC report focuses on seven policy areas—minimum wage, paid leave, anti-discrimination, ride sharing, home sharing, municipal broadband and TELs—and provides a 50-state list of which states have preempted in each policy area. TELs are most common, followed by preemptions in ridesharing (for example, Uber, Lyft; 37 states), minimum wage (25 states), paid leave (19 states) and municipal broadband (17 states). Anti-discrimination and home sharing (for example, AirBnB) preemptions are least com- mon (three states).

NLC (2017) reports that potential drivers are urban-rural sorting of political preferences, increased corporate lobbying efforts and single-party dominance in state governments. In Figure 4, we present the number of state preemptions in six areas measured by NLC (2017): minimum wage, paid leave, anti- discrimination, ride sharing, home sharing and municipal broadband, and map them against political party control in the state legislature and governor's office. While state preemptions are not limited to Republican states, we see more preemptions when both the state legislature and governor are Republican, next if power is split and least if the state is under Democratic control.

An important arena for preemptions is in new and growing sectors of the economy. State legislatures are restricting local governments from regulating more recent economic innovations in transportation (for example, Uber, Lyft) and lodging (for example, AirBnB). This has led to dramatic drops in the value of taxi medallions (an important source of city revenue) and in 2017, three New York-based taxi credit unions were placed under conservatorship (Matthews, 2017). Similar restrictions on local regulation of home-sharing both undermine hotel taxes, which are an important source of local revenue and exacerbate the affordable housing shortage (Lee, 2016).

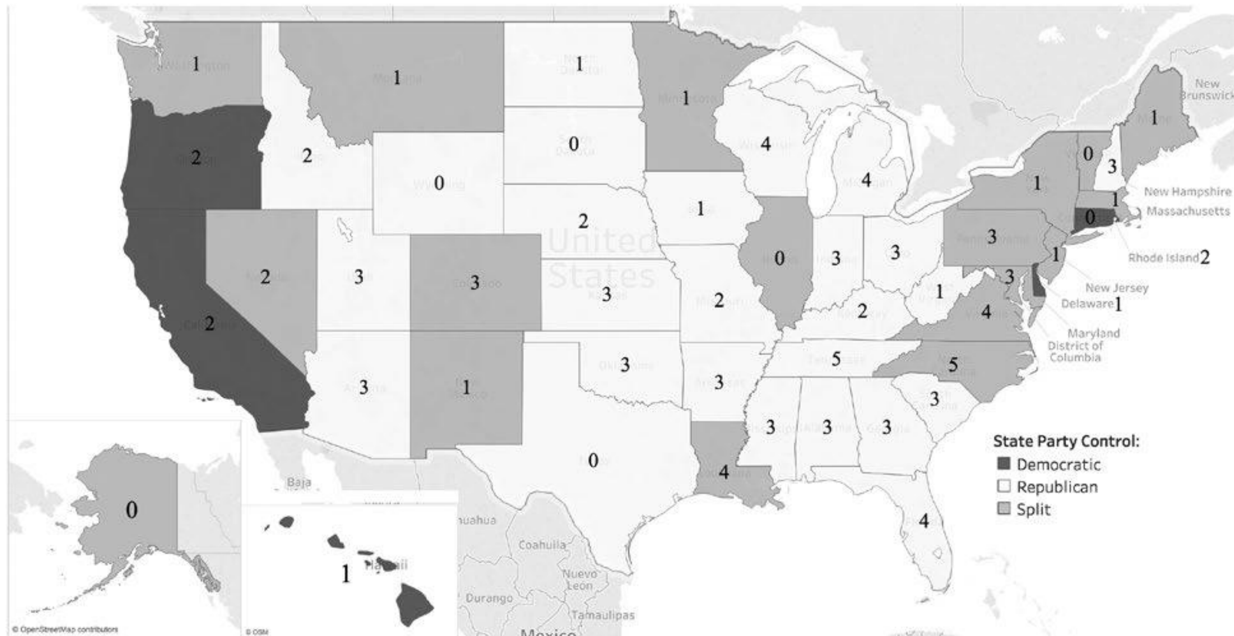

Figure 4. US state preemptions and political party control.
Source: NLC (2017) for preemptions in minimum wage, paid leave, anti-discrimination, ride sharing, home sharing and municipal broadband. Political party control data from National Governors Association and National Conference of State Legislatures (2017).

Restricting local government economic regulation not only limits local revenue, it also limits government's ability to regulate corporations. In the absence of federal leadership, some cities have been leading the fight for better wages and working conditions through living wage campaigns, higher minimum wages, prevention of wage theft and requirements for paid sick leave (Doussard, 2015). For example, the USA has no national policy on paid sick leave. The US minimum wage is not indexed to CPI and today has only 33% buying power, compared to 1970 (Lafer, 2017). Cities recognise both the social welfare and economic growth benefits of a rising minimum wage (Lester, 2012) and have tried to increase local minimum wages. ALEC is pushing a set of bills to broadly preempt any local regulation of employment.

The NLC report (2017) notes that many state preemption bills are direct replicas of ALEC model bills. For example, Alabama's HB 174 (adopted in 2016) that preempts any local laws regarding collective bargaining, wages, leave or any other employment benefits is very similar to ALEC's model bill titled, 'The Living Wage Mandate Preemption Act'. Florida State Representative Rachel Burgin introduced legislation in 2012 asking the state government to reduce

corporate taxes and forgot to remove the ALEC mission statement (which is used as a placeholder in ALEC model bills) (McEntee and Saunders, 2012).

Conservative social policy is often just a smokescreen for the corporate anti-regulatory agenda. For example, 225 cities and counties across the USA have passed anti-discrimination ordinances that include gender identity protections in employment discrimination (public and private) (Human Rights Campaign, 2017). North Carolina's much publicised 'bathroom' bill (HB 2, passed in 2016) also included preemption of local authority to increase minimum wages. The NLC report notes this was necessary to get the business community to support HB 2, because the gender side of the bill would lead to economic costs (for example, boycotts). The preemption of minimum wage gave the business owners something they like.

Local governments can be leaders of environmentally sustainable policies (Homsy and Warner, 2015), but environmental regulation is another area where ALEC's preemption agenda is at work. Iowa's HF 295 (adopted in 2017) preempts counties and cities from adopting local minimum wage increases or any regulation of containers like plastic bags. According to the NLC (2017) report, Arizona, Idaho, Michigan, Missouri and Wisconsin also have preempted any local plastic bag regulations or plastic bag taxes.

State preemptions are not inherently bad. There are arguments both in support of local autonomy (local diversity, experimentation, direct democracy) and in support of state control (avoid a confusing policy patchwork, promote cross-jurisdictional coordination, higher capacity in state governments) (Swindell et al., 2017). But the problem today is we see more use of state preemption to undermine local authority and advance corporate interests. This undermines the potential for progressive coalitions that often begin at the local level.

Under President Trump, the preemption agenda is also moving to the federal level. We see this in the example of sanctuary cities and states seeking to protect undocumented immigrants. Approximately 330 sanctuary cities, counties and towns exist (Funkhouser, 2017), and President Trump signed an executive order on 25 January 2017 to withhold federal aid from sanctuary cities. Nevertheless, some cities are pushing back because federal aid is such a small percentage of local revenues (4% in 2012, see Figure 2). For example, Mayor Gonzales of Santa Fe pointed out the city receives $6.2 million in federal aid each year, accounting for about 2% of the city's annual budget and that the costs of attacking their immigrant population would be far more expensive (Stuart, 2016).

State pressures are much more difficult for local governments to ignore. According to the NCSL (Morse et al., 2017), at least 33 states considered legislation in 2017 to prohibit local sanctuary policies. Georgia's HB 37 (2017) withholds state funds or charges a penalty on sanctuary cities or sanctuary campuses. Texas' SB 4 (2017) allows any police officer to question the immigration status of people they detain or arrest, and any city, county, elected official or university campus that does not collaborate with federal immigration enforcement will be guilty of a criminal offense (subject to civil fines up to $25,500 a day). Arizona's SB 1487 (2016) withholds state-shared revenue from local governments that adopt any ordinances in conflict with state policy.

Local pushback to state rescaling?

While some theories of state rescaling see potential for pushback from regional coalitions (Doussard, 2015; Jones and MacLeod, 2004), our analysis gives explicit attention to the role of the subnational state and finds limited potential for local action. Swindell et al., (2017) recommend local governments respond to state preemptions by using legal powers to test the limits, popular referenda to change state policies and if legal remedies fail, defiance or advocacy through grassroots coalitions. Weak constraints on federal and state power mean that legal challenges are likely to fail under the current structure of state-based federalism (Schragger, 2016).[2] Local governments are creatures of the subnational state and have lim- ited legal autonomy (Frug and Barron, 2008).

This leaves advocacy efforts as the most realistic option. An example of such coalitions is the State Innovation Exchange, which was created in late 2014, combining three organisations—American Legislative and Issue Campaign Exchange (ALICE), Progressive States Network and the Center for State Innovation. The organisation publishes a report at the end of each legislative session tracking bills introduced in state legislatures across the country. The Center for Media and Democracy's ALECexposed (founded in 2011)[3] lists ALEC model bills on their website and lists the state politicians and academics who have received ALEC money. Other efforts include the Legislative Influence Detector, a project of the Data Science for Social Good programme, that makes searching for similarities between state legislation easier.

Despite these possibilities, we see limited success for progressive coalitions. These grassroots organisations have fewer resources, and local governments, by definition, have less power than state governments. ALEC shows it is easier to insert its power at the subnational state level because state legislatures are primarily part-time, and meet only a few weeks or months each year. The resources that ALEC offers appeal to state legislators with limited professional staff (Hertel-Fernandez, 2014). It is this corporate-state legislator coalition that is the weak link in the federal structure (see Figure 1). Penetration by corporate interests demonstrates that the austerity machine is a state level coalition not a local coalition, as argued by austerity urbanism theorists.

Conclusion

This article has explored state rescaling in revenue, expenditure and policy authority in the USA. We find little empirical evidence that the state is shrinking. Rather, we argue the subnational state is emerging as a level that increasingly limits and constrains local governments. While expenditure responsibilities are shifting downwards, local revenue tools are constrained and local policy authority is being preempted. This makes it hard for local governments to function. A rational federalist governance structure is being undermined as the linkage between responsibility and power continues to weaken (Aldag et al., 2018).

Scholars should give more attention to the subnational state in studies of the USA, as this middle tier is the fulcrum between national and local policy. ALEC is demonstrating this tier is easier for corporate interests to penetrate and at the same time, fiscal stress at this tier can force even progressive states to download responsibilities to the local level. The chance for progressive

pushback in this framework is limited, as resources and policy authority are most constrained at those scales closest to social movement action.

Can local governments be leaders in pushing back? While we see some attempts to push back or at least hold ground in pragmatic ways (Kim and Warner, 2016), we also see local governments rapidly losing ground in the post-Great Recession context of fiscal stress. Power—both legal/political and financial—is overwhelmingly concentrated at the state level. Lafer (2017) argues state preemption of local authority is not just about advancing a corporate agenda, it is also about shrinking citizens' expectation of the state by restricting civil, social and political rights. Will pushback be possible in the future as citizen expectations shrink and local governments become powerless? This is a critical question for state rescaling.

Endnotes

[1] The federal government has declared the opioid crisis a public health emergency, but there has been no federal aid to state or local governments to help address the crisis.

[2] For example, Austin, San Antonio and three advocacy groups sued the State of Texas for its sanctuary city ban (SB 4), but an appeals court ruled in March 2018 that the law can remain in effect while legal challenges proceed. An example at the federal-state level relates to the 2017 tax reform removing state and local tax deductions. Governors of New York, New Jersey and Connecticut formed a coalition in January 2018 to sue the federal government, but legal scholars predict this challenge will be unsuccessful.

[3] ALECexposed made ALEC publicly known for its involvement in connection to the 'stand your ground' law that permitted the shooter of an unarmed African American teenager, Trayvon Martin, to avoid conviction for his actions.

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