Policy Dynamics in Federal Systems: A Framework for Analysis

R. Kent Weaver*

*Georgetown University and The Brookings Institution; kent.weaver@georgetown.edu

A central puzzle in federalism research is that federal arrangements have been associated with a variety of policy effects, ranging from emulation of policy innovations among sub-national units to policy variation based on preferences of state or provincial voters and elites to a competitive "race to the bottom." This article outlines twelve federalism policy dynamics discussed in the literature and provides an analytical framework for understanding when specific policy dynamics are likely to emerge, in either a strong or muted form. Shifts in four sets of facilitating and limiting conditions shape specific federalism policy dynamics and their emergence, consolidation, or weakening over time.

Does federalism matter for policy—that is, are federal systems likely to produce different policy choices, outputs, or outcomes than more centralized systems? The political science literature has examined potential federalism effects in a number of areas, notably with regard to whether federalism has an expansionary or contractionary effects on the size of the welfare state (see for example, Obinger, Castles, and Leibfried 2005), but the literature is characterized by disagreement rather than consensus, and some authors have despaired about making any generalizations about the policy impact of federalism, given the vast diversity of federal arrangements (for overviews, see Riker 1964, 1969; Volden 2004; Erk 2006; Grumbach 2018). What are federalism’s imprints on the policymaking process? How compelling are the theories and how robust is the evidence on these imprints and the causal forces that produce them?

A substantial literature suggests that federalism can create “laboratories of democracy” that facilitate policy innovation and eventual harmonization around what is perceived as “best practice” (e.g., Karch 2007a; Graham, Shipan and Volden 2013). A second thread, flowing out of the public finance literature, suggests that federalism may lead to heterogeneity across sub-national units, as those subunits specialize in providing particular packages of public goods (e.g., more parks versus better schools) that attract different residents who have distinctive packages of policy preferences. (I will henceforth refer to first-level
sub-national units generically as “states,” and their governments as “state governments” except where referring to specific countries where those governments are officially designated as provinces or by other names, e.g., German länder.) A third literature suggests that federalism can lead to competition between provinces to attract business and/or discourage residence by those who are high consumers of public services, resulting in a “race to the bottom” or at least to a provision of goods; services or transfers less generous than would be the case if such competition was absent (Peterson and Rom 1990; Harrison 2006; Konisky 2007). Additional literatures have argued that federalism leads to “joint decision traps” that privilege the status quo (Scharpf 1988, 2006), to policy variation based on public preferences as interpreted by strategic politicians (Barilleaux, Holbrook, and Langer 2002), state fiscal capacity, or the distribution of power resources within states or provinces (Snyder 1999).

Studies that attempt to evaluate the policy impact of federalism are fraught with methodological difficulties, notably the huge variation among federal systems (Pierson 1995) and the absence of appropriate counterfactuals: it is impossible to know what a centralized political system would have done in similar circumstances, or even whether the political system could have existed with similar boundaries in the absence of federal institutions. Moreover, there has been surprisingly little dialogue between these literatures about policy dynamics under federalism (for exceptions, see for example, Boehmke and Witmer 2004; Lieberman and Shaw 2000; Karch 2007b). In this article, I develop a comprehensive but reasonably parsimonious framework to explain the conditions that lead to the emergence of what will be called multiple federalism “policy dynamics”—i.e., durable constellations of political actors and causal mechanisms that have distinctive policy consequences over time. The article seeks to (1) make these multiple policy dynamics more explicit and precise, (2) specify the dominant causal mechanisms at work in each policy dynamic, (3) outline the expected policy consequences of each dynamic, (4) outline the conditions that facilitate or inhibit the occurrence of specific policy dynamics and increase or limit their policy impact (what I will refer to as “strong” and muted” forms of specific policy dynamics), and (5) examine how and why specific policy dynamics emerge and evolve over time. Equally important, this analysis explains why the federalism literature has produced such inconsistent results on the policy impact of federalism: because multiple federalism policy dynamics exist, in both strong and muted forms, the result is substantial—but non-random—variation across sectors and over time in the impact of federal arrangements on policy. While the arguments are intended to be applicable to a very broad set of federations, the evidence is drawn largely from wealthy, politically stable democracies such as the United States, Canada, Germany, Australia, and Switzerland. Given space limitations and the broad set of arguments made, the objective is primarily hypothesis-generating rather than rigorous hypothesis-testing;
I do nevertheless offer very preliminary assessments on the robustness of the
evidentiary base for each dynamic.

The first section of the article very briefly outlines twelve distinctive federalism
policy dynamics examined in the literature, the main causal mechanisms that drive
policy outputs for each dynamic and the predictions associated for each with
respect to policy heterogeneity across states and policy change over time. These
distinctive policy dynamics affect the direction of policy change within a federal
system and the heterogeneity of policy choices, outputs, and outcomes across states
and provinces.

The second section outlines four broad sets of conditions under which specific
policy dynamics are more or less likely to emerge and be sustained in a relatively
“pure” and strong form, as well as conditions that make it less likely that a specific
dynamic will appear or be sustained, or that make it more likely that it will
appeared in a muted form.

The third section examines conditions that lead to the muting of specific
federalism policy dynamics and their evolution over time. It also discusses the
emergence and impact of simultaneous conflicting policy dynamics in a sector,
using abortion policy in the United States as an example. The argument
throughout the article, it should be noted, is explanatory rather than normative:
our concern is not whether decentralization of policymaking in a particular sector
or country is desirable (on this topic, see for example, Bardhan 2002), but rather
what the policy consequences of federalism are likely to be when a particular set of
institutional arrangements and sector characteristics is in place.

**Policy Dynamics**

The political science literature suggests several policy dynamics that may emerge in
federal systems, as noted above. The left-hand column of **table 1** outlines a
typology of twelve federalism policy dynamics that appear in the literature. Columns 2 and 3 show the main actors and causal mechanism(s) at work in each
policy dynamic. Columns 4 and 5 shows the expected consequences in terms of
heterogeneity of policy outcomes across subnational units and the direction of
policy change over time when different policy dynamics appear in their relatively
“pure” and more muted forms.

The first three policy dynamics primarily concern what can be called the
internal determinants of sub-national units. In the “Tiebout federalism” policy
dynamic, heterogeneity across states in the preferences of state electorates, elites, or
interests (the literature suggests that all three may be influential) drives different
sub-national governments to develop specific packages of policies that vary
significantly in size and content. In the Tiebout model, these policy choices are
made largely without regard to influences outside the province (see for example,
<table>
<thead>
<tr>
<th>Policy dynamic</th>
<th>Key actors</th>
<th>Main causal mechanism(s)</th>
<th>Likely consequences</th>
</tr>
</thead>
<tbody>
<tr>
<td>Policy variation based on variation in preferences (“Tiebout federalism”)</td>
<td>State politicians</td>
<td>Variation in political culture, ideology of dominant parties, interest group pressures, etc. within and across states</td>
<td>Policy outputs are heterogeneous across states</td>
</tr>
<tr>
<td>State or Provincial shirking</td>
<td>State and federal politicians</td>
<td>Variation in political culture, ideology of dominant parties, interest group pressures, etc. within and across states; state politicians' incentives to respond to these preferences despite obligations under central government rules</td>
<td>Policy outputs are heterogeneous across states</td>
</tr>
<tr>
<td>Policy variation based on fiscal capacity of state</td>
<td>State politicians</td>
<td>Variation in taxable income and wealth across states create differential constraints on policy choices</td>
<td>Policy outputs are heterogeneous across states, with poor states offering lower quality and quantity of public services than wealthy states</td>
</tr>
</tbody>
</table>
| Experimentation/Emulation | State politicians and policy preferences of voters and parties, combined with credit-claiming incentives for | Strong policy convergence around a single policy model with modest | Policy innovations win adoption in states with similar policy | (continued)
<table>
<thead>
<tr>
<th>Policy dynamic</th>
<th>Key actors</th>
<th>Main causal mechanism(s)</th>
<th>Likely consequences</th>
</tr>
</thead>
<tbody>
<tr>
<td>(“Laboratories of democracy”)</td>
<td>policy experts</td>
<td>politicians to adopt “good” policies; Professional norms and paradigms about what constitutes “good policy” fueled by cross-state information flows</td>
<td>variations, or (1) convergence among states where public has similar policy preference, or (2) central government supplantation variations, or (1) convergence among states where public has similar policy preference, or (2) central government supplantation characteristics, but fall short of universal adoption</td>
</tr>
<tr>
<td>Preemption/Supplantation</td>
<td>State and federal politicians</td>
<td>Central government responds to interest pressure for policy uniformity</td>
<td>Policy uniformity as federal policy supplants state policies</td>
</tr>
<tr>
<td>Turf-claiming (Competitive state-building)</td>
<td>State and federal politicians</td>
<td>State and federal governments compete to offer programs in sectors of ambiguous or contested jurisdiction</td>
<td>Central and state governments offer overlapping and competing programs within a policy sector</td>
</tr>
<tr>
<td>Joint Decision Trap</td>
<td>State and federal politicians</td>
<td>Strong and/or multiple veto points prevent policy change</td>
<td>Policy outputs are static over time at status quo or affected by policy drift</td>
</tr>
<tr>
<td>“Race to the bottom”</td>
<td>State politicians</td>
<td>Competition leads to lower provision than “true preferences” (i.e., what states would</td>
<td>Policy outputs are homogeneous across states in specific sectors at low level of activity as states</td>
</tr>
</tbody>
</table>

(continued)
<table>
<thead>
<tr>
<th>Policy dynamic</th>
<th>Key actors</th>
<th>Main causal mechanism(s)</th>
<th>Likely consequences</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>do in the absence of competition) would provide</td>
<td>(1) lower income redistribution to the poor over time, and (2) engage in competition to attract businesses by lowering program standards</td>
</tr>
<tr>
<td>Race to the top</td>
<td>State politicians</td>
<td>Competition rather “true preferences” (i.e., what states would do in the absence of competition) drives state policy choices</td>
<td>States engage in competition to attract businesses by improving program standards leading to policy uniformity</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Policies become more activist but substantial heterogeneity remains</td>
</tr>
<tr>
<td>Collusive benchmarking</td>
<td>State politicians</td>
<td>Collusion among states in response to competitive pressures</td>
<td>States adopt uniform policy choices</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>States have similar but not identical policy choices and outputs</td>
</tr>
<tr>
<td>Burden-shedding</td>
<td>State and federal politicians</td>
<td>Fiscal stress causes central governments to cut fiscal transfers to provinces;</td>
<td>State variation in policy outputs increases substantially as central government funding role is ended</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>State variation in policy outputs increases as central government funding role is reduced</td>
</tr>
<tr>
<td>Mutual buck passing</td>
<td>State and federal politicians</td>
<td>Interest groups pressure government to minimize intervention in a policy sector</td>
<td>Policy outputs are homogeneous across states with low level of intervention by both central and state governments</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Some states take more activist role while other states and central government avoid action</td>
</tr>
</tbody>
</table>
Matisoff 2008; Wiener and Koontz 2010). The U.S.-focused literature is especially extensive, with many quantitative and qualitative studies. This research has given particular attention to ideological differences across states between policy and party elites and/or the public as a critical factor explaining cross-state policy variation (Erikson, Wright, and McIver 1989). Recent U.S. literature has stressed the importance of a hyperpartisan and ideologically polarized political environment and gridlock in Washington as factors leading to a shift in policy initiative to the states. Variations in partisan strength at the state level have led states to move in differing policy directions—and encouraged states to challenge federal power in policies such as implementation of the Affordable Care Act (see for example, Bulman-Pozen 2014; Conlan and Posner 2016; Grumbach 2018).

In a second but closely related policy dynamic, state or provincial shirking, the federal government exercises either exclusive or preemptive jurisdiction to set national policies that constrain state action (either to a uniform standard or within certain boundaries), but some state governments violate those boundaries—e.g., in refusing to obey school desegregation orders in many southern states after the Brown v. Board of Education Supreme Court decisions. The literature suggests that shirking may occur in a variety of national contexts, and some of its manifestations (e.g., misuse of central government grants) may be more likely to occur under conditions such as severe fiscal crises (see Braun and Trein 2014).

The third dynamic concerns differences in state fiscal capacity and state per-capita income, which influences state fiscal capacity to launch innovations that are costly. If resource requirements in a policy sector and fiscal stress are both high, then differences in fiscal capacity are likely to be a major causal mechanism explaining cross-state policy differences. The literature also stresses, however, that where there are redistributive fiscal transfers from the federal government, they are likely to mute policy variation based on differences in states’ fiscal capacity (see Schmidt 2016).

Perhaps the most familiar policy dynamic in the public policy literature on federalism is the “laboratories of democracy” or “experimentation-emulation” policy dynamic. In this path, one or more state or provincial governments act as an innovator, and their actions are subsequently copied and adapted by other states, so long as officials in other states see it as being politically advantageous to adopt that innovation. Eventually, a new equilibrium may be established in which there is a high degree of policy homogeneity across states. The “laboratories of democracy” literature outlines several causal mechanisms that may be at work, alone or in conjunction (for a comprehensive review of mechanisms and evidence, see Shipan and Volden 2012). In areas of relatively high political salience, policy preferences of voters and parties lead to early innovation in some states, while credit-claiming incentives for politicians to adopt policies that appear politically attractive may lead political leaders in other states to copy those innovations or
adapt them to their own political circumstances. In policies of lower salience, professional norms and paradigms about what constitutes “good policy” fueled by cross-state information flows are likely to lead to policy diffusion, with a less important role played by politicians. The literature on emulation is large and robust, especially on the United States, but it suggests a complex process in which emulation is likely to be shaped and limited by factors such as policy inheritances, partisan leanings of governments, and state fiscal capacity (Volden 2006).

What can be called the “pre-emption/supplantation” dynamic begins with a similar logic to the “laboratory of democracy” causal logic. In this dynamic, one or more state governments intervene in a policy sector. But once several state governments have intervened, or threatened to do so, interests affected by those policies—especially business—may begin to complain that they are subjected to too many conflicting state policies, and petition the federal government to intervene and preempt state action with a uniform set of requirements. In addition to complete preemptions, federal governments may also establish “ceiling or floor preemptions” that prevent lower level governments from exceeding a particular standard or dropping too low.

A sixth dynamic can be labelled “turf-claiming,” or what Keith Banting (2005) more generously labels “competitive state-building.” In this situation, national and state/provincial governments are seen as each seeking to maximize their own power, jurisdiction, and resources (Cairns 1979). Thus, governments seek to occupy a policy sector fully and preempt action by the other level of government. In the evolution phase, continuing competition from the two levels of government may lead to duplication of effort and to waste; it may also result in asymmetrical arrangements in social programs as states where elites have stronger preferences for program autonomy are allowed to exercise it (Boychuk 2013, 236). This dynamic has been particular strong in Canada and other countries with strong regionally based differences in linguistic, religious, or ethnic identity, notably Spain and Belgium (see for example, Colomer 1998). But as Béland and Lecours (2007) have noted in the Belgian context, once social programs have been institutionalized at the national level and developed strong constituencies (notably labor unions and employer confederations), they are unlikely to be decentralized.

If the first six policy dynamics are all likely to stimulate policy innovation by at least one level of government, several others are likely to shrink or freeze it over time. In the “joint-decision trap” (Scharpf 1988), “central government decisions must be directly dependent upon the agreement of constituent governments and, further, the agreement of constituent governments must be unanimous or nearly unanimous” (Blom-Hansen 1999, 37). The result is likely to be policy sclerosis, because it is impossible to compensate all potential losers from policy moves from the status quo. While a substantial literature on the joint decision trap exists on Germany and the (supra-national) European Union, it has had only limited usage
in other systems of multi-level governance, most likely because the high level of embeddedness of second-level governments in EU and German policymaking institutions give those governments strong policymaking leverage and potential veto power that is not found in most federations.

An eighth federalism policy dynamic, “race to the bottom,” is likely to lead to an actual shrinkage of government activity over time. In the initiation phase, competitive pressure exercised by organized interests, or internalized by politicians and other policymakers themselves, leads them to fear a loss of business, and tax revenue, to other jurisdictions. Because of an interest in attracting investment, states are likely to keep their tax rates and levels of transfers and services lower than they would otherwise prefer. They fear that high expenditures and taxes may encourage in-migration, and discourage out-migration, by persons who are likely to be high consumers of transfers and other government services if the states are more generous than neighboring political jurisdictions. While research has suggested the existence of a race to the bottom in a variety of national contexts (for an excellent review, see Hollander and Thornthwaite 2018), especially the United States, it also suggests that these races usually occur in a muted form, with state policies becoming less activist, but significant heterogeneity remaining and a truly minimalist “bottom” rarely reached (see for example, Rom 2006).

The “race to the top” federalism policy dynamic, like race to the bottom, begins from the idea of state competition. It suggests that “[j]ust as taxpayers and business investment may flee jurisdictions that impose excessive tax burdens, they may also flee jurisdictions that fail to provide adequate infrastructure or environmental standards” (Adler 2012, 91–92). Thus, states may provide more generous services or regulatory standards than voters would prefer in order to attract business. While some authors have argued that a “race to the top” exists in some sectors, such as spending on quality educational systems (Rom 2006), the evidentiary base on this policy dynamic remains thin.

Collusive benchmarking, a tenth policy dynamic noted in the literature, can emerge in response to competitive pressures for a race to the bottom (or in theory, race to the top). In this case, however, rather than acquiescing to those pressures, state or provincial government leaders respond by cooperating to limit that competition in a “mutual assurance game” (see in particular, Harrison 2006, on Canadian experience; see also Béland and Weaver, 2019). The result is likely to be policies that have similar though not identical policy outputs across states. Some of the recent literature on policy variation across the German Länder suggests that a similar process may be at work there to mute variation, facilitated not only (as in Canada) by a relatively small number of units, but also by citizen and elite preferences for national policy consistency and a tendency of many land governments to “muddle through” (Rowe and Turner 2016; Reus 2016; Hildebrandt and Wolf 2016). Interstate compacts in the United States (see for
example, Zimmerman 2012), while not usually analyzed in terms of collusive benchmarking, can in fact be seen as a highly institutionalized form of this policy dynamic. Overall, explicit attention to collusion by sub-national governments has mostly emerged in Canada, and the cross-national evidentiary base on its mechanisms and facilitating conditions remains limited.

An eleventh policy dynamic can be called “burden-shedding.” In shared-cost programs where the central government gives money to states to deliver programs in exchange for meeting program criteria that are set by the central government, both parties have incentives to try to alter the terms of the deal to get the other side to bear more of the costs. The central government may try to cap its transfers to states, while the states may seek to have federal requirements loosened.3

A final policy dynamic can be called “mutual buck-passing.” In this case, both federal and state governments take advantage of shared or ambiguous jurisdiction in a policy sector to avoid entry into that sector, because they fear that any activity would require offending some interests and be politically costly; the politically wisest course is to do nothing. High resource costs to government of intervention can also facilitate this dynamic (Harrison 1996; Stokes 2020).

Empirically, some of these policy dynamics can be difficult to tell apart. When state governments copy the policies of a neighboring government to improve highway infrastructure as a means of spurring economic development, for example, are they engaging in a “laboratory of democracy” emulation or a “race to the top”? Detailed process-tracing can help to distinguish which dynamic—or both dynamics in tandem—are operating.

Causal Forces

The first section outlined a number of policy dynamics noted in the literature through which federal systems might affect the willingness and ability of governments to undertake an active role in governing their societies. But under what conditions is one of these policy dynamics is likely to be dominant in a particular sector, country, and time period? This section argues that the likelihood of specific policy dynamic emerging and being sustained in a federation depends in large part on variation in four sets of factors: (1) governance arrangements, (2) characteristics of policy sectors and policy feedbacks, (3) the number of state/provincial units and their heterogeneity on aspects such as ideology and fiscal capacity, and (4) political incentives for politicians. Table 2 provides a stylized summary of specific conditions that facilitate, inhibit or limit the occurrence of specific dynamics, with facilitating conditions for a particular policy dynamic indicated with a “+”, and conditions that inhibit or limit a dynamic indicated with a “−”. A blank cell indicates no clear prediction about how a specific facilitating or limiting condition will affect the probability of a specific policy dynamic emerging.
The individual points in the four right hand columns of table 2 should be considered as specific hypotheses about the conditions that give rise to or weaken specific policy dynamics, or prevent them from emerging altogether. Looking up and down the columns shows how the impact of a particular factor varies across policy dynamics; looking at individual rows shows each of the factors is likely to affect the initial operation and potential weakening or termination of a specific policy dynamic. The focus in this section is in outlining the major factors (i.e., the columns in table 2).

Jurisdictional and Policy Regime Characteristics

A first important influence on the emergence and sustaining of specific policy dynamics is whether the central or state government, or both, have legal authority and/or fiscal leverage to act. I will refer to this as “jurisdictional and policy regime characteristics.” It has three components: legal authority, decision rules, and financial leverage.

Legal authority (or jurisdiction) over specific policy areas can be arranged in variety of ways. When central or state governments have exclusive jurisdiction over a policy or sector, they can move from the status quo in those realms with few checks. But several other jurisdictional and financing arrangements can also be identified:

1. Federal and state governments may each have autonomy to intervene in a sector without any permission from the other level of government, and both may act without approval of the other. This type of arrangement can be labelled “concurrent jurisdiction”;
2. Constitutional or statutory arrangements may explicitly permit federal preemption of action by states but allow states act in the absence of such preemption;
3. The federal government may be barred or may refrain from direct intervention, but be able to provide incentives to sub-national governments to follow federal guidelines in developing their programs. The most common structural response to this type of jurisdiction is shared-cost grant programs in which state governments make ultimate decisions about innovation, but with incentives from the federal government shaping those decisions (Welch and Thompson 1980). These incentives may either be positive (e.g., matching funds provided if states enact Aid to Families with Dependent Children [AFDC] and Medicaid programs) or negative (e.g., threats to reduce highway funds for states that did not adopt a 55 mph speed limit). Either arrangement gives the central government fiscal leverage over the actions of states, especially once the states have begun receiving funding and become dependent on it;
4. Jurisdictional divisions between levels of government may also be unclear. This is especially likely to occur in policy sectors which appear to straddle the border.
<table>
<thead>
<tr>
<th>Policy dynamic</th>
<th>Mediating factors: facilitating (+) and limiting (−) characteristics</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Jurisdictional and policy regime characteristics</td>
</tr>
<tr>
<td><strong>“Tiebout federalism”</strong></td>
<td>+ States have exclusive or primary jurisdiction − Central government distributes resources to states to incentivize particular policies or equalize fiscal capacity</td>
</tr>
<tr>
<td>State shirking</td>
<td>+ Central government has exclusive or preemptive jurisdiction, but depends on state governments to implement policy</td>
</tr>
<tr>
<td>Policy variation based on fiscal capacity of state</td>
<td>+ States have exclusive or primary jurisdiction + National government does not redistribute resources to poorer states</td>
</tr>
</tbody>
</table>

(continued)
<table>
<thead>
<tr>
<th>Policy dynamic</th>
<th>Mediating factors: facilitating (+) and limiting (−) characteristics</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Jurisdictional and policy regime characteristics</td>
</tr>
<tr>
<td>Experimentation/</td>
<td>+ States have exclusive or shared jurisdiction.</td>
</tr>
<tr>
<td>Emulation</td>
<td>+ Channels for transmitting policy lessons between states/provinces are strong</td>
</tr>
<tr>
<td></td>
<td>+ States or provinces share sufficiently similar values that they are willing to learn from each other</td>
</tr>
<tr>
<td></td>
<td>+ National government provides incentives to innovate by funding part of the costs</td>
</tr>
<tr>
<td>Preemption/</td>
<td>+ States have shared jurisdiction, but national government has preemption authority.</td>
</tr>
<tr>
<td>Supplantation</td>
<td>+ States or provinces share sufficiently similar values that they are willing to learn from each other</td>
</tr>
<tr>
<td>Turf-claiming</td>
<td>+ State and central governments have open jurisdiction</td>
</tr>
<tr>
<td>(Competitive state-building)</td>
<td>+ States have exclusive or shared jurisdiction.</td>
</tr>
</tbody>
</table>
### Table 2 Continued

<table>
<thead>
<tr>
<th>Policy dynamic</th>
<th>Mediating factors: facilitating (+) and limiting (−) characteristics</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Jurisdictional and policy regime characteristics</td>
</tr>
<tr>
<td>Joint Decision Trap</td>
<td>+ States and central government share jurisdiction with super-majority agreement required to change from current policy</td>
</tr>
<tr>
<td>&quot;Race to the bottom&quot;</td>
<td>+ States have exclusive or shared jurisdiction. − Central government (1) imposes laws or rules that create floors that the states have to meet in program standards and/or (2) offers create incentives for state governments not to fall below minimum &quot;floor&quot;</td>
</tr>
<tr>
<td>Race to the top</td>
<td>+ Program or innovation is seen as necessary to avoid placing the state at a competitive disadvantage (e.g.,</td>
</tr>
</tbody>
</table>

(continued)
<table>
<thead>
<tr>
<th>Policy dynamic</th>
<th>Mediating factors: facilitating (+) and limiting (−) characteristics</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Jurisdictional and policy regime characteristics</td>
</tr>
<tr>
<td></td>
<td>high quality public schools and universities)</td>
</tr>
<tr>
<td></td>
<td>+ Federal government provides financial incentives to the states to make the program more generous</td>
</tr>
<tr>
<td>Collusive benchmarking</td>
<td>+ States have exclusive jurisdiction or share with federal government</td>
</tr>
<tr>
<td>Burden-shedding</td>
<td>+ States and federal government have shared jurisdiction, with fiscal transfers in place</td>
</tr>
<tr>
<td>Mutual buck passing</td>
<td>+ States and central government have unclear or shared jurisdiction.</td>
</tr>
</tbody>
</table>
between federal and state jurisdiction, and (a) there has been little intervention in the past, such as environmental protection in the 1960s, or (b) technology is changing rapidly, breaking down previously clear boundaries between federal and state jurisdiction. I will refer to this as “ambiguous (or unclear) jurisdiction”.

Jurisdictional relationships also vary depending on the decision rules required for policy change. In what can be called “consensual jurisdiction,” innovation may require the direct approval of all units, or a super-majority of units, at both levels of government before any government can act. When a recalcitrant minority can prevent any coordinated action, the default situation—the policy status quo—will usually win out. Scharpf (1988) referred to this as a joint decision trap in analyzing the German and European Union cases of multi-level governance.

Different jurisdictional splits and federal relationships may co-exist within the same policy sector or even the same program, contributing to distinctive policy dynamics. In the former Aid to Families with Dependent Children program in the United States, for example, benefit standards were set by the states under very weak federal guidelines; the states in practice had close to full autonomy, contributing to downward pressure on benefits if not a full race to the bottom. In other matters (e.g., error rate targets and sanctions for benefit payments to recipients), the standards that the states had to meet were essentially uniform. In several countries, the role that sub-national governments play in licensing health facilities has led to differences across provinces in abortion access, even where there is a uniform countrywide abortion “rights regime” (Tatalovich 2003; Palley 2006).

All else being equal, we would expect less policy heterogeneity where the federal government exercises preemption power or where the central government can intervene indirectly through the spending power; more heterogeneity where jurisdictions are unclear or consensual. Within concurrent jurisdictions any single government may innovate, while such entrepreneurialism is very difficult under consensual jurisdiction.

Financial arrangements can also have an important impact on whether subnational units are heterogeneous in their policy outputs, especially where those units are heterogeneous in both their fiscal capacity and citizen preferences. As Jennifer Wallner (2010, 663) notes in the case of Canadian education policy, federal equalization payments in Canada have facilitated the emergence of a high degree of inter-provincial similarity in elementary and secondary education policy by weakening huge disparities in provincial fiscal capacity; thus “through fiscal federalism, the national government plays a vital indirect role that enables the realization of a national social policy system.” But effects of fiscal transfers are not felt evenly across sub-national units: as Manfred Schmidt (2016, 311) noted about Germany, “mechanisms of distribution and redistribution in German federalism
thus increase the scope of the originally weaker Länder to shape their own policies but decrease it for the wealthy Länder, thereby also reducing the policy differences between the wealthy and poor Länder to a considerable extent.”

**Policy Sector Characteristics and Policy Feedbacks**

Three attributes of policy sectors—and specific innovations within them—are particularly relevant to facilitating or inhibiting the emergence and operation of specific policy dynamics. The first is the associated fiscal expense or other resource requirements associated with them. All else equal, policy changes that require modest resource commitments—or even reduce them—are more likely to be adopted by either state or national governments than those that require substantial resources, and thus more likely to be copied by others. A second important attribute is issue salience. But this is not simply a matter of lower or higher salience: it is the combination of salience and distribution of preferences of interests (and in some cases, voters) that matter. When issue salience is low, the opinions of policy experts and specialists may have more of an impact on whether, for example, states engage in learning from each other. High issue salience and low opposition may lead politicians to press for adoption of an idea from another state (laboratories of democracy), while strong opposition is likely to kill it. Finally, the competitive implications of a policy sector or particular innovation may also influence state government decisions—or central government decisions to preempt or supplant. A race to the bottom is especially likely not just where states have complete control over program standards and the resource costs of policy intervention are substantial, but also where the factors of production in question are highly mobile, and the policy or clientele served by a policy is unpopular, weakening pressures to spend on that group. Thus, competition is particularly likely to exercise downward pressure government policies that involve taxation, regulation, or redistribution of income to the less well-off (Peterson 1981; Grumbach 2018, 417).

**Number and Characteristics of State or Provincial Units**

A third set of factors influencing the emergence and operation of specific policy dynamics is the number and characteristics of state/provincial units. Countries vary substantially in the degree of heterogeneity among states regarding characteristics such as their fiscal capacity and the ideology or policy preferences of political elites and publics, key factors in the first two policy dynamics outlined in the previous section.

Some federal systems are characterized by substantial variation across sub-national units in the preferences of their residents and elites. At the extremes, there may be a desire for secession on the part of elites and/or residents of some states who fear that the central government will prevent them from continuing policies...
that they see as essential to preserving a distinctive way of life (e.g., slavery in the ante-bellum U.S. South, language and province-building policies in Quebec). At less extreme levels, research on the United States has revealed substantial impacts of differing citizen preferences on areas from abortion policy to policies toward low-income families. In Germany, persistent policy differences between länder have been linked to differences in partisan control of government, especially when those differences persist for long periods; but variation across länder has been limited in many sectors (notably with respect to many aspects of the welfare state), where differences in preferences between the two Volkspartei are muted (Schmidt 2016).\(^5\)

Incentives for Politicians

Each of the first three sets of facilitating and limiting conditions collectively impact a fourth key determinant of federalism policy dynamics: whether federal or sub-national policymakers have incentives to innovate in policy. Politicians have incentives to claim credit for providing benefits to their constituents and attracting investment that will result in a growing economic pie. But they are unlikely to undertake policy initiatives that alienate powerful interests or substantial shares of voters by imposing concentrated costs on them, or that place their state at a competitive disadvantage in attracting powerful interests or repelling “undesirable” ones. The cost-benefit distribution of interventions is likely to be particularly salient to politicians’ decisions at both the state and central government levels. A state that acts alone in imposing concentrated costs on businesses or individuals within its borders—by dramatically increasing gasoline taxes, for example—would drive business to neighboring states, losing tax revenue and incurring the ire of
gasoline retailers within the state. In these situations, innovations are likely to be made only if all or almost all sub-national units act simultaneously. This is extraordinarily difficult to manage, especially when the number of units is large (as with the fifty U.S. states) and advantages accrue to hold-outs. The more likely result is a “race to the bottom,” with very limited loss-imposing innovation. Similarly, when national and sub-national governments can each act independently or jurisdiction is ambiguous, competitive innovation between levels of government is likely when there are concentrated benefits, and hence political credit to be gained, and a policy vacuum of mutual inaction is likely when there is a significant risk of imposing concentrated costs, and innovation risks incurring political blame (Harrison 1996).

**Conditional Effects and Complex Constraints**

The causal mechanisms that underlie specific federalism policy dynamics are, in short, conditional rather than absolute (Pierson 2019). And as table 2 suggests, the patterns of conditions that facilitate and limit specific federalism policy dynamics are complex rather than simple. Moreover, it is often not individual facilitating or limiting conditions that shape the emergence and sustaining or muting of a particular policy dynamic but their combination. While decision rules are clearly a central driver of the joint decision trap, for example, heterogeneity of preferences, interests and/or resources of sub-national units are important as well: if all of these are similar across participating governments, the joint decision trap is likely to be manageable and policy adjustments are likely to be possible even under super-majority decision rules. And as Jennifer Wallner (2010) has noted in Canada, central government resources given to provinces with few strings according to a formula that lessens inter-provincial disparities in fiscal capacity is likely to increase interprovincial homogeneity of policy outputs when policy preferences and priorities are similar across provinces. However, when those priorities differ across provinces, giving equalization grants with few strings may increase policy heterogeneity.

Similarly, the central causal mechanism in the case of Tiebout federalism is variation in preferences of voters, parties, and/or elites. Ideological differences are often an important factor in cross-state variation in policies: some states or provinces may have liberal attitudes, others may have more conservative attitudes, and policy preferences and choices tend to reflect those differences (see Erikson, Wright, and McIver 1989; Lax and Phillips 2012) where states or provinces have policy discretion. But other facilitating and limiting conditions matter as well, notably states having primary or exclusive jurisdiction over a policy sector and the central government not offering financial incentives to produce more homogeneous outcomes.
Recent literature also supports a nuanced portrait of conditions leading to diffusion of innovations across provinces or states, notably the potential for innovations to flow across levels of government (local, provincial/state, central) rather than simply across units at a single level of government (see for example Sugiyama 2008; Shipan and Volden 2006), although making it to the agenda at another level does not guarantee its adoption (Beland, Medrano and Rocco 2018). Cross-state/provincial ideological and partisan interest networks often play an important role in such innovations, especially when sub-national legislators have meager resources to develop policy independently (Hertel-Fernandez 2014).

**Muted Dynamics**

The almost infinite permutations and combinations of these facilitating and limiting conditions can help to explain why these dynamics often appear in “muted” rather than strong forms. The operation of specific policy dynamics often do not appear in a “pure” form because the conditions that facilitate their operation may be only partially present (e.g., weak cross-state differences in policy preferences). In addition, causal mechanisms are often partially offset by other conditions that limit their operation—state autonomy under Tiebout federalism may be limited by constitutional guarantees of individual rights enforced by courts, for example. In what is perhaps the most comprehensive effort to date to assess the race to the bottom policy dynamic, Kathryn Harrison (2006, chs 1, 9) and colleagues examined interprovincial competition in six policy sectors in Canada, ranging from environmental policy to tobacco taxes and social assistance. The authors find support for the nuanced multi-causal framework outlined here, notably that competitive “races” tended to occur more in sectors where factors of production were more mobile (industry incentives) than where they were not (minimum wages), were likely be muted where they did occur, and (consistent with the small number of Canadian provinces) sometimes could be mitigated by collusive benchmarking.

**Shifting Conditions**

The patterns underlying conditions that facilitate or limit a particular causal mechanism may shift over time, causing a shift in whether a policy dynamic is present and its strength. Perhaps the most important condition subject to change in the United States is the amount of policy discretion available to states. In the first years of the current century, when states had discretion over policy toward same sex marriage, liberal states were much more likely to permit it than socially conservative states. In 2015, however, the Supreme Court in the United States ruled in the *Obergefell v. Hodges*, 135 S. Ct. 2584 (2015) decision that same-sex marriage needs to be legal in all of the states because of the Equal Protection and
Due Process clauses, overturning an earlier 1972 Supreme Court decision not to hear a Minnesota case on the issue—i.e., the Supreme Court engaged in preemption of state discretion, ending an emerging Tiebout-consistent differential pattern. Differences in state policy remain substantial in other areas relating to gay rights, however (Lax and Phillips 2009; Hollander and Patapan 2017; Cunningham-Parmeter 2015). And as Dinan (2018) has noted, the Supreme Court’s NFIB v. Sebelius decision, 567 U.S. 519 (2012), is likely to substantially strengthen the leverage of state governments and other critics of federal policies to accommodate state interests and weaken the ability of Washington to use spending power to impose policy uniformity where states are opposed.

Different shifts in facilitating and limiting conditions are evident in other policy sectors. Ambiguous jurisdiction, low resource barriers to entry, and perceived political rewards to politicians from intervention in a sector are all likely to facilitate competitive turf-claiming, for example, but the onset of long-term hand fiscal stress may cause competitive state-building to become more muted, if not fading away altogether (Boychuk 2013, 239). Long term or temporary (e.g., during a recession) increases in fiscal stress, as well as increasing resource demands for a specific program (e.g., if medical costs increase disproportionately), are also likely to raise pressures for burden-shifting to other levels of government. Of course, decision rules matter here as well: if neither side can act unilaterally, the joint decision trip is likely to prevail and neither side is likely to be able to shed unwanted burdens.

Interacting and Potentially Conflicting Dynamics

When the facilitating conditions for more than one policy dynamic exist in a sector, it should not be surprising to find those policy dynamics existing simultaneously and interacting. Sometimes these policy dynamics reinforce each other. Self-sorting under the Tiebout model and differences in fiscal capacity may reinforce one another, for example, especially at the local level, as poorer persons move to more affordable low-tax-and-service jurisdictions that therefore continue to lag in fiscal capacity in the absence of fiscal equalization mechanisms. Shirking activity by state governments may prompt preemption by central governments. And burden-shedding by central governments in the financing of shared-cost programs may lead to shirking by state governments.7

In some cases, policy dynamics may conflict with each other and push policy in opposing directions. This pattern is particularly evident in the case of U.S. abortion policies, where at least three distinctive policy dynamics are visible. The first is the partial preemption of restrictive state policies in the wake of the Roe v. Wade decision, 410 U.S. 113 (1973), facilitated by the courts’ power to restrict state legislation under the Bill of Rights. This led pro-life groups to try to find ways to
push against the boundaries of the decision and to seek its overturning through long-term changes in the composition of the Supreme Court. A second policy dynamic evident in abortion policy is the Tiebout-consistent emergence of cross-state variation in restrictiveness of state abortion policies in the post-Planned Parenthood of Southeastern Pennsylvania v. Casey, 505 U.S. 833 (1992) era of increased state discretion in restricting abortions. This policy dynamic has been facilitated by the twin factors of increased jurisdictional leeway and strong inter-state variation in views on abortion. Research suggests that (1) state policymakers have responded to state public opinion; (2) that this congruence has grown over time (Camobreco and Barnello 2008); and (3) that partisan control of state government also matters (Kreitzer 2015). A third abortion policy dynamic is a hybrid between the Tiebout and emulation dynamics, in which innovative abortion restriction practices are copied or adapted by ideologically similar state governments, but not those that are ideologically distant, with that emulation facilitated by strong networks of pro-life groups that share policy ideas and strategies (Ryman and Wynn 2019; Bailey 2019). Understanding the existence of these multiple policy dynamics can help to explain why abortion policy change has involved multiple policy venues and the absence of a single direction of policy change.

Conclusions

This article suggests a number of conclusions about the policy effects associated with federal political arrangements that can help to sort out and explain conflicting findings in the federalism literature. First, federalism may give rise to a variety of distinctive policy dynamics that have very different consequences for policy heterogeneity across sub-national units within a federation and for policy change over time—e.g., a race to the bottom or collusive benchmarking. Each of the twelve policy dynamics outlined here is driven by one or more causal mechanisms, resulting in distinctive sets of policy consequences. While the list of federalism policy dynamics outlined here is extensive, it is not exhaustive. For example, Jonathan Rodden’s work (2002, 2006), suggesting that a combination of state dependence on transfers from the central government and autonomy in borrowing can lead to financial indiscipline on the part of provinces, can be seen as an additional policy dynamic facilitated by a particular set of institutional governance relationships and incentives for politicians. But the analysis of twelve dynamics provided here does provide a framework for understanding the conditions under which specific policy dynamics are likely to emerge, operate in a strong or muted form, and sometimes erode or disappear.

Second, which policy dynamic or dynamics emerge depends heavily on a complex set of facilitating and limiting conditions, and characteristics of the policy
sector, including sector-specific governance arrangements and incentives for politicians. The result is often a muted rather than strong form of a policy dynamic.

Third, because the facilitating and limiting conditions that shape policy dynamics in particular sectors, countries and time periods are not fixed, the dominant political dynamic within a policy sector may shift over time. In the complex interactions over the parallel but integrated Canada and Quebec Pension Plans, for example, Belánd and Weaver (2019) showed that an initial policy dynamic dominated by competitive turf-claiming was later replaced by collusive benchmarking and a joint decision trap that has been dominant in recent decades; occasional bursts of a race to the top under electoral pressure have also occurred when electoral pressures on politicians were high. Multiple and conflicting policy dynamics may also operate in a single sector simultaneously, as the abortion example shows.

Finally, because some characteristics of jurisdictional arrangements and other system-level characteristics are uniform across policy sectors within a political system but vary across countries, it is not surprising that some policy dynamics are found more frequently in some federal systems that others. For example, despite recent reforms, the joint decision trap is usually seen as the dominant federalism policy dynamic in Germany. It facilitated by administrative arrangements and the Land-empowering nature of the Bundesrat incorporated in Germany’s Basic Law; it has, moreover, been exacerbated by the growing divergence in preferences and fiscal capacity between the old and new Länder that accompanied reunification (Auel 2008, 2014; Benz and Sonnicksen 2018). In Canada, competitive state-building was historically stimulated by the distinctive role and preferences of Quebec elites and voters (Banting 2005). Collusive benchmarking in Canada has been facilitated by the small number of constituent units and highly developed set of institutions for dialogue and coordination between them (Harrison 2006). In Spain, complex patterns of territorially based cleavages and the desire of regional leaders in less-privileged (in terms of autonomy) regions to catch up with their more privileged compatriots led to competitive state-building and pressures for further devolution (Keating and Wilson 2009). In the United States, ideological and partisan polarization and geographic sorting have exacerbated divergent interstate differences in policy preferences, encouraging “Tiebout-consistent” policy divergences across states. A growing tendency in recent years towards “trifecta government” at the state level in the United States—that is, the governorship and both legislative chambers being controlled by the same party—has also encouraged this pattern (Bacon, 2019).

The framework developed here suggests several directions for further research. First, the efforts in his article to differentiate more explicitly among policy dynamics, their underlying mechanisms and facilitating conditions should assist further
researchers in making comparisons of specific policy dynamics across countries. It
can also be helpful in giving attention to policy dynamics such as collusive bench-
marking and mutual buck-passing where the evidentiary base is weak or is limited to
a few political systems. Additional research can also be useful in identifying which
facilitating conditions are especially important—and robust in their impact across
cases in their influence—on specific policy dynamics. The analysis here suggests that
jurisdictional arrangements and political incentives might be particularly important
in shaping some policy dynamics, while economic and cultural characteristics are
more important for others. Identifying these relationships more precisely, and
unpacking the impact of economic and social characteristics of state/provincial units
are also important directions for research. A meta-analysis of the federalism
literature with a focus on identifying the relationship between particular facilitating
and limiting conditions, policy dynamics, and policy effects would be useful in
spotlighting specific policy dynamics and causal relationships where the evidence
base is more or less robust.

A second direction for further research is to draw more on evidence beyond the
wealthy, politically stable democracies that have been the focus of this article. More
research is needed to see the extent to which the policy dynamics and hypotheses
about their operation generated here also hold in middle income countries like
Brazil and Argentina, low-income countries like India, and authoritarian non-
federations like China that nevertheless encourage policy variation through
“experimentation under hierarchy” (Heilmann 2007; Cai and Treisman 2006; Yao
and Zhang 2008). A rich body of literature on fiscal relationships between central
governments and first-level sub-national governments (see for example, Braun
2010), and their implications for financial solvency, policy innovation, and other
outcomes, can also be explored as an extension of this framework in more detail
than was possible here.

Research can also investigate intentionality with respect to policy dynamics—the
degree to which policymakers anticipated the emergence of specific policy
dynamics and the degree to which they sought to imbed, mute, or prevent them
when they established or altered particular sectoral or system-wide federalism
governance arrangements. A related question concerns how policymakers react
when unanticipated and perhaps unwanted policy consequences emerge. Viewing
these consequences of specific policy dynamics as potential “self-undermining
policy feedbacks” (Jacobs and Weaver 2015) are likely to be useful in explaining
when those arrangements are challenged, and in some cases, altered (Sturm 2010).

Finally and most generally, the notion of “policy dynamic” as a causal
mechanism or set of mechanisms that has consistent consequences in the presence
of specific facilitating conditions also shows promise as an analytical tool that can
be applied in a variety of other contexts. Most obviously, the framework should
be readily adaptable to understanding policy dynamics in the European Union,

where existing literature suggests several distinctive policy dynamics, including joint-decision traps in sectors with strong divergence of preferences among member states and supra-majority requirements for change, preemption in areas where the EU has clear jurisdiction, and selective member-state shirking in implementation of some policies where divergence of preferences is strong and capacity to monitor and enforce is weak (see for example, Falkner, Treib, and Holzleithner 2008; Kelemen 2007). But other policy phenomena (e.g., The Middle Income Trap and Resource Curse) can also be fruitfully examined using a policy dynamics lens.

Notes

The author would like to acknowledge very helpful comments from Kathryn Harrison, Mark Rom, and the anonymous reviewers for this journal.

1. Some scholars have attempted to leverage comparisons between societies—notably, Australia and New Zealand—that are similar in many respects, but one is a federation and the other is not. See Chappell and Curtin (2013).

2. Policy innovation, it should be noted, need not necessarily mean a more activist role for government. “Laboratories of democracy,” for example, may lead to the copying or adaptation of innovations that provide a more efficient or simply smaller government role.

3. Other forms of burden-shedding are also possible. For example, when there is an overlap in program clientele for programs delivered by each level of government, both central and state governments may try to shift clients in programs that they are responsible for funding to programs funded by the other level of government (Bonoli and Trein 2016).

4. The federal government also gave the states authority to seek waivers on specific provisions of the AFDC program, which further facilitated policy heterogeneity.

5. The literature also suggests that inter-state policy differences may be muted or enhanced by a number of factors, including whether sub-national politicians are imbedded in party systems that are highly centralized at the national level (Franceschet and Piscopo 2013).

6. The relationship of sub-national opinion and policy is far from precise, however—it is closer to what Canes-Wrone (2015) calls policy responsiveness rather than congruence.

7. I am grateful to one of the anonymous reviewers for Publius for suggesting the analysis and the examples in this paragraph.

8. Other state attributes such as the degree of legislative and executive professionalism/capacity, as well as differences in interest group pressure, and the severity of particular problems in the province may also affect policy choices in Tiebout federalism.
References


Bacon, Perry, Jr. 2019. What Republicans and Democrats are doing in the states where they have total power. https://fivethirtyeight.com/features/what-republicans-and-democrats-are-doing-in-the-states-where-they-have-total-power/.


